

**CHAPTER 1****(HB 283)**

AN ACT relating to weatherization and low-income heating energy assistance, making an appropriation therefor, and declaring an emergency.

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

Section 1. There is appropriated to the Cabinet for Health and Family Services, Department of Community Based Services, from natural gas severance tax receipts for the General Fund \$10,000,000 in fiscal year 2005-2006 to be used to provide heating assistance through the crisis component of the Low Income Home Energy Assistance Program.

Section 2. Whereas home heating costs have increased dramatically and the current resources devoted to the Low Income Home Energy Assistance Program are insufficient to meet existing need, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming law.

**Approved January 31, 2006.**

**CHAPTER 2****(HCR 37)**

A CONCURRENT RESOLUTION confirming the reappointment of Samuel E. Moore to the Kentucky Agricultural Development Board.

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

WHEREAS, on August 12, 2005, by Executive Order 2005-844, the Governor reappointed Samuel E. Moore to the Agricultural Development Board for a term expiring July 6, 2009; and

WHEREAS, Samuel E. Moore has been reappointed as meeting the requirements of KRS 248.707, being an active farmer who has experience in agricultural diversification, who represents the Kentucky Farm Bureau, and who otherwise meets the requirements of KRS 11.160;

NOW, THEREFORE,

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

Section 1. Consent is given to the appointment of Samuel E. Moore to the Agricultural Development Board for a term expiring July 6, 2009.

Section 2. The Clerk of the House of Representatives shall forward a copy of this Resolution and notification of its adoption to Samuel E. Moore, 1070 Mooretown Road, Morgantown, Kentucky 42261 and to the Governor.

**Approved February 23, 2006**

**CHAPTER 3****(HCR 43)**

A CONCURRENT RESOLUTION confirming the reappointment of Rodney Glen Dick to the Kentucky Agricultural Development Board.

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

WHEREAS, on August 12, 2005, by Executive Order 2005-844, the Governor reappointed Rodney Glen Dick to the Agricultural Development Board for a term expiring July 6, 2009; and

WHEREAS, Rodney Glen Dick has been reappointed as meeting the requirements of KRS 248.707, being an active farmer who has experience in agricultural diversification and who otherwise meets the requirements of KRS 11.160;

NOW, THEREFORE,

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

Section 1. Consent is given to the reappointment of Rodney Glen Dick to the Agricultural Development Board for a term expiring July 6, 2009.

Section 2. The Clerk of the House of Representatives shall forward a copy of this Resolution and notification of its adoption to Rodney Glen Dick, 25 Martha Lane, Nancy, Kentucky 42544 and to the Governor.

**Approved February 23, 2006.**

## CHAPTER 4

### (HB 275)

AN ACT relating to the sale of electric power from cooperatives to nonmembers.

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

Section 1. KRS 279.120 is amended to read as follows:

- (1) Except as provided in subsections (2), ~~and~~ (3), **and (4)** of this section, corporations formed under this chapter shall supply electric energy, furnish services and sell personal property, except that transferred in part payment for other personal property, to their members only.
- (2) Except as provided in ~~subsections~~ ~~subsection~~ (3), **(4), and (5)** of this section and in KRS 279.125, any corporation formed under this chapter may supply electric energy, furnish services and sell property, to the extent of not more than forty-nine percent (49%) of its total business, to nonmembers of the corporation, including any federal agency, any state, and any county, city or political subdivision.
- (3) A corporation formed under this chapter may sell and lease back any part or all of its property free of the restrictions contained in subsections (1) and (2) of this section, or any other section of the Kentucky Revised Statutes except that such sale shall be subject to KRS 279.140.
- (4) ***A corporation formed under this chapter on or before December 31, 2005, may supply electric energy to a nonmember of the corporation free of the restrictions contained in subsections (1) and (2) of this section only if:***
  - (a) ***The hourly amount of electric energy supplied is produced by a generator owned or leased by the corporation; and***
  - (b) ***The hourly amount of electric energy supplied was previously used by a member of the corporation, which is also a corporation formed under this chapter on or before December 31, 2005, to provide electric service to a retail customer with an annual hourly peak electric energy requirement of more than two hundred (200) megawatts.***
- (5) ***A sale of electric energy authorized by subsection (4) of this section shall be considered member business for purposes of subsection (2) of this section.***
- (6) ***A corporation formed under this chapter that is supplying electric energy to a nonmember of the corporation under subsections (4) and (5) of this section may acquire a new base load generating facility for its system by purchase, lease, or construction only if, at the time the corporation enters into a binding commitment for the acquisition of the new base load generating facility, the number of megawatts the corporation is supplying to nonmembers of the corporation is forty-nine percent (49%) or less of the total number of megawatts that the corporation is supplying to all persons.***

**Approved February 23, 2006.**

**CHAPTER 5****(SB 65)**

AN ACT relating to prescriptive authority for advanced registered nurse practitioners.

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

Section 1. KRS 314.011 is amended to read as follows:

As used in KRS 314.011 to 314.161 and KRS 314.991, unless the context thereof requires otherwise:

- (1) "Board" means Kentucky Board of Nursing;
- (2) "Delegation" means directing a competent person to perform a selected nursing activity or task in a selected situation under the nurse's supervision and pursuant to administrative regulations promulgated by the board in accordance with the provisions of KRS Chapter 13A;
- (3) "Nurse" means a person licensed under the provisions of this chapter as a registered nurse or as a licensed practical nurse;
- (4) "Nursing process" means the investigative approach to nursing practice utilizing a method of problem-solving by means of:
  - (a) Nursing diagnosis, a systematic investigation of a health concern, and an analysis of the data collected in order to arrive at an identifiable problem; and
  - (b) Planning, implementation, and evaluation based on nationally accepted standards of nursing practice;
- (5) "Registered nurse" means one who is licensed under the provisions of this chapter to engage in registered nursing practice;
- (6) "Registered nursing practice" means the performance of acts requiring substantial specialized knowledge, judgment, and nursing skill based upon the principles of psychological, biological, physical, and social sciences in the application of the nursing process in:
  - (a) The care, counsel, and health teaching of the ill, injured, or infirm;
  - (b) The maintenance of health or prevention of illness of others;
  - (c) The administration of medication and treatment as prescribed by a physician, physician assistant, dentist, or advanced registered nurse practitioner and as further authorized or limited by the board, and which are consistent either with American Nurses' Association Standards of Practice or with Standards of Practice established by nationally accepted organizations of registered nurses. Components of medication administration include but are not limited to:
    1. Preparing and giving medications in the prescribed dosage, route, and frequency, including dispensing medications only as defined in subsection (17)(b) of this section;
    2. Observing, recording, and reporting desired effects, untoward reactions, and side effects of drug therapy;
    3. Intervening when emergency care is required as a result of drug therapy;
    4. Recognizing accepted prescribing limits and reporting deviations to the prescribing individual;
    5. Recognizing drug incompatibilities and reporting interactions or potential interactions to the prescribing individual; and
    6. Instructing an individual regarding medications;
  - (d) The supervision, teaching of, and delegation to other personnel in the performance of activities relating to nursing care; and
  - (e) The performance of other nursing acts which are authorized or limited by the board, and which are consistent either with American Nurses' Association Standards of Practice or with Standards of Practice established by nationally accepted organizations of registered nurses;

- (7) "Advanced registered nurse practitioner" means one who is registered and designated to engage in advanced registered nursing practice including the nurse anesthetist, nurse midwife, clinical nurse specialist, and nurse practitioner pursuant to KRS 314.042;
- (8) "Advanced registered nursing practice" means the performance of additional acts by registered nurses who have gained added knowledge and skills through an organized postbasic program of study and clinical experience and who are certified by the American Nurses' Association or other nationally established organizations or agencies recognized by the board to certify registered nurses for advanced nursing practice. The additional acts shall, subject to approval of the board, include but not be limited to prescribing treatment, drugs, devices, and ordering diagnostic tests. Advanced registered nurse practitioners who engage in these additional acts shall be authorized to issue prescriptions for and dispense nonscheduled legend drugs as defined in KRS 217.905 *and to issue prescriptions for but not to dispense Schedules II through V controlled substances as classified in KRS 218A.060, 218A.070, 218A.080, 218A.090, 218A.100, 218A.110, 218A.120, and 218A.130*, under the conditions set forth in KRS 314.042 *and regulations promulgated by the Kentucky Board of Nursing on or before August 15, 2006.*
- (a) *Prescriptions issued by advanced registered nurse practitioners for Schedule II controlled substances classified under KRS 218A.060 shall be limited to a seventy-two (72) hour supply without any refill. Prescriptions issued under this subsection for psychostimulants may be written for a thirty (30) day supply only by an advanced registered nurse practitioner certified in psychiatric-mental health nursing who is providing services in a health facility as defined in KRS Chapter 216B or in a regional mental health-mental retardation services program as defined in KRS Chapter 210.*
- (b) *Prescriptions issued by advanced registered nurse practitioners for Schedule III controlled substances classified under KRS 218A.080 shall be limited to a thirty (30) day supply without any refill. Prescriptions issued by advanced registered nurse practitioners for Schedules IV and V controlled substances classified under KRS 218A.100 and 218A.120 shall be limited to the original prescription and refills not to exceed a six (6) month supply.*
- (c) *Limitations for specific controlled substances which are identified as having the greatest potential for abuse or diversion, based on the best available scientific and law enforcement evidence, shall be established in an administrative regulation promulgated by the Kentucky Board of Nursing. The regulation shall be based on recommendations from the Controlled Substances Formulary Development Committee, which is hereby created. The committee shall be composed of two (2) advanced registered nurse practitioners appointed by the Kentucky Board of Nursing, one (1) of whom shall be designated as a committee co-chair; two (2) physicians appointed by the Kentucky Board of Medical Licensure, one (1) of whom shall be designated as a committee co-chair; and one (1) pharmacist appointed by the Kentucky Board of Pharmacy. The initial regulation shall be promulgated on or before August 15, 2006, and shall be reviewed at least annually thereafter by the committee.*

Nothing in this chapter shall be construed as requiring an advanced registered nurse practitioner designated by the board as a nurse anesthetist to obtain prescriptive authority pursuant to this chapter or any other provision of law in order to deliver anesthesia care. The performance of these additional acts shall be consistent with the certifying organization or agencies' scopes and standards of practice recognized by the board by administrative regulation;

- (9) "Licensed practical nurse" means one who is licensed under the provisions of this chapter to engage in licensed practical nursing practice;
- (10) "Licensed practical nursing practice" means the performance of acts requiring knowledge and skill such as are taught or acquired in approved schools for practical nursing in:
- (a) The observing and caring for the ill, injured, or infirm under the direction of a registered nurse, a licensed physician, or dentist;
- (b) The giving of counsel and applying procedures to safeguard life and health, as defined and authorized by the board;
- (c) The administration of medication or treatment as authorized by a physician, physician assistant, dentist, or advanced registered nurse practitioner and as further authorized or limited by the board which is consistent with the National Federation of Licensed Practical Nurses or with Standards of Practice established by nationally accepted organizations of licensed practical nurses;



- (d) Teaching, supervising, and delegating except as limited by the board; and
  - (e) The performance of other nursing acts which are authorized or limited by the board and which are consistent with the National Federation of Practical Nurses' Standards of Practice or with Standards of Practice established by nationally accepted organizations of licensed practical nurses;
- (11) "School of nursing" means a nursing education program preparing persons for licensure as a registered nurse or a practical nurse;
  - (12) "Continuing education" means offerings beyond the basic nursing program that present specific content planned and evaluated to meet competency based behavioral objectives which develop new skills and upgrade knowledge;
  - (13) "Nursing assistance" means the performance of delegated nursing acts by unlicensed nursing personnel for compensation under supervision of a nurse;
  - (14) "Sexual assault nurse examiner" means a registered nurse who has completed the required education and clinical experience and maintains a current credential from the board as provided under KRS 314.142 to conduct forensic examinations of victims of sexual offenses under the medical protocol issued by the State Medical Examiner pursuant to KRS 216B.400(4);
  - (15) "Competency" means the application of knowledge and skills in the utilization of critical thinking, effective communication, interventions, and caring behaviors consistent with the nurse's practice role within the context of the public's health, safety, and welfare;
  - (16) "Credential" means a current license, registration, certificate, or other similar authorization that is issued by the board;
  - (17) "Dispense" means:
    - (a) To receive and distribute noncontrolled legend drug samples from pharmaceutical manufacturers to patients at no charge to the patient or any other party; or
    - (b) To distribute noncontrolled legend drugs from a local, district, and independent health department, subject to the direction of the appropriate governing board of the individual health department;
  - (18) "Dialysis care" means a process by which dissolved substances are removed from a patient's body by diffusion, osmosis, and convection from one (1) fluid compartment to another across a semipermeable membrane;
  - (19) "Dialysis technician" means a person who is not a nurse, a physician assistant, or a physician and who provides dialysis care in a licensed renal dialysis facility under the direct, on-site supervision of a registered nurse or a physician; and
  - (20) "Clinical internship" means a supervised nursing practice experience which involves any component of direct patient care.

Section 2. KRS 314.042 is amended to read as follows:

- (1) An applicant for registration and designation to practice as an advanced registered nurse practitioner shall file with the board a written application for registration and designation and submit evidence, verified by oath, that the applicant has completed an organized postbasic program of study and clinical experience acceptable to the board; has fulfilled the requirements of KRS 214.615(1); is certified by a nationally-established organization or agency recognized by the board to certify registered nurses for advanced nursing practice; and is able to understandably speak and write the English language and to read the English language with comprehension.
- (2) The board may issue a registration to practice advanced registered nursing to an applicant who holds a current active registered nurse license issued by the board and meets the qualifications of subsection (1) of this section. An advanced registered nurse practitioner shall be designated by the board as a nurse anesthetist, nurse midwife, nurse practitioner, or clinical nurse specialist.
- (3) The applicant for registration and designation or renewal thereof to practice as an advanced registered nurse practitioner shall pay a fee to the board as set forth in regulation by the board.
- (4) An advanced registered nurse practitioner shall maintain a current active registered nurse license issued by the board and maintain current certification by the appropriate national organization or agency recognized by the board.

- (5) Any person who holds a registration and designation to practice as an advanced registered nurse practitioner in this state shall have the right to use the title "advanced registered nurse practitioner" and the abbreviation "ARNP." No other person shall assume the title or use the abbreviation or any other words, letters, signs, or figures to indicate that the person using the same is an advanced registered nurse practitioner. No person shall practice as an advanced registered nurse practitioner unless registered under this section.
- (6) Any person heretofore registered as an advanced registered nurse practitioner under the provisions of this chapter who has allowed the registration to lapse may be reinstated on payment of current fee and by meeting the provisions of this chapter and regulations promulgated by the board pursuant to the provisions of KRS Chapter 13A.
- (7) The board may authorize a person to practice as an advanced registered nurse practitioner temporarily and pursuant to applicable regulations promulgated by the board pursuant to the provisions of KRS Chapter 13A if the person is awaiting the results of the national certifying examination for the first time or is awaiting licensure by endorsement. A person awaiting the results of the national certifying examination shall use the title "ARNP Applicant" or "ARNP App."
- (8) Before an advanced registered nurse practitioner engages in the prescribing or dispensing of nonscheduled legend drugs as authorized by KRS 314.011(8), the advanced registered nurse practitioner shall enter into a written "Collaborative~~[-practice]~~ Agreement **for the Advanced Registered Nurse Practitioner's Prescriptive Authority for Nonscheduled Legend Drugs**" (CAPA-NS) with a physician that defines the scope of the prescriptive authority **for nonscheduled legend drugs**.
- (9) ***Before an advanced registered nurse practitioner engages in the prescribing of Schedules II through V controlled substances as authorized by KRS 314.011(8), the advanced registered nurse practitioner shall enter into a written "Collaborative Agreement for the Advanced Registered Nurse Practitioner's Prescriptive Authority for Controlled Substances" (CAPA-CS) with a physician that defines the scope of the prescriptive authority for controlled substances.***
  - (a) ***The advanced registered nurse practitioner shall notify the Kentucky Board of Nursing of the existence of the CAPA-CS and the name of the collaborating physician and shall, upon request, furnish to the board or its staff a copy of the completed CAPA-CS. The Kentucky Board of Nursing shall notify the Kentucky Board of Medical Licensure that a CAPA-CS exists and furnish the collaborating physician's name.***
  - (b) ***The CAPA-CS shall be in writing and signed by both the advanced registered nurse practitioner and the collaborating physician. A copy of the completed collaborative agreement shall be available at each site where the advanced registered nurse practitioner is providing patient care.***
  - (c) ***The CAPA-CS shall describe the arrangement for collaboration and communication between the advanced registered nurse practitioner and the collaborating physician regarding the prescribing of controlled substances by the advanced registered nurse practitioner.***
  - (d) ***The advanced registered nurse practitioner who is prescribing controlled substances and the collaborating physician shall be qualified in the same or a similar specialty.***
  - (e) ***The CAPA-CS is not intended to be a substitute for the exercise of professional judgment by the advanced registered nurse practitioner or by the collaborating physician.***
  - (f) ***Before engaging in the prescribing of controlled substances, the advanced registered nurse practitioner shall:***
    - 1. ***Have been registered to practice as an advanced registered nurse practitioner for one (1) year with the Kentucky Board of Nursing; or***
    - 2. ***Be nationally certified as an advanced registered nurse practitioner and be registered, certified, or licensed in good standing as an advanced registered nurse practitioner in another state for one (1) year prior to applying for licensure by endorsement in Kentucky.***
  - (g) ***Prior to prescribing controlled substances, the advanced registered nurse practitioner shall obtain a Controlled Substance Registration Certificate through the U.S. Drug Enforcement Agency.***
  - (h) ***The CAPA-CS shall be reviewed and signed by both the advanced registered nurse practitioner and the collaborating physician and may be rescinded by either party upon written notice via registered***

*mail to the other party, the Kentucky Board of Nursing, and the Kentucky Board of Medical Licensure.*

- (i) *The CAPA-CS shall state the limits on controlled substances which may be prescribed by the advanced registered nurse practitioner, as agreed to by the advanced registered nurse practitioner and the collaborating physician. The limits so imposed may be more stringent than either the schedule limits on controlled substances established in subsection (8) of Section 1 of this Act, or the limits imposed in regulations promulgated by the Kentucky Board of Nursing thereunder.*
- (10) Nothing in this chapter shall be construed as requiring an advanced registered nurse practitioner designated by the board as a nurse anesthetist to enter into a collaborative practice agreement with a physician, pursuant to this chapter or any other provision of law, in order to deliver anesthesia care.

Section 3. KRS 314.195 is amended to read as follows:

An advanced registered nurse practitioner shall be considered a practitioner for purposes of KRS ~~Chapters [Chapter]~~ 217 **and 218A** and shall have the authority granted to a practitioner pursuant to those chapters subject to the conditions set forth in KRS 314.042.

Section 4. KRS 218A.010 is amended to read as follows:

As used in this chapter:

- (1) "Administer" means the direct application of a controlled substance, whether by injection, inhalation, ingestion, or any other means, to the body of a patient or research subject by:
  - (a) A practitioner or by his authorized agent under his immediate supervision and pursuant to his order; or
  - (b) The patient or research subject at the direction and in the presence of the practitioner.
- (2) "Anabolic steroid" means any drug or hormonal substance chemically and pharmacologically related to testosterone that promotes muscle growth and includes those substances listed in KRS 218A.090(5) but does not include estrogens, progestins, and anticosteroids.
- (3) "Cabinet" means the Cabinet for Health and Family Services.
- (4) "Child" means any person under the age of majority as specified in KRS 2.015.
- (5) "Controlled substance" means methamphetamine, or a drug, substance, or immediate precursor in Schedules I through V and includes a controlled substance analogue.
- (6) (a) "Controlled substance analogue", except as provided in subparagraph (b), means a substance:
  - 1. The chemical structure of which is substantially similar to the structure of a controlled substance in Schedule I or II; and
  - 2. Which has a stimulant, depressant, or hallucinogenic effect on the central nervous system that is substantially similar to or greater than the stimulant, depressant, or hallucinogenic effect on the central nervous system of a controlled substance in Schedule I or II; or
  - 3. With respect to a particular person, which such person represents or intends to have a stimulant, depressant, or hallucinogenic effect on the central nervous system that is substantially similar to or greater than the stimulant, depressant, or hallucinogenic effect on the central nervous system of a controlled substance in Schedule I or II.
- (b) Such term does not include:
  - 1. Any substance for which there is an approved new drug application;
  - 2. With respect to a particular person, any substance if an exemption is in effect for investigational use for that person pursuant to federal law to the extent conduct with respect to such substance is pursuant to such exemption; or
  - 3. Any substance to the extent not intended for human consumption before the exemption described in subparagraph 2. of this paragraph takes effect with respect to that substance.
- (7) "Counterfeit substance" means a controlled substance which, or the container or labeling of which, without authorization, bears the trademark, trade name, or other identifying mark, imprint, number, or device, or any

likeness thereof, of a manufacturer, distributor, or dispenser other than the person who in fact manufactured, distributed, or dispensed the substance.

- (8) "Dispense" means to deliver a controlled substance to an ultimate user or research subject by or pursuant to the lawful order of a practitioner, including the packaging, labeling, or compounding necessary to prepare the substance for that delivery.
- (9) "Dispenser" means a person who lawfully dispenses a Schedule II, III, IV, or V controlled substance to or for the use of an ultimate user.
- (10) "Distribute" means to deliver other than by administering or dispensing a controlled substance.
- (11) "Drug" means:
  - (a) Substances recognized as drugs in the official United States Pharmacopoeia, official Homeopathic Pharmacopoeia of the United States, or official National Formulary, or any supplement to any of them;
  - (b) Substances intended for use in the diagnosis, care, mitigation, treatment, or prevention of disease in man or animals;
  - (c) Substances (other than food) intended to affect the structure or any function of the body of man or animals; and
  - (d) Substances intended for use as a component of any article specified in this subsection.

It does not include devices or their components, parts, or accessories.

- (12) "Hazardous chemical substance" includes any chemical substance used or intended for use in the illegal manufacture of a controlled substance as defined in this section or the illegal manufacture of methamphetamine as defined in KRS 218A.1431, which:
  - (a) Poses an explosion hazard;
  - (b) Poses a fire hazard; or
  - (c) Is poisonous or injurious if handled, swallowed, or inhaled.
- (13) "Immediate precursor" means a substance which is the principal compound commonly used or produced primarily for use, and which is an immediate chemical intermediary used or likely to be used in the manufacture of a controlled substance or methamphetamine, the control of which is necessary to prevent, curtail, or limit manufacture.
- (14) "Intent to manufacture" means any evidence which demonstrates a person's conscious objective to manufacture a controlled substance or methamphetamine. Such evidence includes but is not limited to statements and a chemical substance's usage, quantity, manner of storage, or proximity to other chemical substances or equipment used to manufacture a controlled substance or methamphetamine.
- (15) "Isomer" means the optical isomer, except as used in KRS 218A.050(3) and 218A.070(1)(d). As used in KRS 218A.050(3), the term "isomer" means the optical, positional, or geometric isomer. As used in KRS 218A.070(1)(d), the term "isomer" means the optical or geometric isomer.
- (16) "Manufacture", except as provided in KRS 218A.1431, means the production, preparation, propagation, compounding, conversion, or processing of a controlled substance, either directly or indirectly by extraction from substances of natural origin or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis, and includes any packaging or repackaging of the substance or labeling or relabeling of its container except that this term does not include activities:
  - (a) By a practitioner as an incident to his administering or dispensing of a controlled substance in the course of his professional practice; or
  - (b) By a practitioner, or by his authorized agent under his supervision, for the purpose of, or as an incident to, research, teaching, or chemical analysis and not for sale; or
  - (c) By a pharmacist as an incident to his dispensing of a controlled substance in the course of his professional practice.
- (17) "Marijuana" means all parts of the plant Cannabis sp., whether growing or not; the seeds thereof; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or

preparation of the plant, its seeds or resin or any compound, mixture, or preparation which contains any quantity of these substances.

- (18) "Methamphetamine" means any substance that contains any quantity of methamphetamine, or any of its salts, isomers, or salts of isomers.
- (19) "Narcotic drug" means any of the following, whether produced directly or indirectly by extraction from substances of vegetable origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis:
  - (a) Opium and opiate, and any salt, compound, derivative, or preparation of opium or opiate;
  - (b) Any salt, compound, isomer, derivative, or preparation thereof which is chemically equivalent or identical with any of the substances referred to in paragraph (a) of this subsection, but not including the isoquinoline alkaloids of opium;
  - (c) Opium poppy and poppy straw;
  - (d) Coca leaves, except coca leaves and extracts of coca leaves from which cocaine, ecgonine, and derivatives of ecgonine or their salts have been removed;
  - (e) Cocaine, its salts, optical and geometric isomers, and salts of isomers;
  - (f) Ecgonine, its derivatives, their salts, isomers, and salts of isomers; and
  - (g) Any compound, mixture, or preparation which contains any quantity of any of the substances referred to in paragraphs (a) to (f) of this subsection.
- (20) "Opiate" means any substance having an addiction-forming or addiction-sustaining liability similar to morphine or being capable of conversion into a drug having addiction-forming or addiction-sustaining liability. It does not include, unless specifically designated as controlled under KRS 218A.030, the dextrorotatory isomer of 3-methoxy-n-methylmorphinan and its salts (dextromethorphan). It does include its racemic and levorotatory forms.
- (21) "Opium poppy" means the plant of the species *papaver somniferum* L., except its seeds.
- (22) "Person" means individual, corporation, government or governmental subdivision or agency, business trust, estate, trust, partnership or association, or any other legal entity.
- (23) "Physical injury" has the same meaning it has in KRS 500.080.
- (24) "Poppy straw" means all parts, except the seeds, of the opium poppy, after mowing.
- (25) "Pharmacist" means a natural person licensed by this state to engage in the practice of the profession of pharmacy.
- (26) "Practitioner" means a physician, dentist, podiatrist, veterinarian, scientific investigator, optometrist as authorized in KRS 320.240, ***advanced registered nurse practitioner as authorized under Section 1 of this Act***, or other person licensed, registered, or otherwise permitted to distribute, dispense, conduct research with respect to, or to administer a controlled substance in the course of professional practice or research in this state. "Practitioner" also includes a physician, dentist, podiatrist, ~~or~~ veterinarian, ***or advanced registered nurse practitioner authorized under Section 1 of this Act*** who is a resident of and actively practicing in a state other than Kentucky and who is licensed and has prescriptive authority for controlled substances under the professional licensing laws of another state, unless the person's Kentucky license has been revoked, suspended, restricted, or probated, in which case the terms of the Kentucky license shall prevail.
- (27) "Prescription" means a written, electronic, or oral order for a drug or medicine, or combination or mixture of drugs or medicines, or proprietary preparation, signed or given or authorized by a medical, dental, chiropody, veterinarian, ~~or~~ optometric practitioner, ***or advanced registered nurse practitioner***, and intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man or other animals.
- (28) "Prescription blank," with reference to a controlled substance, means a document that meets the requirements of KRS 218A.204 and 217.216.
- (29) "Production" includes the manufacture, planting, cultivation, growing, or harvesting of a controlled substance.

- (30) "Second or subsequent offense" means that for the purposes of this chapter an offense is considered as a second or subsequent offense, if, prior to his conviction of the offense, the offender has at any time been convicted under this chapter, or under any statute of the United States, or of any state relating to substances classified as controlled substances or counterfeit substances, except that a prior conviction for a nontrafficking offense shall be treated as a prior offense only when the subsequent offense is a nontrafficking offense. For the purposes of this section, a conviction voided under KRS 218A.275 or 218A.276 shall not constitute a conviction under this chapter.
- (31) "Sell" means to dispose of a controlled substance to another person for consideration or in furtherance of commercial distribution.
- (32) "Serious physical injury" has the same meaning it has in KRS 500.080.
- (33) "Tetrahydrocannabinols" means synthetic equivalents of the substances contained in the plant, or in the resinous extractives of the plant Cannabis, sp. or synthetic substances, derivatives, and their isomers with similar chemical structure and pharmacological activity such as the following:
1. Delta 1 cis or trans tetrahydrocannabinol, and their optical isomers;
  2. Delta 6 cis or trans tetrahydrocannabinol, and their optical isomers;
  3. Delta 3, 4 cis or trans tetrahydrocannabinol, and its optical isomers.
- (34) "Traffic," except as provided in KRS 218A.1431, means to manufacture, distribute, dispense, sell, transfer, or possess with intent to manufacture, distribute, dispense, or sell a controlled substance.
- (35) "Transfer" means to dispose of a controlled substance to another person without consideration and not in furtherance of commercial distribution.
- (36) "Ultimate user" means a person who lawfully possesses a controlled substance for his own use or for the use of a member of his household or for administering to an animal owned by him or by a member of his household.

Section 5. KRS 218A.202 is amended to read as follows:

- (1) The Cabinet for Health and Family 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 and Family 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 and Family 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 and Family 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) ***In addition to the purposes authorized under paragraph (a) of this subsection, the Kentucky Board of Nursing, for any advanced registered nurse practitioner who is:***
    - 1. ***Associated in a partnership or other business entity with a physician who is already under investigation by the Kentucky Board of Medical Licensure for improper prescribing practices;***
    - 2. ***Associated in a partnership or other business entity with an advanced registered nurse practitioner who is already under investigation by the Board of Nursing for improper prescribing practices;***
    - 3. ***In a designated geographic area for which a trend report indicates a substantial likelihood that inappropriate prescribing may be occurring; or***
    - 4. ***In a designated geographic area for which a report on a physician or another advanced registered nurse practitioner in that area indicates a substantial likelihood that inappropriate prescribing may be occurring in that area; or***
  - (h) 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 and Family 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 Technology, in consultation with the Cabinet for Health and Family 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 and Family 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 and Family 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.

**Approved March 6, 2006.**



## CHAPTER 6

## (HB 403)

AN ACT relating to revenue and taxation and declaring an emergency.

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

Section 1. 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 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 *and KRS 160.613 and 160.614* 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 2. A NEW SECTION OF KRS CHAPTER 136 IS CREATED TO READ AS FOLLOWS:

*To prevent actual multistate taxation of gross revenues for the provision of multichannel video programming service or communications service subject to tax under KRS 136.616, any provider, upon proof that the provider has paid a tax in another state for provision of the same multichannel video programming service or communications service to the same customer, shall be allowed a credit against the tax imposed by KRS 136.616 to the extent of the amount of the tax legally paid in the other state.*

Section 3. KRS 136.602 is amended to read as follows:

As used in KRS 136.600 to 136.660:

- (1) "Cable service" means the provision of video, audio, or other programming service to purchasers, and the purchaser interaction, if any, required for the selection or use of the video or other programming service, regardless of whether the programming is transmitted over facilities owned or operated by the provider or by one (1) or more other communications service providers. Included in this definition are basic, extended, and premium service, pay-per-view service, digital or other music services, and other similar services;
- (2) "Communications service" means the provision, transmission, conveyance, or routing, for consideration, of voice, data, video, or any other information signals of the purchaser's choosing to a point or between or among points specified by the purchaser, by or through any electronic, radio, light, fiber-optic, or similar medium or method now in existence or later devised.
  - (a) "Communications service" includes but is not limited to:
    1. Local and long-distance telephone services;
    2. Telegraph and teletypewriter services;
    3. Prepaid calling services, and postpaid calling services;

4. Private communications services involving a direct channel specifically dedicated to a customer's use between specific points;
  5. Channel services involving a path of communications between two (2) or more points;
  6. Data transport services involving the movement of encoded information between points by means of any electronic, radio, or other medium or method;
  7. Caller ID services, voice mail and other electronic messaging services;
  8. Mobile telecommunications service as defined in 4 U.S.C. sec. 124(7); and
  9. Voice over Internet Protocol (VOIP);
- (b) "Communications services" do not include information services, cable service, or satellite broadcast and wireless cable service;
- (3) "Department" means the Department of Revenue;
- (4) "End user" means the person who utilized the multichannel video programming service. In the case of an entity, "end user" means the individual who used the service on behalf of the entity;
- (5) "Engaged in business" means:
- (a) Having any employee, representative, agent, salesman, canvasser, or solicitor operating in this state, under the authority of the provider, its subsidiary, or related entity, for the purpose of selling, delivering, taking orders, or performing any activities that help establish or maintain a marketplace for the provider;
  - (b) Maintaining, occupying, or using permanently or temporarily, directly or indirectly, or through a subsidiary or any other related entity, agent or representative, by whatever name called, an office, place of distribution, sales or sample room or place, warehouse or storage place, or other place of business;
  - (c) Having real or tangible personal property in this state;
  - (d) Providing communications service by or through a customer's facilities located in this state;
  - (e) Soliciting orders 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 payment of the order utilizes the services of any financial institution, communications system, radio or television station, cable service, direct broadcast satellite or wireless cable service, print media, or other facility or service located in this state; or
  - (f) Soliciting orders from residents of this state on a continuous regular, systematic basis if the provider benefits from an agent or representative operating in this state under the authority of the provider to repair or service tangible personal property sold by the retailer;
- (6) "Gross revenues" means all amounts received in money, credits, property, or other money's worth in any form, by a provider for furnishing multichannel video programming service or communications service in this state excluding amounts received from:
- (a) Charges for Internet access as provided in the federal Internet Tax Nondiscrimination Act, 47 U.S.C. sec. 151; and
  - (b) Any excise tax, sales tax, or similar tax, fee, or assessment levied by the United States or any state or local political subdivision upon the purchase, sale, use, or other consumption of communications services or multichannel video programming services that is permitted or required to be added to the sales price of the communications service or multichannel video programming service. This exclusion does not include any amount that the provider has retained as a reimbursement for collecting and remitting the tax to the appropriate taxing jurisdiction in a timely manner;
- (7) "In this state" means within the exterior limits of the Commonwealth of Kentucky and includes all territory within these limits owned by or ceded to the United States of America;
- (8) "Multichannel video programming service" means cable service and satellite broadcast and wireless cable service;
- (9) "Person" means and includes any individual, firm, corporation, joint venture, association, social club, fraternal organization, general partnership, limited partnership, limited liability partnership, limited liability company,

nonprofit entity, estate, trust, business trust, receiver, trustee, syndicate, cooperative, assignee, governmental unit or agency, or any other group or combination acting as a unit;

- (10) "Place of primary use" means the street address where the end user's use of the multichannel video programming service primarily occurs;
- (11) "Political subdivision" means a city, county, urban-county government, consolidated local government, or charter county government;
- (12) "Provider" means any person receiving gross revenues for the provision of multichannel video programming service or communications service in this state;
- (13) "Purchaser" means the person paying for multichannel video programming service;
- (14) "Resale" means the purchase of a multichannel video programming service by a provider required to collect the tax levied by KRS 136.604 for sale, or incorporation into a multichannel video programming service for sale, including but not limited to:
  - (a) Charges paid by multichannel video programming service providers for transmission of video or other programming by another provider over facilities owned or operated by the other provider; and
  - (b) Charges for use of facilities for providing or receiving multichannel video programming services;
- (15) "Retail purchase" means any purchase of a multichannel video programming service for any purpose other than resale;
- (16) "Sale" means the furnishing of a multichannel video programming service for consideration;
- (17) (a) "Sales price" means the total amount billed by or on behalf of a provider for the sale of multichannel video programming services in this state valued in money, whether paid in money or otherwise, without any deduction on account of the following:
  - 1. Any charge attributable to the connection, movement, change, or termination of a multichannel video programming service; or
  - 2. Any charge for detail billing;
 (b) "Sales price" does not include any of the following:
  - 1. Charges for installation, reinstallation, or maintenance of wiring or equipment on a customer's premises;
  - 2. Charges for the sale or rental of tangible personal property;
  - 3. Charges for billing and collection services provided to another multichannel video programming service provider;
  - 4. Bad check charges;
  - 5. Late payment charges;
  - 6. Any excise tax, sales tax, or similar tax, fee, or assessment levied by the United States or any state or local political subdivision, upon the purchase, sale, use, or consumption of any multichannel video programming service, that is permitted or required to be added to the sales price of the multichannel video programming service; or
  - 7. Internet access as provided in the federal Internet Tax Nondiscrimination Act, 47 U.S.C. sec. 151;
- (18) "Satellite broadcast and wireless cable service" means point-to-point or point-to-multipoint distribution services that include, but are not limited to, direct broadcast satellite service and multichannel multipoint distribution services, with programming or voice transmitted or broadcast by satellite, microwave, or any other equipment directly to the ~~purchaser~~<sup>[purchaser's premises]</sup>. Included in this definition are basic, extended, and premium service, pay-per-view service, digital or other music services, two (2) way service, and other similar services;
- (19) "School district" means a school district as defined in KRS 160.010 and 160.020; and

- (20) "Special district" means a special district as defined in KRS 65.005(1)(a) that currently levies on any provider or its customers the public service corporation property tax under KRS 136.120.

Section 4. KRS 136.616 is amended to read as follows:

- (1) A tax is hereby imposed on the gross revenues received by all providers.
- (2) The tax rate shall be:
  - (a) Two and four-tenths percent (2.4%) of the gross revenues received for the provision of multichannel video programming service *provided to a person whose place of primary use is in this state*, billed on or after January 1, 2006; and
  - (b) One and three-tenths percent (1.3%) of the gross revenues received for the provision of communications services, *as sourced under the provisions of KRS 139.105*, billed on or after January 1, 2006.
- (3) The provider shall not collect the tax directly from the purchaser or separately state the tax on the bill to the purchaser.
- (4)
  - (a) The tax imposed by this section shall apply to all providers except a municipal utility. "Municipal utility" as used in this section means a utility owned, operated, and controlled directly or indirectly by a city of the first, second, third, fourth, fifth or sixth class.
  - (b) To the extent that the provisions of KRS Chapter 279 are inconsistent with KRS 136.600 to 136.660, KRS 136.600 to 136.660 shall control.

Section 5. KRS 136.650 is amended to read as follows:

- (1)
  - (a) Every political subdivision, school district, and special district shall participate in the gross revenues and excise tax fund and the state baseline and local growth fund.
  - (b) On or before December 1, 2005, each political subdivision~~[- school district, special district, and sheriff's department]~~ shall certify to the department on a prescribed form the amount of collections it received from the~~[- tax imposed under KRS 136.120 attributable to the franchise portion of the operating property as noted in KRS 136.115 and]~~ local franchise fees collected from communications service and multichannel video programming service providers and other fees collected to fund public educational and government access programming during the period between July 1, 2004, and June 30, 2005. By certifying its participation under this subsection, each political subdivision~~[- school district, special district, and sheriff's department]~~:
    - 1.~~[(a)]~~ Consents to the hearing process provided in KRS 136.658; and
    - 2.~~[(b)]~~ Agrees to relinquish its right to enforce the portion of any contract or agreement that requires the payment of a franchise fee or tax on communications services and multichannel video programming services, regardless of whether the tax or fee is imposed on the provider or its customers.
  - (c) *The amount of collections received by each political subdivision, school district, special district, and sheriff's department between July 1, 2004, and June 30, 2005, from the tax imposed by KRS 136.120 attributable to the franchise portion of the operating property, as noted in KRS 136.115, shall be calculated by the department from assessment data for calendar year 2004.*
- (2) The monthly portion of the gross revenues and excise tax fund that shall be distributed to political subdivisions, school districts and special districts under KRS 136.652 shall be computed as follows:
  - (a) Each political subdivision, school district and special district shall be assigned a percentage based on the amount of its collections certified under subsection (1) of this section as a ratio of the total certified amount of collections of all parties participating in the fund. This percentage shall be known as the "local historical percentage." The portion of the sheriff departments' certified collections identified in subsection (1) of this section from the tax imposed under KRS 136.120 attributable to the franchise portion of the operating property, as noted in KRS 136.115, that was imposed by county governments shall be added to each county's reported collections to determine its local historical percentage;
  - (b) The sheriff departments' collections certified under subsection (1) of this section that are retained by the sheriff departments as their fee for collecting the taxes shall be the sheriff departments' fixed hold-harmless amount;

- (c) Three million thirty-four thousand dollars (\$3,034,000), which represents one-twelfth (1/12) of the total potential collections, shall be designated as the "monthly hold-harmless amount"; and
  - (d) Each political subdivision's, school district's, and special district's local historical percentage shall be multiplied by the monthly hold-harmless amount to determine its monthly distribution from the fund.
- (3) If during the period between June 30, 2005, and December 31, 2005, any political subdivision had a substantial change in its base revenue by enacting or modifying the rate of a local franchise fee prior to June 30, 2005, the political subdivision may request the department to determine its certified collection amount.
  - (4) If any political subdivision, school district, special district, or sheriff's department believes that the data used to determine its certified amount of collections are inaccurate, the political subdivision, school district, special district, or sheriff's department may request a redetermination by the oversight committee established by KRS 136.658. A redetermination shall be effective prospectively beginning with the next distribution cycle occurring ninety (90) days after the matter is finally settled.

Section 6. 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 executive director 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 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.
- (11) ***Any provider who violates the provisions of KRS 136.616(3) shall be subject to a penalty of twenty five dollars (\$25) per purchaser offense, not to exceed ten thousand dollars (\$10,000) per month.***

Section 7. 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" means the Department of Revenue.
- (2) "Manufacturer" means any person who manufactures or produces cigarettes, snuff, or other tobacco products 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" means a sale to any person for any other purpose other than resale.
- (5) "Cigarettes" means 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 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.
- (6) "Sale" or "sell" means any transfer for a consideration, exchange, barter, gift, offer for sale, advertising for sale, soliciting an order for cigarettes, other tobacco products, or snuff, and distribution in any manner or by any means whatsoever.
- (7) "Tax evidence" means any stamps, metered impressions, or other indicia prescribed by the department by regulation as a means of denoting the payment of tax.
- (8) "Person" means any individual, firm, copartnership, joint venture, association, municipal or private corporation whether organized for profit or not, the Commonwealth of Kentucky or any of its political subdivisions, an estate, trust, or any other group or combination acting as a unit, and the plural as well as the singular.
- (9) "Resident wholesaler" means any person who purchases at least seventy-five percent (75%) of all cigarettes, other tobacco products, or snuff purchased by the wholesaler directly from the manufacturer on which the tax provided for in KRS 138.130 to 138.205 is unpaid, and who maintains an established place of business in this state where the wholesaler attaches cigarette tax evidence, or receives untaxed cigarettes, other tobacco products, or snuff.
- (10) "Nonresident wholesaler" means any person who purchases cigarettes, other tobacco products, or snuff 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" means any person who purchases cigarettes, other tobacco products, or snuff from a wholesaler licensed under KRS 138.195 on which the tax imposed by KRS 138.140 has been paid and makes them available to retailers for resale. No person shall be deemed to make cigarettes, other tobacco products, or snuff available to retailers for resale unless the person certifies and establishes to the satisfaction of the department that firm arrangements have been made to regularly supply at least five (5) retail locations with Kentucky tax-paid cigarettes, other tobacco products, or snuff for resale in the regular course of business.
- (12) "Vending machine operator" means any person who operates one (1) or more cigarette, other tobacco products, or snuff vending machines.
- (13) "Transporter" means any person transporting untax-paid cigarettes, other tobacco products, or snuff obtained from any source to any destination within this state, other than cigarettes, other tobacco products, or snuff transported by the manufacturer thereof.
- (14) "Unclassified acquirer" means any person in this state who acquires cigarettes, other tobacco products, or snuff from any source on which the tax imposed by KRS 138.140 has not been paid, and who is not a person otherwise required to be licensed under the provisions of KRS 138.195.
- (15) "Other tobacco products" means:
  - (a) Cigars, cheroots, stogies, periques, granulated, plug cut, crimp cut, ready rubbed, and other smoking tobacco;~~---~~
  - (b) Cavendish, plug and twist tobacco, fine-cut, and other chewing tobacco; ~~or---~~
  - (c) Shorts, ***dry snuff***, refuse scraps, clippings, cuttings and sweepings of tobacco, and other kinds and forms of tobacco prepared in a manner to be suitable for chewing or smoking in a pipe or otherwise, or both for chewing or smoking. ***"Other tobacco products"***~~[-but]~~ does not include cigarettes as defined in subsection (5) of this section, or ***moist snuff taxed under the provisions of KRS 138.140(5)***.
- (16) "Wholesale sale" means a sale made for the purpose of resale in the regular course of business.

Section 8. 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 *titled or* 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, "retail price" shall be the average trade-in value given in the reference manual;
- (d) For the older used motor vehicles being *titled or* 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 *titling or* 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 for any vehicle given in trade;
- (f) For used motor vehicles, *except those valued pursuant to subsection (b), (c), (d), or (e) of this subsection* 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 through the use of the automotive reference manual prescribed by the Department of Revenue;
- (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;
- (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 9. 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 titled or registered:
  - (a) When the fee for titling or registering a motor vehicle the first time it is offered for titling or registration in this state is collected; or
  - (b) Upon the transfer of title or registration of any motor vehicle previously titled or registered in this state.
- (3) The tax imposed by subsection (1) of this section and collected under subsection (2) of this section shall not be collected if the owner provides to the county clerk a signed affidavit of nonhighway use, on a form provided by the department, attesting that the vehicle will not be used on the highways of the Commonwealth. If this type of affidavit is provided, the clerk shall, in accordance with the provisions of KRS Chapter 139, immediately collect the applicable sales and use tax due on the vehicle.
- (4) (a) The tax collected by the county clerk under this section shall be reported and remitted to the Department of Revenue on forms provided by the department and on those forms as the department may prescribe. The department 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 and subsection (3) of this section. 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.

- (b) The sales and use tax collected by the county clerk under subsection (3) of this section shall be reported and remitted to the department on forms which the department shall prescribe and provide at no cost. The county clerk shall, for his or her services in collecting the tax, be entitled to retain an amount equal to three percent (3%) of the tax collected and accounted for.
  - (c) Motor vehicle dealers licensed pursuant to KRS Chapter 190 shall not owe or be responsible for the collection of sales and use tax due under subsection (3) of this section.
- (5) A county clerk or other officer shall not title, register or issue any license tags to the owner of any motor vehicle subject to the tax imposed by subsection (1) of this section or the tax imposed by KRS Chapter 139, when the vehicle is being offered for titling or registration for the first time, or transfer the title of any motor vehicle previously registered in this state, unless the owner or his agent pays the tax levied under subsection (1) of this section or the tax imposed by KRS Chapter 139, if applicable, in addition to any title, registration, or license fees.
- (6) (a) When a person offers a motor vehicle:
- 1. For titling on or after ~~July 1, 2005~~ **July 1, March 2011**; or
  - 2. 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.
- (b) When a resident of this state offers a motor vehicle for registration for the first time in this state:
- 1. Upon which the Kentucky sales and use tax was paid by the resident offering the motor vehicle for registration at the time of titling under subsection (3) of this section; and
  - 2. For which the resident provides proof that the tax was paid;
- a nonrefundable credit shall be given against the tax imposed by subsection (1) of this section for the sales and use tax paid.
- (7) A county clerk or other officer shall not title, 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 titling or 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)(b), (c), (d), ~~(e)~~, **or (f)** for used vehicles. 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 may prescribe by administrative regulation promulgated under KRS Chapter 13A to the copy of the certificate of registration and application for title mailed to the department.
- (8) Notwithstanding the provisions of KRS 138.450, the tax shall not be less than six dollars (\$6) upon titling or first registration of a motor vehicle in this state, except where the vehicle is exempt from tax under KRS 138.470 or 154.45-090.
- (9) 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 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.
- (10) 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 as a result of the first titling or registration. A person shall not be entitled to a refund unless the person has filed with the Department of Revenue a report from the manufacturer identifying the vehicle that was replaced and stating the date of replacement.

- (11) Notwithstanding the time limitations of subsections (9) and (10) 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 as a result of the titling or registration. A person shall not be entitled to a refund unless the person files with the Department of Revenue a report from the dealer or manufacturer identifying the vehicle that was replaced.

Section 10. KRS 138.464 is amended to read as follows:

The county clerk shall report each Monday to the Department of Revenue 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 *and sales and use tax* collections not later than the next business day following receipt in a Commonwealth of Kentucky, Department of Revenue 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 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 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 11. KRS 138.465 is amended to read as follows:

- (1) Any person other than a dealer, as defined in KRS 186.010(10), who sells or transfers a motor vehicle in this state shall deliver to the county clerk the certificate of ~~title~~*registration and ownership* with the assignment form on the reverse side properly executed and shall transfer the vehicle to the new owner within ten (10) days of the date of the sale or transfer of ownership.
- (2) Any person who violates subsection (1) of this section shall be subject to the penalties set out in KRS 186.990(2).

Section 12. KRS 138.470 is amended to read as follows:

There is expressly exempted from the tax imposed by KRS 138.460:

- (1) Motor vehicles ~~itled or registered~~*itled or registered* sold to the United States, or to the Commonwealth of Kentucky or any of its political subdivisions;
- (2) Motor vehicles ~~itled or registered~~*itled or registered* sold to institutions of purely public charity and institutions of education not used or employed for gain by any person or corporation;
- (3) Motor vehicles which have been previously *itled in Kentucky on or after July 1, 2005, or previously* registered and titled in any state or by the federal government when being sold or transferred to licensed motor vehicle dealers for resale. The motor vehicles shall not be leased, rented, or loaned to any person and shall be held for resale only;
- (4) Motor vehicles sold by or transferred from dealers registered and licensed in compliance with the provisions of KRS 186.070 and KRS 190.010 to 190.080 to nonresident members of the Armed Forces on duty in this Commonwealth under orders from the United States government;

- (5) Commercial motor vehicles, excluding passenger vehicles having a seating capacity for nine (9) persons or less, owned by nonresident owners and used primarily in interstate commerce and based in a state other than Kentucky which are required to be registered in Kentucky by reason of operational requirements or fleet proration agreements and are registered pursuant to KRS 186.145;
- (6) Motor vehicles *titled in Kentucky on or after July 1, 2005, or* previously registered in Kentucky, transferred between husband and wife, parent and child, stepparent and stepchild, or grandparent and grandchild;
- (7) Motor vehicles transferred when a business changes its name and no other transaction has taken place or an individual changes his or her name;
- (8) Motor vehicles transferred to a corporation from a proprietorship or limited liability company, to a limited liability company from a corporation or proprietorship, or from a corporation or limited liability company to a proprietorship, within six (6) months from the time that the business is incorporated, organized, or dissolved;
- (9) Motor vehicles transferred by will, court order, or under the statutes covering descent and distribution of property, if the vehicles were *titled in Kentucky on or after July 1, 2005, or* previously registered in Kentucky;
- (10) Motor vehicles transferred between a subsidiary corporation and its parent corporation if there is no consideration, or nominal consideration, or in sole consideration of the cancellation or surrender of stock;
- (11) Motor vehicles transferred between a limited liability company and any of its members, if there is no consideration, or nominal consideration, or in sole consideration of the cancellation or surrender of stock;
- (12) The interest of a partner in a motor vehicle when other interests are transferred to him;
- (13) Motor vehicles repossessed by a secured party who has a security interest in effect at the time of repossession and a repossession affidavit as required by KRS 186.045(6). The reposessor shall hold the vehicle for resale only and not for personal use, unless he has previously paid the motor vehicle usage tax on the vehicle;
- (14) Motor vehicles transferred to an insurance company to settle a claim. These vehicles shall be junked or held for resale only;
- (15) Motor carriers operating under a charter bus certificate issued by the Transportation Cabinet under KRS Chapter 281;
- (16) Motor vehicles registered under KRS 186.050 that have a declared gross vehicle weight with any towed unit of forty-four thousand and one (44,001) pounds or greater;
- (17) Farm trucks registered under KRS 186.050(4) that have a declared gross vehicle weight with any towed unit of forty-four thousand and one (44,001) pounds or greater; and
- (18) In order to be eligible for the exemption established in subsections (16) and (17) of this section, motor vehicles shall be required to be registered at the appropriate range for the declared gross weight of the vehicle established in KRS 186.050(3)(b) and shall be prohibited from registering at a higher weight range. If a motor vehicle is initially registered in one (1) declared gross weight range and subsequently is registered at a declared gross weight range lower than forty-four thousand and one (44,001) pounds, the person registering the vehicle shall be required to pay the county clerk the usage tax due on the vehicle unless the person can provide written proof to the clerk that the tax has been previously paid.

Section 13. KRS 141.0205 is amended to read as follows:

If a taxpayer is entitled to more than one (1) of the tax credits allowed against the tax imposed by KRS 141.020 or 141.040, the priority of application and use of the credits shall be determined as follows:

- (1) The nonrefundable business incentive credits against the tax imposed by KRS 141.020 shall be taken in the following order:
  - (a) The corporation income tax credit permitted by KRS 141.420(3)(a);
  - (b) The economic development credits computed under KRS 141.347, 141.400, 141.403, 141.407, and 154.12-2088;
  - (c) The certified rehabilitation credit permitted by KRS 171.397;

- (d) The health insurance credit permitted by KRS 141.062;
  - (e) The tax paid to other states credit permitted by KRS 141.070;
  - (f) The credit for hiring the unemployed permitted by KRS 141.065;
  - (g) The recycling or composting equipment credit permitted by KRS 141.390;
  - (h) The tax credit for cash contributions in investment funds permitted by KRS 154.20-263 in effect prior to July 15, 2002, and the credit permitted by KRS 154.20-258;
  - (i) The coal incentive credit permitted under KRS 141.0405;
  - (j) The research facilities credit permitted under KRS 141.395;
  - (k) The employer GED incentive credit permitted under KRS 151B.127;
  - (l) The voluntary environmental remediation credit permitted by KRS 141.418;
  - (m) The biodiesel credit permitted by KRS 141.423;
  - (n) The environmental stewardship credit permitted by KRS 154.48-025; and
  - (o) The clean coal incentive credit permitted by KRS 141.428.
- (2) After the application of the nonrefundable credits in subsection (1) of this section, the nonrefundable personal tax credits against the tax imposed by KRS 141.020 shall be taken in the following order:
- (a) The individual credits permitted by KRS 141.020(3);
  - (b) The credit permitted by KRS 141.066;
  - (c) The tuition credit permitted by KRS 141.069; and
  - (d) The household and dependent care credit permitted by KRS 141.067.
- (3) After the application of the nonrefundable credits provided for in subsection (2) of this section, the refundable credits against the tax imposed by KRS 141.020 shall be taken in the following order:
- (a) The individual withholding tax credit permitted by KRS 141.350;
  - (b) The individual estimated tax payment credit permitted by KRS 141.305; and
  - (c) The corporation income tax credit permitted by KRS 141.420(3)(c).
- (4) The nonrefundable credits against the tax imposed by KRS 141.040 shall be taken in the following order:
- (a) The economic development credits computed under KRS 141.347, 141.400, 141.403, 141.407, and 154.12-2088;
  - (b) The certified rehabilitation credit permitted by KRS 171.397;
  - (c) The health insurance credit permitted by KRS 141.062;
  - (d) The unemployment credit permitted by KRS 141.065;
  - (e) The recycling or composting equipment credit permitted by KRS 141.390;
  - (f) The coal conversion credit permitted by KRS 141.041;
  - (g) The enterprise zone credit permitted by KRS 154.45-090, for taxable periods ending prior to January 1, 2008;
  - (h) The tax credit for cash contributions to investment funds permitted by KRS 154.20-263 in effect prior to July 15, 2002, and the credit permitted by KRS 154.20-258;
  - (i) The coal incentive credit permitted under KRS 141.0405;
  - (j) The research facilities credit permitted under KRS 141.395;
  - (k) The employer GED incentive credit permitted under KRS 151B.127;
  - (l) The voluntary environmental remediation credit permitted by KRS 141.418;

- (m) The biodiesel credit permitted by KRS 141.423;
  - (n) The environmental stewardship credit permitted by KRS 154.48-025; and
  - (o) The clean coal incentive credit permitted by KRS 141.428.
- (5) After the application of the nonrefundable credits in subsection ~~(4)~~~~(3)~~ of this section, the refundable corporation estimated tax payment credit permitted by KRS 141.044 shall be allowed as a credit against the tax imposed by KRS 141.040.

Section 14. 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) *For taxable years beginning on or after January 1, 2006, the amount of estimated tax due under the provisions of subsection (1) of this section shall be the amount of tax due under KRS 141.040 for the previous taxable year, provided that the liability for the previous taxable year was equal to or less than twenty-five thousand dollars (\$25,000).*
- (3) The declaration required under subsection (1) *of this section* 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) *of this subsection* 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 by forms or regulations may prescribe.
- ~~(4)~~~~(3)~~ The declaration required under subsection (1) *of this section* shall be filed with the department 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.
- ~~(5)~~~~(4)~~ A corporation may make amendments of a declaration filed during the taxable year in accordance with regulations prescribed by the department. 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.
- ~~(6)~~~~(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.
- ~~(7)~~~~(6)~~ The department 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 15. KRS 141.200 is amended to read as follows:

- (1) Subsections (2) to (7) of this section shall apply for taxable periods ending before January 1, 2005, and election periods beginning prior to January 1, 2005.
- (2) As used in subsections (2) to (7) of 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;
  - (d) "Corporation" means "corporation" as defined in Section 7701(a)(3) of the Internal Revenue Code; and
  - (e) "Election period" means the ninety-six (96) month period provided for in subsection (4)(d) of this section.
- (3) 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 (4) of this section.
- (4) (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. The gross receipts received by a public service company that is a member of an affiliated group shall be excluded from the calculation of the alternative minimum calculation under the provisions of KRS 141.040(5)(b). For purposes of this paragraph, "public service company" has the same meaning as provided in KRS 136.120.
- (c) Any election made in accordance with paragraph (a) of this subsection shall be made on a form prescribed by the department and shall be submitted to the department on or before the due date of the return including extensions for the first taxable year for which the election is made.
- (d) Notwithstanding subsections (9) to (15) of this section, any election to file a consolidated return pursuant to paragraph (a) of this subsection shall be binding on both the department 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.
- (5) 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.
- (6) 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 may require a further or supplemental report of further information and data necessary for computation of the tax.
- (7) 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 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 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 may require the return to show in detail the record of transactions between the corporation and any or all other related corporations or individuals.

- (8) Subsections (9) to (14) of this section shall apply for taxable years beginning on or after January 1, 2005.
- (9) As used in subsections (9) to (14) of this section:
- (a) 1. "Affiliated group" means one (1) or more chains of includible corporations connected through stock ownership, membership interest, or partnership interest with a common parent corporation if:
    - a. The common parent owns directly an ownership interest meeting the requirements of subparagraph 2. of this paragraph in at least one (1) other includible corporation; and
    - b. An ownership interest meeting the requirements of subparagraph 2. of this paragraph in each of the includible corporations, excluding the common parent, is owned directly by one (1) or more of the other corporations.
  - 2. The ownership interest of any corporation meets the requirements of this paragraph if the ownership interest encompasses at least eighty percent (80%) of the voting power of all classes of ownership interests and has a value equal to at least eighty percent (80%) of the total value of all ownership interests;
  - (b) "Common parent corporation" means the member of an affiliated group that meets the ownership requirement of paragraph (a)1.a. of this subsection;
  - (c) "Foreign corporation" means a corporation that is organized under the laws of a country other than the United States and is related to a member of an affiliated group through stock ownership;
  - (d) "Includible corporation" means any corporation that is doing business in this state except:
    - 1. Corporations exempt from corporation income tax under KRS 141.040(1)(a) to (h);
    - 2. Foreign corporations;
    - 3. Corporations with respect to which an election under Section 936 of the Internal Revenue Code is in effect for the taxable year;
    - 4. Real estate investment trusts as defined in Section 856 of the Internal Revenue Code;
    - 5. Regulated investment companies as defined in Section 851 of the Internal Revenue Code;
    - 6. A domestic international sales company as defined in Section 992(a)(1) of the Internal Revenue Code;
    - 7. ~~An S corporation as defined in Section 1361(a) of the Internal Revenue Code;~~
    - 8. ~~Any corporation that realizes a net operating loss whose Kentucky property, payroll, and sales factors pursuant to KRS 141.120(8) are de minimis; and~~
    - 8. ~~Any corporation for which the sum of the property, payroll and sales factors described in KRS 141.120(8) is zero;~~
  - (e) "Ownership interest" means stock, a membership interest in a limited liability company, or a partnership interest in a limited partnership or limited liability partnership;
  - (f) "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 the Internal Revenue Code and related regulations, except as required by differences between this chapter and the Internal Revenue Code; and
  - (g) "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.
- (10) Every corporation doing business in this state except those exempt from taxation under KRS 141.040(1)(a) to (h) shall, for each taxable year, file a separate return unless the corporation was, for any part of the taxable year:

- (a) An includible corporation in an affiliated group;
  - (b) A common parent corporation doing business in this state;
  - (c) A qualified subchapter S Subsidiary that is included in the return filed by the Subchapter S parent corporation;~~{or}~~
  - (d) A qualified real estate investment trust subsidiary that is included in the return filed by the real estate investment trust parent; *or*
  - (e) *A disregarded entity that is included in the return filed by its parent entity.*
- (11) (a) An affiliated group, whether or not filing a federal consolidated return, shall file a consolidated return which includes all includible corporations.
- (b) An affiliated group required to file a consolidated return under 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. Includible corporations that have incurred a net operating loss shall not deduct an amount that exceeds, in the aggregate, fifty percent (50%) of the income realized by the remaining includible corporations that did not realize a net operating loss. The portion of any net operating loss limited by the application of this subsection shall be available for carryforward in accordance with KRS 141.011. The Department of Revenue shall promulgate administrative regulations to establish the manner and extent to which net operating losses attributable to tax periods ending prior to January 1, 2005, may offset income of affiliated groups. The gross receipts received by a public service company that is a member of an affiliated group shall be excluded from the calculation of the alternative minimum calculation under KRS 141.040(5)(b). For purposes of this paragraph, "public service company" has the same meaning as provided in KRS 136.120.
- (12) Each includible 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 includible 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.
- (13) Every corporation return or report required by this chapter shall be executed by one (1) of the following officers or management of the corporation: the president, vice president, secretary, treasurer, assistant secretary, assistant treasurer, chief accounting officer, manager, member, or partner. The Department of Revenue may require a further or supplemental report of further information and data necessary for computation of the tax.
- (14) In the case of a corporation doing business in this state that carries on transactions with stockholders, members or partners, or with other corporations related by ownership, by interlocking directorates, or by some other method, the department shall require that information necessary to make possible an accurate assessment of the income derived by the corporation from sources within this state be provided. To make possible this assessment, the department 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 may require the return to show in detail the record of transactions between the corporation and any or all other related corporations or individuals.
- (15) For any taxable year ending on or after December 31, 1995, except as provided under this section and KRS 141.205, 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.
- (16) 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.
- (17) 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.

- (18) 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.
- (19) This section shall not be construed to limit or otherwise impair the department's authority under KRS 141.205.

Section 16. KRS 141.205 is amended to read as follows:

- (1) As used in this section:

- (a) "Intangible property" means franchises, patents, patent applications, trade names, trademarks, service marks, copyrights, trade secrets, and similar types of intangible assets;
- (b) "Intangible expenses" includes the following only to the extent that the amounts are allowed as deductions or costs in determining taxable net income before the application of any net operating loss deduction provided under Chapter 1 of the Internal Revenue Code:
  - 1. Expenses, losses, and costs for, related to, or in connection directly or indirectly with the direct or indirect acquisition, use, maintenance, management, ownership, sale, exchange, or any other disposition of intangible property;
  - 2. Losses related to, or incurred in connection directly or indirectly with, factoring transactions or discounting transactions;
  - 3. Royalty, patent, technical, and copyright fees;
  - 4. Licensing fees; and
  - 5. Other similar expenses and costs;
- (c) "Intangible interest expense" means only those amounts which are directly or indirectly allowed as deductions under Section 163 of the Internal Revenue Code for purposes of determining taxable income under that code, to the extent that the amounts are directly or indirectly for, related to, or connected to the direct or indirect acquisition, use, maintenance, management, ownership, sale, exchange, or any other disposition of intangible property;
- (d) "Management fees" includes but is not limited to expenses and costs paid for services pertaining to accounts receivable and payable, employee benefit plans, insurance, legal, payroll, data processing, purchasing, tax, financial and securities, accounting, reporting and compliance services or similar services, only to the extent that the amounts are allowed as a deduction or cost in determining taxable net income before application of the net operating loss deduction for the taxable year provided under Chapter 1 of the Internal Revenue Code;
- (e) "Affiliated group" has the same meaning as provided in KRS 141.200;
- (f) "Foreign corporation" means a corporation that is organized under the laws of a country other than the United States and that would be a related member if it were a domestic corporation;
- (g) "Related member" means a person that, with respect to the corporation during all or any portion of the taxable year, is:
  - 1. A person or entity that has, directly or indirectly, at least fifty percent (50%) of the equity ownership interest in the taxpayer, as determined under Section 318 of the Internal Revenue Code;
  - 2. A component member as defined in Section 1563(b) of the Internal Revenue Code;
  - 3. A person to or from whom there is attribution of stock ownership in accordance with Section 1563(e) of the Internal Revenue Code; or
  - 4. A person that, notwithstanding its form of organization, bears the same relationship to the taxpayer as a person described in subparagraphs 1. to 3. of this paragraph;

- (h) "Recipient" means a related member or foreign corporation to whom the item of income that corresponds to the intangible interest expense, the intangible expense, or the management fees, is paid;
  - (i) "Unrelated party" means a person that has no direct, indirect, beneficial or constructive ownership interest in the recipient; and in which the recipient has no direct, indirect, beneficial or constructive ownership interest;
  - (j) "Disclosure" means that the corporation shall provide the following information to the Revenue Cabinet with its tax return regarding a related party transaction:
    - 1. The name of the recipient;
    - 2. The state or country of domicile of the recipient;
    - 3. The amount paid to the recipient; and
    - 4. A description of the nature of the payment made to the recipient;
  - (k) "Other related party transaction" means a transaction which:
    - 1. Is undertaken by a corporation which was not required to file a consolidated return under KRS 141.200;
    - 2. Is undertaken by a corporation, directly or indirectly, with one (1) or more of its stockholders, members, partners, or affiliated corporations; and
    - 3. Is not within the scope of subsections (2) to (5) of this section; and
  - (l) "Related party costs" means intangible expense, intangible interest expense, management fees and any costs or expenses associated with other related party transactions.
- (2) A corporation subject to the tax imposed by KRS 141.040 shall not be allowed to deduct an *intangible expense or* intangible interest expense directly or indirectly paid, accrued or incurred to, or in connection directly or indirectly with one (1) or more direct or indirect transactions with one (1) or more related members{~~of an affiliated group~~} or with a foreign corporation as defined in subsection (1) of this section.
- (3) The disallowance of deductions provided by subsection (2) of this section shall not apply if:
- (a) The corporation and the recipient are both included in the same consolidated Kentucky corporation income tax return for the relevant taxable year: or
  - (b) The corporation makes a disclosure, and establishes by a preponderance of the evidence that:
    - 1. The payment made to the recipient was subject to, in its state or country of commercial domicile, a net income tax, or a franchise tax measured by, in whole or in part, net income. If the recipient is a foreign corporation, the foreign nation shall have in force a comprehensive income tax treaty with the United States; and
    - 2. The recipient is engaged in substantial business activities separate and apart from the acquisition, use, licensing, management, ownership, sale, exchange, or any other disposition of intangible property, or in the financing of related members, as evidenced by the maintenance of permanent office space and full-time employees dedicated to the maintenance and protection of intangible property; and
    - 3. The transaction giving rise to the intangible interest expense or the intangible expense between the corporation and the recipient was made at a commercially reasonable rate and at terms comparable to an arm's-length transaction; or
  - (c) The corporation makes a disclosure, and establishes by preponderance of the evidence that the recipient regularly engages in transactions with one or more unrelated parties on terms identical to that of the subject transaction; or
  - (d) The corporation and the Department of Revenue agree in writing to the application or use of an alternative method of apportionment under KRS 141.120(9).
- (4) A corporation subject to the tax imposed by KRS 141.040 shall not be allowed to deduct management fees directly or indirectly paid, accrued or incurred to, or in connection directly or indirectly with one (1) or more

direct or indirect transactions with one (1) or more related members~~[-of an affiliated group]~~ or with a foreign corporation as defined in subsection (1) of this section.

- (5) The disallowance of the deduction provided in subsection (4) of this section shall not apply if:
  - (a) The corporation and recipient are both included in the same consolidated Kentucky corporation income tax return for the relevant taxable year;
  - (b) The corporation makes a disclosure and establishes by a preponderance of the evidence that the transaction giving rise to the management fees between the corporation and the recipient was made at a commercially reasonable rate and at terms comparable to an arm's-length transaction; or
  - (c) The corporation and the Department of Revenue agree in writing to the application or use of an alternative method of apportionment under subsection KRS 141.120(9).
- (6) A corporation subject to the tax imposed by KRS 141.040 may deduct expenses or costs associated with an other related party transaction only in an amount equal to the amount which would have resulted if the other related party transaction had been carried out at arm's length. In any dispute between the department and the corporation with respect to the amount which would have resulted if the transaction had been carried out at arm's length, the corporation shall bear the burden of establishing the amount by a preponderance of the evidence.
- (7) Nothing in this section shall be deemed to prohibit a corporation from deducting a related party cost in an amount permitted by this section, provided that the corporation has incurred related party costs equal to or greater than the amounts permitted by this section.
- (8) If it is determined by the department that the amount of a deduction claimed by a corporation with respect to a related party cost is greater than the amount permitted by this section, the net income of the corporation shall be adjusted to reflect the amount of the related party cost permitted by this section.
- (9) For tax periods ending before January 1, 2005, 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 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 17. KRS 141.420 is amended to read as follows:

- (1) (a) Every corporation identified in KRS 141.010(24)(b) to (h) that is doing business in this state shall, on or before the fifteenth day of the fourth month following the close of its annual accounting period, file a copy of its applicable federal return with the form prescribed and furnished by the department.
- (b) For a corporation filing a return under paragraph (a) of this subsection, the individual partner's, member's, or shareholder's distributive share of net income, gain, loss, or deduction shall be computed as nearly as practicable in a manner identical to that required for federal income tax purposes except to the extent required by differences between this chapter and the federal income tax law and regulations.
- (2) (a) Resident individuals who are members, partners, or shareholders of a corporation required to file a return under subsection (1)(a) of this section shall report and pay tax on the distributive share of net income, gain, loss, or deduction as determined in subsection (1)(b) of this section.
- (b) Nonresident individuals who are members, partners, or shareholders of a corporation required to file a return under subsection (1)(a) of this section shall report and pay tax on the distributive share of net income, gain, loss, or deduction as determined in subsection (1)(b) of this section multiplied by the apportionment fraction in KRS 141.120(8).
- (3) (a) Resident and nonresident individuals who are members, shareholders, or partners of a corporation required to file a return under paragraph (a) of subsection (1) of this section shall be entitled to a nonrefundable credit against the tax imposed under KRS 141.020.
- (b) The credit determined under this subsection shall be the member's, shareholder's, or partner's proportionate share of the tax due from the corporation as determined under KRS 141.040, before the application of any credits identified in KRS 141.0205(4) and reduced by the required minimum imposed by KRS 141.040(6).

- (c) Notwithstanding the provisions of paragraph (a) of this subsection, for taxable years beginning after December 31, 2004, and before January 1, 2007, the portion of the credit computed under paragraph (b) of this subsection that exceeds the credit that would have been utilized if the corporation's income were taxed at the rates in KRS 141.020 shall be refundable. The refundable portion of the credit shall be the individual member's, shareholder's, or partner's proportionate share of the amount computed by multiplying the amount the corporation's income exceeds two hundred sixteen thousand six hundred dollars (\$216,600) by one percent (1%).
- (d) The credit determined under paragraphs (a) and (b) of this subsection shall not operate to reduce the member's, shareholder's, or partner's tax due to an amount that is less than what would have been payable were the income attributable to doing business in this state by the corporation ignored.
- (e) *If a corporation identified in KRS 141.010(24)(b) to (h) is a partner, shareholder, or member of another corporation identified in KRS 141.010(24)(b) to (h), the amount of income, gain, loss, deduction, refundable credit, or nonrefundable credit that the entity receives from the entity in which it is a partner, shareholder, or member shall proportionately pass through to the corporation's individual partners, members, or shareholders based upon the distributive share ratio. The phrase "a corporation identified in KRS 141.010(24)(b) to (h) is a partner, shareholder, or member of another corporation identified in KRS 141.010(24)(b) to (h)" shall extend through each level of multitiered ownership.*
- (f) *The nonrefundable and refundable credits provided by this section shall be allowed only to the extent that the tax is paid by the corporation. If after the credits are disallowed the corporation subsequently pays the tax due, the nonrefundable and refundable credits shall then be allowed.*
- (4) For purposes of computing the basis of an ownership interest or stock in a corporation identified in KRS 141.010(24)(b) to (h), the basis attributable to a member, partner, or shareholder shall be adjusted by the distributive share of the items of net income, gain, loss and deduction as though the items had been passed through to the member, partner, or shareholder.
- (5) Except as otherwise provided in this chapter, distributions by or from a corporation shall be treated in the same manner as they are treated for federal tax purposes.

Section 18. 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 five hundred dollars (\$500) 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 tax liability due under KRS 141.040 and computed by the taxpayer on the return filed for the tax year. *For taxable years beginning on or after January 1, 2006, the penalty imposed by this subsection shall not apply if estimated payments made under subsection (1) of KRS 141.044 are equal to the amount of tax due under KRS 141.040 for the previous taxable year, and the amount of tax due under KRS 141.040 for the previous year was equal to or less than twenty-five thousand dollars (\$25,000).*
- (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 and required to be filed with the department by the provisions of this chapter, or by the rules and regulations of the department or by written request for information to the taxpayer by the department.

Section 19. KRS 160.6152 is amended to read as follows:

- (1) The superintendent of schools in each school district levying the tax permitted by KRS 160.593 shall, on or before March 31, 2005, provide to the ~~department~~~~cabinet~~ and to each entity providing utility services within the school district, the boundaries of the school district.
- (2) If the boundaries reported to the ~~department~~~~cabinet~~ and to each entity providing utility services within the school district change, the superintendent of schools shall report the boundary changes to the ~~department~~~~cabinet~~ and to each entity providing utility services within the school district.
- (3) The ~~department~~~~cabinet~~ and entities providing utility services within the school district shall allocate tax payments among the various school districts imposing the taxes authorized by KRS 160.613 and 160.614 in accordance with the most recent boundary information provided by the superintendents, as adjusted by any agreements entered into pursuant to KRS 160.6153. The ~~department~~~~cabinet~~ and entities providing utility services within a school district shall not be responsible for nor subject to the imposition of penalties or interest relating to, distribution errors resulting from incorrect boundary information provided pursuant to this section, and may rely upon the most recent boundary information and any agreements entered into pursuant to KRS 160.6153 and provided by each superintendent as accurate.
- (4) ***If more than one (1) school district board of education within a county levies the taxes permitted under KRS 160.613 or 160.614, the participating districts may choose to allocate the taxes collected and distributed by the department in proportion to the number of pupils in average daily attendance in the participating districts that levy the tax as shown by the final certification by the chief state school officer for the previous school year pursuant to the provisions of KRS 157.310 to 157.440. Implementation of this allocation shall be based on the following provisions:***
  - (a) ***The participating districts shall provide a jointly executed agreement to the department thirty (30) days prior to the first distribution to be so allocated;***
  - (b) ***The agreement shall remain in effect until one (1) of the participating districts notifies the department and any other participating districts by certified mail thirty (30) days prior to the effective date of any change in allocation that the agreement is dissolved; and***
  - (c) ***The department shall make annual adjustments to allocations made pursuant to an agreement entered into under this subsection based upon changes in the number of pupils in average daily attendance in the participating districts as shown by the final certification by the chief state school officer for the previous school year pursuant to the provisions of KRS 157.310 to 157.440.***
- (5) If there is a conflict regarding school district boundaries, the ~~department~~~~cabinet~~ may, until the conflict is resolved, distribute the total tax revenues collected for the districts involved in the conflict proportionately to the districts based upon the average daily attendance in the districts for the previous school year.

Section 20. KRS 160.6156 is amended to read as follows:

- (1) Any utility service provider that has paid the utility gross receipts tax imposed by a school district pursuant to KRS 160.613 and 160.614 may request a refund or credit for any overpayment of tax or any payment where no tax was due within two (2) years after the tax due date, including any extensions granted.

- (2) A request for refund shall be in writing, and shall be made to the ~~department~~~~[cabinet]~~ with a copy to the school district to which the tax was allocated. The request shall state the amount requested, the applicable period, and the basis for the request.
- (3) Refunds shall be authorized by the ~~department~~~~[cabinet]~~, in consultation with the chairman or finance officer of the district board of education, with interest as provided in KRS 131.183.
- (4) The ~~department~~~~[cabinet]~~ shall make authorized **tax** refunds, **including interest**, from current tax collections in its possession ~~allocated for distribution to the affected~~~~[for the]~~ district. **Applicable school district distributions and the department administrative expense allocation provided for pursuant to KRS 160.6154(2) shall be adjusted proportionately to reflect refunds paid.** If sufficient funds are not available **from the current distribution cycle**, the ~~department~~~~[cabinet]~~ shall **pay refunds from subsequent amounts collected for distribution to the affected district until all refund payments, including interest, have been completed**~~[notify the school district and the school district shall make the refund]~~.
- (5) If the ~~department~~~~[cabinet]~~ denies a requested refund in whole or in part, the taxpayer may appeal the denial to the Circuit Court in the county where the school district is located.

Section 21. KRS 160.615 is amended to read as follows:

- (1) The school taxes authorized by KRS 160.613 and 160.614 shall be due and payable monthly and shall be remitted to the ~~department~~~~[cabinet]~~ on or before the twentieth day of the next succeeding calendar month.
- (2) 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 any tax due.
- (3) For purposes of facilitating the administration, payment or collection of the taxes levied by KRS 160.613 and 160.614, the ~~department~~~~[cabinet]~~, in consultation with the impacted school district, may permit or require returns or tax payments for periods other than those prescribed in subsections (1) and (2) of this section.
- (4) The ~~department~~~~[cabinet]~~ may, 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.
- (5) 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 22. KRS 160.6153 is amended to read as follows:

- (1) If the ~~department~~~~[cabinet]~~ determines that the allocation among districts as submitted by the taxpayer on the return varies from the school district boundary information submitted to the ~~department~~~~[cabinet]~~ pursuant to KRS 160.6152, the ~~department~~~~[cabinet]~~ shall:
  - (a) Make a proposed administrative adjustment to correct the erroneous allocation going forward;
  - (b) Determine whether the erroneous allocation was used on prior returns and if it was, make a proposed administrative adjustment going back a maximum of one (1) year from the date the erroneous allocation was discovered; and
  - (c) Retain taxes collected and still on hand for distribution to the impacted districts that are related to the erroneous allocation until the proposed administrative adjustment becomes final.
- (2) Within ten (10) days of the discovery of the erroneous allocation, the ~~department~~~~[cabinet]~~ shall notify the taxpayer and the impacted school districts in writing of the allocation discrepancy, including the dollar amount at issue, the proposed administrative adjustment to be made, and the process for agreeing to or filing an exception to the proposed administrative adjustment.
- (3) The proposed administrative adjustment shall become final upon the earlier of the receipt by the ~~department~~~~[cabinet]~~ of written acceptance of the administrative adjustment by all impacted school districts or the expiration of forty-five (45) days from the date of the notice with no exception having been filed.
- (4) (a) Exceptions to the proposed administrative adjustment shall be filed with the **commissioner of the department**~~[secretary of the cabinet]~~, within forty-five (45) days from the date of the notice, and shall

include a supporting statement setting forth the basis of the exception. A copy of any exception filed shall also be mailed to the impacted utility services provider and any other impacted school district.

- (b) After the exception has been filed, the impacted school district may request a conference with the ~~department~~~~{cabinet}~~. The request shall be granted in writing stating the time and date of the conference. Other impacted school districts and the impacted utility services provider may also attend any conference. Additional conferences may be held upon mutual agreement.
  - (c) After considering the exceptions filed by the impacted school district, including any information provided during any conferences, a final administrative ruling shall be issued by the ~~department~~~~{cabinet}~~. The final administrative ruling shall be mailed to all impacted school districts as well as the impacted utility services provider.
  - (d) The impacted school district filing the exception may request in writing a final ruling at any time after filing exceptions and a supporting statement, and the ~~department~~~~{cabinet}~~ shall issue the ruling within thirty (30) days after the request is received by the ~~department~~~~{cabinet}~~.
  - (e) After a final ruling has been issued, the school district may appeal to the Franklin Circuit Court or to the Circuit Court of the county in which the school district is located.
- (5) The method and timing of the implementation of a final administrative ruling that requires a reallocation of previously distributed tax receipts shall be determined by agreement of the impacted school districts, provided that any agreement allowing for adjustments to be made over time in the future shall not extend beyond four (4) years.
- (a) The ~~department~~~~{cabinet}~~ shall, upon request of the impacted school districts, assist in the development of an agreement.
  - (b) An agreement that requires distribution changes that vary from the district boundary information shall be provided to the ~~department~~~~{cabinet}~~ so that distributions can be made in accordance with the agreement.
  - (c) If the impacted school districts fail to reach an agreement regarding the reallocation of previously distributed tax receipts, the ~~department~~~~{cabinet}~~ shall adjust distributions going forward for four (4) years so that at the expiration of four (4) years, the district that should have received the original distribution has recouped all of the funds distributed erroneously, and the district that erroneously received the funds has repaid all of the funds distributed erroneously.

Section 23. KRS 160.6154 is amended to read as follows:

- (1) The ~~department~~~~{cabinet}~~ shall collect all taxes imposed by school districts pursuant to KRS 160.613 and 160.614, and shall have all the powers, rights, duties, and authority with respect to the collection, refund, and administration of these taxes as provided under KRS Chapters 131, 134, and 135, except as otherwise provided in KRS 160.613 to 160.617. The ~~department~~~~{cabinet}~~ shall distribute the taxes collected to each school district imposing the tax on a monthly basis. Distributions shall be made in accordance with the district boundary information submitted to the ~~department~~~~{cabinet}~~ pursuant to KRS 160.6152, as modified by any adjustments or agreements made pursuant to the provisions of KRS 160.6153.
- (2) From each distribution, the ~~department~~~~{cabinet}~~ shall deduct an amount which represents the proportionate share of the ~~department's~~~~{cabinet's}~~ actual operating and overhead expenses incurred in the collection and administration of the taxes not to exceed one percent (1%) of the amount collected. The ~~department~~~~{cabinet}~~ shall report its actual expenses and the allocation of expenses among school districts to the Kentucky Board of Education on a quarterly basis.
- (3) As soon as practicable after each return is received, the ~~department~~~~{cabinet}~~ may 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}~~ on behalf of the school district within two (2) years from the date prescribed by law for the filing of the return including any extensions granted, except as provided in this section. A notice of the assessment shall be mailed to the taxpayer.
- (4) In the case of a failure to file a return or the filing of a fraudulent return, the excess may be assessed at any time.

Section 24. KRS 160.6155 is amended to read as follows:

The taxes collected by the ~~department~~~~cabinet~~ pursuant to KRS 160.613 to 160.617 are remitted to the ~~department~~~~cabinet~~ for administrative purposes only and shall remain the property of the local school districts levying the tax. The amounts so collected shall not be distributed, allocated, expended, or used in any manner except as provided in KRS 160.613 to 160.617.

Section 25. The following KRS section is repealed:

141.012 Corporation may carry forward and deduct net operating loss for first year of operations.

Section 26. Sections 1 to 4, 6, 19, and 20 of this Act apply retroactively to January 1, 2006.

Section 27. Section 5 of this Act applies retroactively to December 1, 2005.

Section 28. Section 7 of this Act takes effect June 1, 2006.

Section 29. Sections 8 to 12 of this Act apply retroactively to July 1, 2005.

Section 30. Sections 13 and 16 apply retroactively for taxable years beginning on or after January 1, 2005.

Section 31. Sections 15, 17, and 25 are effective for taxable years beginning on or after January 1, 2006.

Section 32. Whereas many of the provisions of this Act relate to the current taxable year, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming a law.

**Approved March 6, 2006.**

## **CHAPTER 7**

### **(HB 135)**

AN ACT relating to gubernatorial power to reschedule elections during a state of emergency, and declaring an emergency.

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

Section 1. KRS 39A.100 is amended to read as follows:

- (1) In the event of the occurrence or threatened or impending occurrence of any of the situations or events contemplated by KRS 39A.010, 39A.020, or 39A.030, the Governor may declare, in writing, that a state of emergency exists. The Governor shall have and may exercise the following emergency powers during the period in which the state of emergency exists:
  - (a) To enforce all laws, and administrative regulations relating to disaster and emergency response and to assume direct operational control of all disaster and emergency response forces and activities in the Commonwealth;
  - (b) To require state agencies and to request local governments, local agencies, and special districts to respond to the emergency or disaster in the manner directed;
  - (c) To seize, take, or condemn property for the protection of the public or at the request of the President, the Armed Forces, or the Federal Emergency Management Agency of the United States, including:
    1. All means of transportation and communication;
    2. All stocks of fuel of whatever nature;
    3. Food, clothing, equipment, materials, medicines, and all supplies; and
    4. Facilities, including buildings and plants;
  - (d) To sell, lend, give, or distribute any of the property under paragraph (c) of this subsection among the inhabitants of the Commonwealth and to account to the State Treasurer for any funds received for the property;
  - (e) To make compensation for the property seized, taken, or condemned under paragraph (c) of this subsection;



- (f) To exclude all nonessential, unauthorized, disruptive, or otherwise uncooperative personnel from the scene of the emergency, and to command those persons or groups assembled at the scene to disperse. A person who refuses to leave an area in which a written order of evacuation has been issued in accordance with a written declaration of emergency or a disaster may be forcibly removed to a place of safety or shelter, or may, if this is resisted, be arrested by a peace officer. Forcible removal or arrest shall not be exercised as options until all reasonable efforts for voluntary compliance have been exhausted;
  - (g) To declare curfews and establish their limits;
  - (h) To prohibit or limit the sale or consumption of goods or commodities for the duration of the emergency;
  - (i) To perform and exercise other functions, powers, and duties deemed necessary to promote and secure the safety and protection of the civilian population;
  - (j) To request any assistance from agencies of the United States as necessary and appropriate to meet the needs of the people of the Commonwealth; and
  - (k) Upon the recommendation of the Secretary of State, to declare by executive order a different time or place for holding ~~state~~ elections in an election ~~area~~ ~~district~~ for which a state of emergency has been declared for part or all of the election ~~area~~ ~~district~~. The election shall be held within **thirty-five** ~~(35) twenty (20)~~ days from the date of the suspended or delayed election. The State Board of Elections shall establish procedures for election officials to follow.
- (2) In the event of the occurrence or threatened or impending occurrence of any of the situations or events contemplated by KRS 39A.010, 39A.020, or 39A.030, which in the judgment of a local chief executive officer is of such severity or complexity as to require the exercise of extraordinary emergency measures, the county judge/executive of a county other than an urban-county government, or mayor of a city or urban-county government, or chief executive of other local governments or their designees as provided by ordinance of the affected county, city, or urban-county may declare in writing that a state of emergency exists, and thereafter, subject to any orders of the Governor, shall have and may exercise for the period as the state of emergency exists or continues, the following emergency powers:
- (a) To enforce all laws and administrative regulations relating to disaster and emergency response and to direct all local disaster and emergency response forces and operations in the affected county, city, urban-county, or charter county;
  - (b) To exclude all nonessential, unauthorized, disruptive, or uncooperative personnel from the scene of the emergency, and to command persons or groups of persons at the scene to disperse. A person who refuses to leave an area in which a written order of evacuation has been issued in accordance with a written declaration of emergency or a disaster may be forcibly removed to a place of safety or shelter, or may, if this is resisted, be arrested by a peace officer. Forcible removal or arrest shall not be exercised as options until all reasonable efforts for voluntary compliance have been exhausted;
  - (c) To declare curfews and establish their limits;
  - (d) To order immediate purchase or rental of, contract for, or otherwise procure, without regard to procurement codes or budget requirements, the goods and services essential for protection of public health and safety or to maintain or to restore essential public services; and
  - (e) To request emergency assistance from any local government or special district and, through the Governor, to request emergency assistance from any state agency and to initiate requests for federal assistance as are necessary for protection of public health and safety or for continuation of essential public services.

Section 2. KRS 117.187 is amended to read as follows:

- (1) The State Board of Elections shall regularly provide special training regarding the election laws and methods of enforcement to all members of county boards of elections, county attorneys, Commonwealth's attorneys, and certain members of the Kentucky State Police.
- (2) The county board of elections shall provide special training before each primary and regular election to all election officers, alternates, and certified challengers regarding their duties and the penalties for failure to perform. Election officers, including alternates, and certified challengers shall attend the training session,

unless excused by the county board of elections for reason of illness or other emergency. Any person who fails to attend a training session without being excused shall be prohibited from serving as an election officer or challenger for a period of five (5) years. The training provided by the county board of elections shall include, but not be limited to, the following:

- (a) Operation of the voting machine or ballot cards;
  - (b) Posting of necessary signs and notices at the polling place;
  - (c) Voter assistance;
  - (d) Maintaining precinct rosters;
  - (e) Confirmation of a voter's identity;
  - (f) Challenge of a voter;
  - (g) Completing changes of address or name at the polling place;
  - (h) Qualifications for voting in a primary election;
  - (i) Electioneering and exit polling;
  - (j) Write-in voting procedures;
  - (k) Persons who may be in the voting room;
  - (l) Election violations and penalties;
  - (m) Assistance which may be provided by law enforcement officers;
  - (n) Election reports;
  - (o) Disability awareness;~~[-and]~~
  - (p) Provisional voting process; *and*
  - (q) ***Election emergency contingency plan.***
- (3) The county attorney shall attend the training session for election officers to assist in explaining the duties and penalties for failure to perform.
  - (4) Compensation in the minimum amount of ten dollars (\$10) for reimbursement of actual expenses shall be paid by the county to the election officers for attending the training session.

Section 3. KRS 117.345 is amended to read as follows:

- (1) The cost of all elections held in any county shall be allowed by the fiscal court and paid by the county treasurer, except as otherwise provided by law.
- (2) When the cost of any election has been allowed by the fiscal court and paid by the county treasurer, and within sixty (60) days following the date of the election, the county treasurer shall certify a statement of the number of precincts in the county, the date, and kind of election to the State Board of Elections, ***including an election that was delayed or postponed in accordance with Section 1 of this Act.*** The certification shall be filed within ninety (90) days after the election. Upon receipt of the certification and upon being satisfied as to the correctness thereof, the State Board of Elections shall issue its warrant upon the State Treasurer in favor of the county treasurer for the amount of two hundred fifty-five dollars (\$255) for each precinct in the county.
- (3) Payments to any county under the provisions of subsection (2) of this section shall be terminated if and whenever it fails to renew a lease, contract, or lease and option with the State Property and Buildings Commission executed in connection with the acquisition of voting machines by the commission for the use of the county; and payments to any county shall be terminated whenever the county fails to pay any part of the rentals required for any effective period of the lease or if a county board of elections fails to provide training to precinct election officers required by KRS 117.187(2).

Section 4. Whereas the Commonwealth is scheduled to hold state and local races in 2006, and to assure that if an emergency situation arises elections will be held, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming a law.

**Approved March 8, 2006.**

**CHAPTER 8****(HB 171)**

AN ACT relating to legal publications.

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

Section 1. KRS 83A.060 is amended to read as follows:

- (1) Each ordinance shall embrace only one (1) subject and shall have a title that shall clearly state the subject.
- (2) Each ordinance shall be introduced in writing and shall have an enacting clause styled "Be it ordained by the City of ....."
- (3) No ordinance shall be amended by reference to its title only, and ordinances to amend shall set out in full the amended ordinance or section indicating any words being added by a single solid line drawn underneath them, and any words being deleted by a single broken line drawn through them.
- (4) Except as provided in subsection (7) of this section, no ordinance shall be enacted until it has been read on two (2) separate days. The reading of an ordinance may be satisfied by stating the title and reading a summary rather than the full text.
- (5) A city legislative body may adopt the provisions of any local, statewide, or nationally recognized standard code and codifications of entire bodies of local legislation by an ordinance that identifies the subject matter by title, source, and date and incorporates the adopted provisions by reference without setting them out in full, if a copy accompanies the adopting ordinance and is made a part of the permanent records of the city.
- (6) Unless otherwise provided by statute, a majority of a legislative body shall constitute a quorum and a vote of a majority of a quorum shall be sufficient to take action.
- (7) In an emergency, upon the affirmative vote of two-thirds (2/3) of the membership, a city legislative body may suspend the requirements of second reading and publication to provide for an ordinance to become effective by naming and describing the emergency in the ordinance. Publication requirements of subsection (9) of this section shall be complied with within ten (10) days of the enactment of the emergency ordinance.
- (8) Every action of the city legislative body shall be made a part of the permanent records of the city and on passage of an ordinance the vote of each member of the city legislative body shall be entered on the official record of the meeting. The legislative body shall provide by ordinance for the maintenance and safekeeping of the permanent records of the city. The person assigned this responsibility and the presiding officer shall sign the official record of each meeting. All ordinances adopted in a city shall, at the end of each month, be indexed and maintained in the following manner:
  - (a) The city budget, appropriations of money, and tax levies shall be maintained and indexed so that each fiscal year is kept separate from other years.
  - (b) All other city ordinances shall be kept in the minute book or an ordinance book in the order adopted and indexed in a composite index or maintained in a code of ordinances.
- (9) Except in cities of the first class, a charter county government, and as provided in subsection (7) of this section, no ordinance shall be effective until published pursuant to KRS Chapter 424. Ordinances may be published in full or in summary as designated by the legislative body. If the legislative body elects to publish an ordinance in summary, the summary shall be prepared ~~or~~<sup>and</sup> certified by an attorney licensed to practice law in the Commonwealth of Kentucky and shall include the following:
  - (a) The title of the ordinance;
  - (b) A brief narrative setting forth the main points of the ordinance in a way reasonably calculated to inform the public in a clear and understandable manner of the meaning of the ordinance; and
  - (c) The full text of each section that imposes ~~[fines, penalties, forfeitures,] taxes[,] or fees.~~

Ordinances that include descriptions of real property may include a sketch, drawing, or map, including common landmarks, such as streets or roads in lieu of metes and bounds descriptions.

- (10) A city may specify by ordinance additional requirements for adoption of ordinances in greater detail than contained herein, but a city shall not lessen or reduce the substantial requirements of this section or any other statute relating to adoption of ordinances.
- (11) At least once every five (5) years, each city shall cause all ordinances in the composite index or code of ordinances to be examined for consistency with state law and with one another and to be revised to eliminate redundant, obsolete, inconsistent, and invalid provisions.
- (12) The legislative body may adopt municipal orders. Orders shall be in writing and may be adopted only at an official meeting. Orders may be amended by a subsequent municipal order or ordinance. All orders adopted shall be maintained in an official order book.
- (13) In lieu of an ordinance, a municipal order may be used for matters relating to the internal operation and functions of the municipality and to appoint or remove or approve appointment or removal of members of boards, commissions, and other agencies over which the city has control.
- (14) All ordinances, and orders of the city may be proved by the signature of the city clerk; and when the ordinances are placed in a printed composite index or code of ordinances by authority of the city, the printed copy shall be received in evidence by any state court without further proof of the ordinances.
- (15) For anything said in debate, legislative body members shall be entitled to the same immunities and protections allowed to members of the General Assembly.

Section 2. KRS 91A.040 is amended to read as follows:

- (1) Each city of the first through fifth class shall, after the close of each fiscal year, cause each fund of the city to be audited by the Auditor of Public Accounts or a certified public accountant. The audits shall be completed by February 1 immediately following the fiscal year being audited. Within ten (10) days of the completion of the audit and its presentation to the city legislative body, in accordance with subsection (4)(e)~~(4)(f)~~ of this section, each city shall forward three (3) copies of the audit report to the Kentucky Department for Local Government for information purposes. The department shall forward one (1) copy of the audit report to the Legislative Research Commission to be used for the purposes of KRS 6.955 to 6.975.
- (2) Except as provided in subsection (3) of this section, each city of the sixth class shall, after the close of each odd-numbered fiscal year, cause each fund of the city to be audited by the Auditor of Public Accounts or a certified public accountant. The audits shall be completed by February 1 immediately following the fiscal year to be audited. Within ten (10) days of the completion of the audit and its presentation to the city legislative body, in accordance with subsection (4)(e)~~(4)(f)~~ of this section, each sixth class city shall forward three (3) copies of the audit report to the Kentucky Department for Local Government for information purposes. The department shall forward one (1) copy of the audit report to the Legislative Research Commission to be used for the purposes of KRS 6.955 to 6.975. After the close of each even-numbered fiscal year, each sixth class city shall prepare a financial statement in accordance with KRS 424.220 and immediately forward one (1) copy to the Kentucky Department for Local Government. The department shall forward one (1) copy of the financial statement to the Legislative Research Commission.
- (3) Any city of the sixth class, which for any fiscal year receives and expends, from all sources and for all purposes, less than seventy-five thousand dollars (\$75,000), and which has no long-term debt, whether general obligation or revenue debt, shall not be required to audit each fund of the city for that particular fiscal year. Each city shall annually prepare a financial statement in accordance with KRS 424.220 and immediately forward one (1) copy to the Kentucky Department for Local Government for information purposes. The department shall be responsible for forwarding one (1) copy of the financial statement to the Legislative Research Commission to be used for the purposes of KRS 6.955 to 6.975.
- (4) Each city required by this section to conduct an annual or biannual audit shall enter into a written contract with the selected auditor. The contract shall set forth all terms and conditions of the agreement which shall include, but not be limited to, requirements that:
  - (a) The auditor be employed to examine the *basic*~~general purpose~~ financial statements ***which shall include the government-wide and fund financial statements***~~of all governmental, proprietary, and fiduciary funds of the city~~;
  - (b) The auditor shall include in the annual city audit report an examination of local government economic assistance funds granted to the city under KRS 42.450 to 42.495. The auditor shall include a certification with the annual audit report that the funds were expended for the purpose intended;

- (c) All audit information be prepared in accordance with generally accepted governmental auditing standards which include tests of the accounting records and auditing procedures considered necessary in the circumstances. Where the audit is to cover the use of state or federal funds, appropriate state or federal guidelines shall be utilized;
- (d) The auditor prepare a typewritten or printed report embodying:
  1. *The basic~~[the general purpose]~~ financial statements and accompanying supplemental and required supplemental information;*
  2. *The auditor's~~his~~ opinion on the basic financial statements or reasons why an opinion cannot be expressed; and*
  3. *Findings required to be reported as a result of the audit.~~[and statements relating to those statements;~~*
- ~~(e) The auditor express an overall opinion as to whether the general purpose financial statements present fairly the financial condition of the city or state the reasons why an overall opinion cannot be expressed;]~~
- ~~(e){(f)}~~ The completed audit and all accompanying documentation shall be presented to the city legislative body at a regular or special meeting; and
- ~~(f){(g)}~~ Any contract with a certified public accountant for an audit shall require the accountant to forward a copy of the audit report and management letters to the Auditor of Public Accounts upon request of the city or the Auditor of Public Accounts, and the Auditor of Public Accounts shall have the right to review the certified public accountant's work papers upon request.
- (5) A copy of an audit report which meets the requirements of this section shall be considered satisfactory and final in meeting any official request to a city for financial data, except for statutory or judicial requirements, or requirements of the Legislative Research Commission necessary to carry out the purposes of KRS 6.955 to 6.975.
- (6) *Each city shall, within thirty (30) days after the presentation of an audit to the city legislative body, publish an advertisement, in accordance with KRS Chapter 424, containing:*
  - (a) *The auditor's opinion letter;*
  - (b) *The "Budgetary Comparison Schedules-Major Funds," which shall include the general fund and all major funds;~~[Upon completion of an audit, each city may elect to publish the auditor's report in accordance with subsection (7) of this section, or publish a financial statement in accordance with subsection (8) of this section. Notwithstanding the election of subsection (7) or (8) of this section, the city shall, within ninety (90) days after the close of the fiscal year, cause to be published in a newspaper qualified under KRS 424.120 a legal display advertisement of not less than eight (8) column inches that the statement required by KRS 424.220 has been prepared and that copies have been provided to each local newspaper of general circulation, each news service, and each local radio or television station which has on file with the city a written request to be provided a statement.~~*
- ~~(7) If the city elects to publish the auditor's report prepared in accordance with this section in lieu of the financial statement required by KRS 424.220, it shall publish the auditor's cover letter to the city council, the combined balance sheet showing all fund types and account groups, the combined statement of revenues, expenditures, and changes in fund balance for all governmental fund types, the combined statement of revenues, expenses, and changes in retained earnings/fund balances for all proprietary fund types and similar trust funds, and the combined statement of changes in financial position for all proprietary fund types and similar trust funds in accordance with KRS Chapter 424.]~~
- (c) ~~[The advertisement shall contain ]~~A statement that a copy of the complete *audit*~~[auditor's]~~ report, including financial statements and supplemental information, *is*~~[are]~~ on file at city hall and *is*~~[are]~~ available for public inspection during normal business hours;~~[-]~~
- (d) ~~[The advertisement shall also contain ]~~A statement that any citizen may obtain from city hall a copy of the complete *audit*~~[auditor's]~~ report, including financial statements and supplemental information, for his personal use;~~[-]~~

- (e) A~~[The]~~ statement **which notifies**~~[shall notify]~~ citizens requesting a personal copy of the city audit report that they will be charged for duplication costs at a rate that shall not exceed twenty five cents (\$0.25) per page; **and**~~[-]~~
  - (f) ~~[In addition, the advertisement shall contain]~~ A statement that copies of the financial statement prepared in accordance with KRS 424.220 are available to the public at no cost at the business address of the officer responsible for preparation of the statement.
- (7)~~(8)~~ ~~If the city, other than a city of the first or second class or urban county government, elects to publish the financial statement prepared in accordance with KRS 424.220 in lieu of publishing the auditor's report, it shall, within sixty (60) days after the completion of the audit, publish the statement in accordance with KRS Chapter 424.~~
- ~~(9)~~ Any city of the fifth or sixth class may utilize the alternative publication methods authorized by KRS 424.190(2) to comply with the provisions of this section.
- ~~(8)~~~~(10)~~ Any person who violates any provision of this section shall be fined not less than fifty dollars (\$50) nor more than five hundred dollars (\$500). In addition, any officer who fails to comply with any of the provisions of this section shall, for each failure, be subject to a forfeiture of not less than fifty dollars (\$50) nor more than five hundred dollars (\$500), in the discretion of the court, which may be recovered only once in a civil action brought by any resident of the city. The costs of all proceedings, including a reasonable fee for the attorney of the resident bringing the action, shall be assessed against the unsuccessful party.

Section 3. KRS 424.120 is amended to read as follows:

- (1) Except as provided in subsection (2) of this section, if an advertisement for a publication area is required by law to be published in a newspaper, the publication shall be made in a newspaper that meets the following requirements:
  - (a) It shall be published in the publication area. A newspaper shall be deemed to be published in the area if it maintains its principal office in the area for the purpose of gathering news and soliciting advertisements and other general business of newspaper publications, and has a **periodicals class**~~[second class]~~ mailing permit issued for that office. A newspaper published outside of Kentucky shall not be eligible to carry advertisements for any county or publication area within the county, other than for the city in which its main office is located, if there is a newspaper published in the county that has a substantial general circulation throughout the county and that otherwise meets the requirements of this section; and
  - (b) It shall be of regular issue and have a bona fide circulation in the publication area. A newspaper shall be deemed to be of regular issue if it is published **at least**~~[regularly, as frequently as]~~ once a week, for at least fifty (50) weeks during the calendar year as prescribed by its mailing permit, and has been so published in the area for the immediately preceding two (2) year period. A newspaper meeting all the criteria to be of regular issue, except publication in the area for the immediately preceding two (2) year period, shall be deemed to be of regular issue if it is the only paper in the publication area and has a paid circulation equal to at least ten percent (10%) of the population of the publication area. A newspaper shall be deemed to be of bona fide circulation in the publication area if it is circulated generally in the area, and maintains a definite price or consideration not less than fifty percent (50%) of its published price, and is paid for by not less than fifty percent (50%) of those to whom distribution is made; and
  - (c) It shall bear a title or name, consist of not less than four (4) pages without a cover, and be of a type to which the general public resorts for passing events of a political, religious, commercial, and social nature, and for current happenings, announcements, miscellaneous reading matter, advertisements, and other notices. The news content shall be at least twenty-five percent (25%) of the total column space in more than one-half (1/2) of its issues during any twelve (12) month period.
  - (d) If, in a publication area there is more than one (1) newspaper which meets the above requirements, the newspaper having the largest bona fide paid circulation as shown by the average number of paid copies of each issue as shown in its published statement of ownership as filed on October 1 for the publication area shall be the newspaper where advertisements required by law to be published shall be carried.
  - (e) For the purposes of KRS Chapter 424, publishing shall be considered as the total recurring processes of producing the newspaper, embracing all of the included contents of reading matter, illustrations, and advertising enumerated in paragraphs (a) through (d) of this subsection. A newspaper shall not be

excluded from qualifying for the purposes of legal publications as provided in this chapter if its printing or reproduction processes take place outside the publication area.

- (2) (a) If, in the case of a publication area smaller than the county in which it is located, there is no newspaper published in the area, the publication shall be made in a newspaper published in the county that is qualified under this section to publish advertisements for the county. If the qualified newspaper publishes a zoned edition which is distributed to regular subscribers within the publication area, any advertisement required by law to be published in the publication area may be published in the zoned edition distributed in that area.
- (b) If, in any county there is no newspaper meeting the requirements of this section for publishing advertisements for that county, any advertisements required to be published for the county or for any publication area within the county shall be published in a newspaper of the largest bona fide circulation in that county published in and qualified to publish advertisements for an adjoining county in Kentucky. This subsection is intended to supersede any statute that provides or contemplates that newspaper publication may be dispensed with if there is no newspaper printed or published or of general circulation in the particular publication area.
- (3) If a publication area consists of a district, other than a city, which extends into more than one (1) county, the part of the district in each county shall be considered to be a separate publication area for the purposes of this section, and an advertisement for each separate publication area shall be published in a newspaper qualified under this section to publish advertisements for the area.

Section 4. KRS 424.130 is amended to read as follows:

- (1) Except as otherwise provided in KRS 424.110 to 424.370 and notwithstanding any provision of existing law providing for different times or periods of publication, the times and periods of publications of advertisements required by law to be made in a newspaper shall be as follows:
  - (a) When an advertisement is of a completed act, such as an ordinance, resolution, regulation, order, rule, report, statement, or certificate and the purpose of the publication is not to inform the public or the members of any class of persons that they may or shall do an act or exercise a right within a designated period or upon or by a designated date, the advertisement shall be published one (1) time only and within thirty (30) days after completion of the act. However, a failure to comply with this paragraph shall not subject a person to any of the penalties provided by KRS 424.990 unless such failure continues for a period of ten (10) days after notice to comply has been given him by registered letter.
  - (b) When an advertisement is for the purpose of informing the public or the members of any class of persons that on or before a certain day they may or shall file a petition or exceptions or a remonstrance or protest or objection, or resist the granting of an application or petition, or present or file a claim, or submit a bid, the advertisement 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 occurrence of the act or event.
  - (c) ~~{Excepting counties with a city of the first class or a consolidated local government, when an advertisement is for the purpose of informing the public and the advertisement is of a sale of property or is a notice of delinquent taxes, the advertisement shall be published once a week for three (3) successive weeks. For counties containing a city of the first class or a consolidated local government,}~~When an advertisement is for the purpose of informing the public and the advertisement is a notice of delinquent taxes, or notice of the sale of tax claims, the advertisement shall be published once, preceded by a one-half (1/2) page notice of advertisement the preceding week. ***The one-half (1/2) page advertisement shall include notice that a list of uncollectible delinquent taxes is also available for public inspection in accordance with Section 7 of this Act during normal business hours at the business address of the city or county and on an identified Internet Web site. The advertisement shall include the business address of the city or county and the Uniform Resource Locator (URL) for the Internet Web site where the document can be viewed. The Internet Web site shall be affiliated with the city or county and contain other information about the city or county government. The delinquent tax list shall be posted on the Internet Web site for a minimum of thirty (30) days and shall be updated weekly.*** The provisions of this paragraph shall not be construed to require the advertisement of notice of delinquent state taxes which are collected by the state.

- (d) Any advertisement not coming within the scope of paragraph (a), (b), or (c) of this subsection, such as one for the purpose of informing the public or the members of any class of persons of the holding of an election, or of a public hearing, or of an examination, or of an opportunity for inspection, or of the due date of a tax or special assessment, 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 occurrence of the act or event, or in the case of an inspection period, the inspection period commences.
  - (e) If the particular statute requiring that an advertisement be published provides that the day upon or by which, or the period within which, an act may or shall be done or a right exercised, or an event may or shall take place, is to be determined by computing time for the day of publication of an advertisement, the advertisement shall be published at least once, promptly, in accordance with the statute, and the computation of time shall be from the day of initial publication.
- (2) This section is not intended to supersede or affect any statute providing for notice of the fact that an adversary action in court has been commenced.

Section 5. KRS 424.160 is amended to read as follows:

- (1) For all newspaper advertising required by law, the publisher is entitled to receive payment for each insertion at a rate per column inch. ***The advertisement shall be set in no larger than seven (7) point type on solid leading*** ~~computed as or published no larger than nine (9) point type on ten (10) point leading~~. The rate shall not exceed the lowest ***noncontract classified*** rate paid by advertisers ~~for comparable matter in the same publication~~. ***The terms and conditions of any volume discounts given to commercial customers shall be extended to public agencies of the Commonwealth of Kentucky. Newspapers shall give all local public agencies a written notice of at least thirty (30) days of an advertising rate increase.***
- (2) If by law or by the nature of the matter to be published, a display form of advertisement is required, or if the person or officer responsible for causing an advertisement to be published determines in his discretion that a display form is practicable or feasible, and so directs the newspaper, the advertisement shall be published in display form and the newspaper shall be entitled to receive its established display rate.
- (3) If it is provided by statute that an advertisement shall be published of the filing of a petition or application seeking official action, the filing, if required by other than a governmental official or agency, shall not be deemed complete unless there is deposited with the petition or application an amount sufficient to pay the cost of publication.
- (4) The expense of advertisements in judicial proceedings shall be taxed as costs by the clerk of the court.

Section 6. KRS 424.220 is amended to read as follows:

- (1) Excepting officers of a city of the first class or a consolidated local government, a county containing such a city or consolidated local government, a public agency of such a city, consolidated local government, or county, or a joint agency of such a city, consolidated local government, and county, or of a school district of such a city, consolidated local government, or county, and excepting officers of a city of the second class or an urban-county government, every public officer of any school district, city, consolidated local government, county, or subdivision, or district less than a county, whose duty it is to collect, receive, have the custody, control, or disbursement of public funds, and every officer of any board or commission of a city, consolidated local government, county, or district whose duty it is to collect, receive, have the custody, control, or disbursement of funds collected from the public in the form of rates, charges, or assessments for services or benefits, shall at the expiration of each fiscal year prepare an itemized, sworn statement of the funds collected, received, held, or disbursed by him during the fiscal year just closed, unless he has complied with KRS 424.230. Pursuant to subsections (2) and (3) of KRS 91A.040, each city of the sixth class shall prepare an itemized, sworn statement of the funds collected, received, held, or disbursed by the city which complies with the provisions of this section.
- (2) The statement shall show:
  - (a) The total amount of funds collected and received during the fiscal year from each individual source; and
  - (b) The total amount of funds disbursed during the fiscal year to each individual payee ~~and the purpose for which the funds were expended~~. ***The list shall include only aggregate amounts to vendors exceeding one thousand dollars (\$1,000).***



- (3) Only the totals of amounts paid to each individual as salary or commission and public utility bills shall be shown. The amount of salaries paid to all nonelected county employees shall be shown as lump-sum expenditures by category, including but not limited to road department, jails, solid waste, public safety, and administrative personnel.
- (4) The amount of salaries paid to all teachers shall be shown as a lump-sum instructional expenditure for the school district and not by amount paid to individual teachers. The amount of salaries paid to all other employees of the board shall be shown as lump-sum expenditures by category, including but not limited to administrative, maintenance, transportation, and food service. The local board of education and the fiscal court shall have accessible a factual list of individual salaries for public scrutiny and the local board and the fiscal court shall furnish by mail a factual list of individual salaries of its employees to a newspaper qualified under KRS 424.120 to publish advertisements for the district, which newspaper may then publish as a news item the individual salaries of school or county employees.
- (5) The officer shall procure and include in or attach to the financial statement, as a part thereof, a certificate from the cashier or other proper officer of the banks in which the funds are or have been deposited during the past year, showing the balance, if any, of funds to the credit of the officer making the statement.
- (6) The officer shall, except in a city ~~publishing~~~~[electing to publish]~~ its audit~~[in lieu of the financial statement]~~ in accordance with KRS 91A.040(6), within sixty (60) days after the close of the fiscal year cause the financial statement to be published in full in a newspaper qualified under KRS 424.120 to publish advertisements for the city, county, or district, as the case may be. Promptly after the publication is made, the officer shall file a written or printed copy of the advertisement with proof of publication, in the office of the county clerk of the county and with the Auditor of Public Accounts.~~[Promptly after the publication is made, the officer shall also file one (1) copy of the financial statement with the Kentucky Department for Local Government.]~~
- (7) In lieu of the publication requirements of subsection (6) of this section, the appropriate officer of *a city, including the appropriate officer of* any municipally owned electric, gas, or water system ~~shall~~~~[may]~~ elect to satisfy the requirements of subsection (6) of this section by:
  - (a) *Publishing an audit report in accordance with subsection (6) of Section 2 of this Act; and*
  - (b) *Publishing a legal display advertisement of not less than six (6) column inches in a newspaper qualified under KRS 424.120 that the statement required by subsection (1) of this section has been prepared and that copies have been provided to each local newspaper of general circulation, each news service, and each local radio and television station which has on file with the city a written request to be provided a statement. The advertisement shall be published within ninety (90) days after the close of the fiscal year*~~[Preparation of a certified audit by a certified public accountant, performed in accordance with generally accepted principles of accounting, for the fiscal year;~~
  - ~~(b) Publishing in a newspaper qualified under KRS 424.120 to publish advertisements for the city, county, or district as the case may be, the statement of revenue and expenditures from such audit, together with the statement that the audit report is available for inspection at the offices of the utility; and~~
  - ~~(c) Making such audit available for inspection on request of anyone during normal working hours of the utility.~~
- (8) ~~[In lieu of the publication requirements of subsection (6) of this section,]~~The appropriate officer of a county ~~shall~~~~[may elect to]~~ satisfy the requirements of subsection (6) of this section by publishing *the county's*~~[an]~~ audit, prepared in accordance with KRS 43.070 or 64.810, in the same manner that city audits are published in accordance with KRS 91A.040~~(6)~~~~[(7)]~~.

Section 7. KRS 424.330 is amended to read as follows:

- (1) When the sheriff of any county files with the fiscal court a list of uncollectible delinquent taxes, in accordance with KRS 134.360, the fiscal court shall promptly cause a list, showing the name of and amount due from each delinquent taxpayer, to be advertised by newspaper publication. A fee of *five*~~[three]~~ dollars (*\$5*)~~[(3)]~~ per name per publication shall be added to the amount of each tax claim published as publication costs.

- (2) Cities may publish a list of uncollected delinquent taxes levied under Section 181 of the Kentucky Constitution, showing the name of and the amount due from each delinquent taxpayer, to be advertised by newspaper publication. A fee of ~~five~~~~three~~ dollars ~~(\$5)~~~~(\$3)~~ per name per publication may be added to the amount of each tax claim published as publication costs.

**Approved March 8, 2006.**

## **CHAPTER 9**

### **(HCR 49)**

A CONCURRENT RESOLUTION confirming the appointment of Jeffrey Scott Jobe to the Kentucky Long-Term Policy Research Center Board for a term expiring October 6, 2008.

WHEREAS, KRS 7B.030 requires the Governor to appoint six at-large members of the Kentucky Long-Term Policy Research Center Board, subject to confirmation by the House of Representatives and the Senate; and

WHEREAS, by Executive Order 2005-1365, dated December 19, 2005, the Governor appointed Jeffrey Scott Jobe of Glasgow, Kentucky to replace Marshall D. Stagle, whose term has expired, and submitted his appointment for legislative confirmation; and

WHEREAS, the House of Representatives and the Senate find that Jeffrey Scott Jobe meets the age and residency requirements of KRS 7B.030 and has demonstrated an interest in the well-being and development of the Commonwealth, as required by that statute;

NOW, THEREFORE,

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

Section 1. The House of Representatives and the Senate do confirm the appointment of Jeffrey Scott Jobe to the Kentucky Long-Term Policy Research Center Board for a term expiring October 6, 2008.

Section 2. The Clerk of the House of Representatives shall send a copy of this Resolution, and notification of its adoption, to Mr. Jeffrey Scott Jobe, 514 South Green, Glasgow, Kentucky 42141; and to Governor Ernie Fletcher, Room 100, State Capitol, Frankfort, Kentucky 40601.

**Approved March 8, 2006.**

## **CHAPTER 10**

### **(HCR 50)**

A CONCURRENT RESOLUTION confirming the appointment of Jason Brent Legg to the Kentucky Long-Term Policy Research Center Board for a term expiring October 6, 2008.

WHEREAS, KRS 7B.030 requires the Governor to appoint six at-large members of the Kentucky Long-Term Policy Research Center Board, subject to confirmation by the House of Representatives and the Senate; and

WHEREAS, by Executive Order 2005-1365, dated December 19, 2005, the Governor appointed Jason Brent Legg of Florence, Kentucky to replace Penny Miller, whose term has expired, and submitted his appointment for legislative confirmation; and

WHEREAS, the House of Representatives and the Senate find that Jason Brent Legg meets the age and residency requirements of KRS 7B.030 and has demonstrated an interest in the well-being and development of the Commonwealth, as required by that statute;

NOW, THEREFORE,

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

Section 1. The House of Representatives and the Senate do confirm the appointment of Jason Brent Legg to the Kentucky Long-Term Policy Research Center Board for a term expiring October 6, 2008.

Section 2. The Clerk of the House of Representatives shall send a copy of this Resolution, and notification of its adoption, to Mr. Jason Brent Legg, 970 Trellis Drive, Apartment 1213, Florence, Kentucky 41042; and to Governor Ernie Fletcher, Room 100, State Capitol, Frankfort, Kentucky 40601.

**Approved March 8, 2006.**

## CHAPTER 11

### (HB 46)

AN ACT designating the Clarkson Honeyfest as the official state honey festival.

WHEREAS, for more than a decade, the Clarkson Honeyfest in Clarkson, Kentucky has been one of the largest festivals in Grayson County and surrounding areas; and

WHEREAS, the Clarkson Honeyfest is an annual bee-themed festival celebrating Grayson County's ties to the honey industry; and

WHEREAS, each year the city celebrates by hanging bee-themed flags and ribbons and decorating light poles throughout the city for the annual festival; and

WHEREAS, the Clarkson Honeyfest is held the last Thursday, Friday, and Saturday in September and hosts numerous activities such as beauty pageants, decorating contests, children's rides, bluegrass musical performances, parades, auctions, and craft booths; and

WHEREAS, each year hundreds of people come from all over the Commonwealth for the Clarkson Honeyfest; and

WHEREAS, the Clarkson Honeyfest was named for the Walter T. Kelley Beehive Factory in Clarkson, Kentucky, one of the largest manufacturers of honey and beekeeping supplies in the United States; and

WHEREAS, the Clarkson Honeyfest boosts not only the local economy and tourism, but the state economy and tourism as well;

NOW, THEREFORE,

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

SECTION 1. A NEW SECTION OF KRS CHAPTER 2 IS CREATED TO READ AS FOLLOWS:

***The Clarkson Honeyfest is named and designated the official state honey festival.***

**Approved March 15, 2006.**

## CHAPTER 12

### (HB 126)

AN ACT relating to code enforcement boards.

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

Section 1. KRS 65.8805 is amended to read as follows:

As used in KRS 65.8801 to 65.8839, unless the context otherwise requires:

- (1) "Local government" means any county, any municipal corporation of any class incorporated in the Commonwealth, any urban-county government organized and governed under KRS Chapter 67A, and any charter county government organized and governed under KRS Chapter 67.
- (2) "Code enforcement board" means an administrative body created and acting under the authority of KRS 65.8801 to 65.8839.
- (3) ***"Joint code enforcement board" means two (2) or more local governments that have entered into an interlocal agreement in accordance with KRS 65.210 to 65.300 to perform and enforce the duties of a code enforcement board as provided in KRS 65.8801 to 65.8839.***

- (4) "Code enforcement officer" means a city police officer, safety officer, citation officer, county police officer, sheriff, deputy sheriff, university police officer, airport police officer, or other public law enforcement officer with the authority to issue a citation.
- (5){(4)} "Ordinance" means an official action of a local government body, which is a regulation of a general and permanent nature and enforceable as a local law and shall include any provision of a code of ordinances adopted by a local government which embodies all or part of an ordinance.

Section 2. KRS 65.8808 is amended to read as follows:

- (1) The legislative body of a local government may, by ordinance, create a code enforcement board which shall have the power to issue remedial orders and impose civil fines as a method of enforcing a local government ordinance when a violation of the ordinance has been classified as a civil offense in accordance with this section. ***Any local government may expand its code enforcement board to include additional cities or counties within its jurisdiction for performing the function for which the code enforcement board was organized.***
- (2) Subject to the limitations set forth in subsection (3) of this section, the legislative body of a local government may elect to enforce any ordinance of the local government, including any zoning ordinance or regulation, by classifying a violation of the ordinance as a civil offense and establishing civil fines which may be imposed on any person who commits a violation of the ordinance. If a local government elects to enforce an ordinance as a civil offense, the ordinance, by its express terms, shall provide:
  - (a) That a violation of the ordinance is a civil offense;
  - (b) A maximum civil fine that may be imposed for each violation of the ordinance; and
  - (c) A specific civil fine of less than the maximum civil fine that will be imposed for each offense if the person who has committed the offense does not contest the citation.
- (3) No legislative body of a local government shall classify the violation of an ordinance as a civil offense if the same conduct that is regulated by the ordinance would also constitute a criminal offense or a moving motor vehicle offense under any provision of the Kentucky Revised Statutes.

Section 3. KRS 65.8811 is amended to read as follows:

- (1) (a) A code enforcement board shall consist of either three (3), five (5), or seven (7) members who shall be appointed by the executive authority of the local government, subject to the approval of the legislative body.
- (b) ***A joint code enforcement board shall include representation on the board of all participating local governments and members shall be appointed as set out in the terms of the interlocal agreement.***
- (2) (a) The initial appointments to a three (3) member code enforcement board shall be as follows:
  1. One (1) member appointed for a term of one (1) year;
  2. One (1) member appointed for a term of two (2) years; and
  3. One (1) member appointed for a term of three (3) years.
- (b) The initial appointments to a five (5) member code enforcement board shall be as follows:
  1. One (1) member appointed for a term of one (1) year;
  2. Two (2) members appointed for a term of two (2) years each; and
  3. Two (2) members appointed for a term of three (3) years each.
- (c) The initial appointments to a seven (7) member code enforcement board shall be as follows:
  1. Two (2) members appointed for a term of one (1) year each;
  2. Three (3) members appointed for a term of two (2) years each; and
  3. Two (2) members appointed for a term of three (3) years each.

All subsequent appointments shall be made for a term of three (3) years.

- (3) (a) Each member of a code enforcement board shall have resided within the boundaries of the local government unit for a period of at least one (1) year prior to the date of the member's appointment and shall reside there throughout the term in office.
- (b) *Board members serving on joint code enforcement boards shall have resided within the boundaries of the local government they represent for a period of at least one (1) year prior to the date of the member's appointment and shall reside there throughout the term in office.*
- (4) A member may be reappointed, subject to approval of the legislative body.
- (5) Any vacancy on a code enforcement board shall be filled within sixty (60) days by the executive authority, subject to the approval of the legislative body. If a vacancy is not filled by the executive authority within sixty (60) days, the remaining members of the code enforcement board shall fill the vacancy. All vacancies shall be filled for the remainder of the unexpired term.
- (6) Any member of a code enforcement board may be removed by the appointing authority for misconduct, inefficiency, or willful neglect of duty. Any appointing authority who exercises the power to remove a member of a code enforcement board shall submit a written statement to the member and to the legislative body of the local government setting forth the reasons for removal. The member so removed shall have the right of appeal to the Circuit Court.
- (7) All members of a code enforcement board shall, before entering upon their duties, take the oath of office prescribed by Section 228 of the Constitution of the Commonwealth of Kentucky.
- (8) The members of a code enforcement board may be reimbursed for expenses or compensated, or both, as specified in the ordinance creating the board.
- (9) No member of a local government code enforcement board shall hold any elected or appointed office, whether paid or unpaid, or any position of employment with the unit of local government that has created the code enforcement board.
- (10) Each legislative body that elects to establish a code enforcement board is encouraged to provide opportunities for education regarding pertinent topics for the members of the code enforcement board.

**Approved March 15, 2006.**

## CHAPTER 13

### (HCR 119)

A CONCURRENT RESOLUTION designating September as Childhood Cancer Awareness Month in Kentucky.

WHEREAS, cancer is the leading cause of death by disease in children, with more than 2,300 children across the United States losing their lives to it every year; and

WHEREAS, the incidence of cancer among children in the United States is rising by about one percent each year; and

WHEREAS, 1 in every 330 American develops cancer before age 20 and approximately eight percent of deaths of those between 1 and 19 years old are caused by cancer; and

WHEREAS, cancer during childhood affects all ethnic groups, socioeconomic classes, and geographical regions; and

WHEREAS, childhood cancer has a devastating effect on both the child and the family as they deal with physical and emotional long-term effects from the disease; and

WHEREAS, fifteen other states have designated September as Childhood Cancer Awareness month;

NOW, THEREFORE,

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

Section 1. The month of September is designated as Childhood Cancer Awareness month and all citizens are encouraged to honor childhood cancer patients, survivors, and their families and caretakers, and those young people who have lost their lives to this devastating disease.

**Approved March 15, 2006.**

## **CHAPTER 14**

### **(HCR 41)**

A CONCURRENT RESOLUTION confirming the appointment of William David Donan to the Mine Safety Review Commission.

WHEREAS, KRS 351.1041 requires the Governor to appoint commissioners to the Mine Safety Review Commission; and

WHEREAS, in accordance with KRS 11.160 all Gubernatorial appointments to boards and commissions are subject to confirmation by the Senate and the House of Representatives; and

WHEREAS, on March 30, 2005, by Executive Order 2005-312, the Governor appointed William David Donan as a member of the Mine Safety Review Commission; and

WHEREAS, Mr. William David Donan meets the requirements of KRS 351.1041 which states that appointed members shall have the qualifications required of Judges of the Court of Appeals, except for residence in a district, and shall be subject to the same standards of conduct made applicable to a part-time judge by the Rules of the Kentucky Supreme Court;

NOW, THEREFORE,

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

Section 1. Consent is given to the appointment of William David Donan to the Mine Safety Review Commission for a term to expire on May 23, 2007.

Section 2. The Clerk of the House of Representatives shall forward a copy of this Resolution and notification of its adoption to Mr. William David Donan, 6220 Island Ford Road, Hanson, KY 42413.

**Approved March 15, 2006.**

## **CHAPTER 15**

### **(HCR 30)**

A CONCURRENT RESOLUTION confirming the appointment of Denise Moore Davidson to the Mine Safety Review Commission.

WHEREAS, KRS 351.1041 requires the Governor to appoint commissioners to the Mine Safety Review Commission; and

WHEREAS, in accordance with KRS 11.160, all Gubernatorial appointments to boards and commissions are subject to confirmation by the Senate and the House of Representatives; and

WHEREAS, on May 23, 2005, by Executive Order 2005-475, the Governor appointed Denise Moore Davidson as a member of the Mine Safety Review Commission; and

WHEREAS, Ms. Denise Moore Davidson meets the requirements of KRS 351.1041, which states that appointed members shall have the qualifications required of Judges of the Court of Appeals, except for residence in a district, and shall be subject to the same standards of conduct made applicable to a part-time judge by the Rules of the Kentucky Supreme Court;

NOW, THEREFORE,

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

Section 1. Consent is given to the appointment of Denise Moore Davidson to the Mine Safety Review Commission for a term to expire on May 23, 2008.

Section 2. The Clerk of the House of Representatives shall forward a copy of this Resolution and notification of its adoption to Ms. Denise Moore Davidson, 253 Combs Lane, Hazard, KY 41701.

**Approved March 15, 2006.**

## CHAPTER 16

### (HB 265)

AN ACT relating to respiratory care certificate renewal.

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

Section 1. KRS 314A.220 is amended to read as follows:

- (1) The board shall issue a mandatory certificate to all applicants who meet the requirements of this chapter and who pay to the board the initial mandatory certificate fee.
- (2) The amount of fees prescribed in connection with a mandatory certificate as a respiratory care practitioner shall be prescribed by administrative regulation promulgated by the board in accordance with KRS Chapter 13A.
- (3) Each respiratory care mandatory certificate shall expire on January 30 every two (2) years. ~~A thirty (30) day grace period shall be allowed after January 30, during which time mandatory certificates may be renewed on payment of a renewal fee plus a grace period fee, when applicable.~~ No person who applies for renewal, whose mandatory certificate has expired, shall be required to submit to any examination as a condition to renewal, provided such renewal application is made within five (5) years from the date of such expiration. No person shall practice respiratory care in this state unless the individual holds a valid certificate. All mandatory certificates not renewed by **January 30** ~~March 2~~ following the date of issuance shall be deemed expired.
- (4) A suspended mandatory certificate is subject to expiration and shall be renewed as provided in this chapter, but such renewal shall not entitle the respiratory care practitioner, while the mandatory certificate remains suspended, and until it is reinstated, to engage in mandatory certification activities, or in any other activity or conduct in violation of the order of judgment by which the mandatory certificate was suspended. A mandatory certificate revoked on disciplinary grounds is subject to expiration as provided in this chapter, but it may not be renewed. If it is reinstated after its expiration, the mandatory certificate holder, as a condition of reinstatement, shall pay a reinstatement fee in an amount equal to the renewal fee in effect on the last preceding regular renewal date before the date on which it is reinstated, plus the delinquency fee, if any, accrued at the time of its revocation.
- (5) A person who fails to renew his or her mandatory certificate within the five (5) years after its expiration may not renew it, and it may not be restored, reissued, or reinstated thereafter, but such persons may apply for and obtain a new mandatory certificate if he meets the requirements of this chapter.

**Approved March 15, 2006.**

## CHAPTER 17

### (HB 92)

AN ACT relating to youth smoking.

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

Section 1. KRS 438.311 is amended to read as follows:

- (1) Except for the provisions of KRS 438.330, it shall be unlawful for a person who has not attained the age of eighteen (18) years to purchase or accept receipt of or to attempt to purchase or accept receipt of a tobacco product, or to present or offer to any person any purported proof of age which is false, fraudulent, or not actually his or her own, for the purpose of purchasing or receiving any tobacco product. It shall not be unlawful for such a person to accept receipt of a tobacco product from a family member *except if the child has been*

*committed to the custody of the state under KRS Chapters 600 to 645*, or from an employer when required in the performance of the person's duties.

- (2) Violation of this section shall be punishable by a fine of fifty dollars (\$50) and twenty (20) hours of community service work for a first offense within a one (1) year period, and a fine of two hundred dollars (\$200) and forty (40) hours of community service work for a second or subsequent offense within a one (1) year period.
- (3) This offense shall be deemed a status offense and shall be under the jurisdiction of the juvenile session of the District Court.
- (4) All peace officers with general law enforcement authority and employees of the Office of Alcoholic Beverage Control may issue a uniform citation, but not make an arrest or take a child into custody, for a violation of this section. If a child fails to appear in court in response to a uniform citation issued pursuant to the section, the court may compel the attendance of the defendant in the manner specified by law.

Section 2. KRS 605.110 is amended to read as follows:

- (1) (a) ***Any child committed to or in the custody of the cabinet or the Department of Juvenile Justice who is not placed in a location where smoking cessation services are provided may participate in smoking cessation services offered by local health departments or their contracted agents at no cost.***  
 (b) Unless provided otherwise, when any child committed to or in the custody of the Department of Juvenile Justice or the cabinet requires medical or surgical care or treatment, the Department of Juvenile Justice or the cabinet may provide the same or arrange for the furnishing thereof by other public or private agencies, and may give consent to the medical or surgical treatment. For this purpose, the services and facilities of local health officers and departments shall be made available, at a cost not to exceed the Medicaid reimbursement rate, to the Department of Juvenile Justice or the cabinet, and as far as practicable, any publicly owned hospital shall provide hospitalization without charge for any such child who is a resident of the political subdivision by which the hospital is owned or operated. This section does not authorize nor shall permission be granted for abortion or sterilization.
- (2) Any child placed in a foster home by an agency duly authorized in KRS Chapter 620 to place a child in a foster home shall receive a complete medical, visual, and dental examination by a professional authorized by the Kentucky Revised Statutes to conduct such examinations. Arrangements for a child placed in a foster home to receive such examinations shall be made within two (2) weeks of his placement in a foster home and not less than every twelve (12) months thereafter.
- (3) Children maintained in any of the facilities and programs operated or contracted by the Department of Juvenile Justice or the cabinet shall, so far as possible, receive a common school education.
  - (a) The Kentucky Educational Collaborative for State Agency Children shall be established to serve children in facilities and programs operated or contracted by the Department of Juvenile Justice or the Cabinet for Health and Family Services, residential, day treatment, clinical, and group home programs. All policies and procedures necessary to educate state agency children shall be approved by the Kentucky Board of Education. All duties, responsibilities, rights, and privileges specifically imposed on or granted to the local education administration units shall be imposed on or granted to the Department of Juvenile Justice or the Cabinet for Health and Family Services and contracted agencies with regard to educating agency children. Classrooms for the Kentucky Educational Collaborative for State Agency Children shall be within or near the facilities and programs operated or contracted by the Department of Juvenile Justice or the cabinet. The Kentucky Department of Education, the Department of Juvenile Justice, and the Cabinet for Health and Family Services, Department for Community Based Services, shall develop a biennial plan regarding the educational needs and provisions of educational programs, with emphasis on the coordination of all treatment services and funds available to provide for the education of state agency children. The biennial plan shall include strategies to assure that teacher preparation programs include content related to working with state agency children and that adequate professional development opportunities for better meeting the needs of these students are available for teachers and schools.
  - (b) Teachers and other staff shall be hired on contract through a local school district or if a local school district is not willing to participate, teachers may be hired by the Kentucky Educational Collaborative for State Agency Children or a contract may be entered into with a private provider of educational services. All certified educational staff hired by the Kentucky Educational Collaborative for State Agency Children shall be members of the Kentucky Teachers' Retirement System.



- (c) Beginning July 1, 1993, the Kentucky Education Collaborative for State Agency Children shall be financed through:
1. The amount generated by state agency children under the Support Education Excellence in Kentucky program as provided in KRS 157.360 for the guaranteed base and adjustments for the number of at-risk students, exceptional students, and transportation costs;
  2. A per-pupil distribution of professional development funds with the collaborative serving as a consortium for state agency children;
  3. A per-pupil distribution of technology funds in accordance with the state education technology plan pursuant to KRS 156.670 and the formula for the distribution of funds to local school districts;
  4. A per-pupil distribution of textbook funds pursuant to KRS 157.100 and 157.190;
  5. The funding for school services for state agency children authorized by KRS 158.135; and
  6. Other grants and entitlements, including federal funds, identified in the implementation plan developed pursuant to paragraph (f) of this subsection for the education of Kentucky's children.
- (d) The commissioner of Juvenile Justice and the secretary of the Cabinet for Health and Family Services shall promulgate administrative regulations, pursuant to KRS Chapter 13A, with the assistance of the Kentucky Department of Education and upon recommendation of the Kentucky Board of Education regarding the governance, curriculum, and other topics necessary to educate state agency children. The regulations shall:
1. Provide for the development and implementation of interagency agreements that:
    - a. Define the financial responsibility of each state and local agency for providing services to state agency children;
    - b. Establish procedures for resolving interagency disputes among agencies that are parties to the agreements; and
  2. Provide procedures for the implementation of the Kentucky statutes regarding school-based decision making, student outcomes, accountability, assessment, rewards and sanctions, technology, staff development, salaries, and the development of coordinated individual treatment, education, and transition plans to ensure compliance with present education and treatment laws and regulations specific to the needs of children in the programs of the Cabinet for Health and Family Services.
- (e) When the placement of a state agency child is changed so that the state agency child must transfer from one school or educational facility to a different school or educational facility, the school or educational facility that the state agency child is leaving shall, within two (2) days of the state agency child leaving, prepare an educational passport for the child, which shall be delivered to the cabinet or the Department of Juvenile Justice. The cabinet or the Department of Juvenile Justice shall, within two (2) days of enrolling a state agency child in a new school or educational facility, present the educational passport to the receiving school or educational facility.
- (f) The commissioner of Juvenile Justice and the secretary of the Cabinet for Health and Family Services and the commissioner of the state Department of Education shall initiate development of a plan for implementation of the Kentucky Educational Collaborative for State Agency Children.

**Approved March 15, 2006.**

## CHAPTER 18

**(HB 298)**

AN ACT relating to executive branch lobbying.

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

Section 1. KRS 11A.211 is amended to read as follows:

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- (1) Each executive agency lobbyist, employer, and real party in interest shall file with the commission within ten (10) days following the engagement of an executive agency lobbyist, an initial registration statement showing all of the following:
  - (a) The name, business address, and occupation of the executive agency lobbyist;
  - (b) The name and business address of the employer and of any real party in interest on whose behalf the executive agency lobbyist is acting, if it is different from the employer. However, if a trade association or other charitable or fraternal organization that is exempt from federal income taxation under Section 501(c) of the Internal Revenue Code is the employer, the statement need not list the names and addresses of every member of the association or organization, so long as the association or organization itself is listed;
  - (c) A brief description of the executive agency decision to which the engagement relates;
  - (d) The name of the executive agency or agencies to which the engagement relates; and
  - (e) Certification by the employer and executive agency lobbyist that the information contained in the registration statement is complete and accurate.
- (2) In addition to the initial registration statement required by subsection (1) of this section, each executive agency lobbyist, employer, and real party in interest shall file with the commission, not later than the last day of July of each year, an updated registration statement that confirms the continuing existence of each engagement described in an initial registration statement and that lists the specific executive agency decisions the executive agency lobbyist sought to influence under the engagement during the period covered by the updated statement, and with it any statement of expenditures required to be filed by KRS 11A.216 and any details of financial transaction required to be filed by KRS 11A.221.
- (3) If an executive agency lobbyist is engaged by more than one (1) employer, the executive agency lobbyist shall file a separate initial and updated registration statement for each engagement. If an employer engages more than one (1) executive agency lobbyist, the employer shall file only one (1) updated registration statement under subsection (2) of this section, which shall contain the information required by subsection (2) of this section regarding all executive agency lobbyists engaged by the employer.
- (4)
  - (a) A change in any information required by subsection (1)(a), (b), (c), (d), or (2) of this section shall be reflected in the next updated registration statement filed under subsection (2) of this section.
  - (b) Within thirty (30) days following the termination of an engagement, the executive agency lobbyist who was employed under the engagement shall file written notice of the termination with the commission.
- (5) ***Each employer of one (1) or more executive agency lobbyists, and each real party in interest, shall pay a registration fee of one hundred twenty-five dollars (\$125) upon the filing of an updated registration statement. All fees collected by the commission under the provisions of this subsection shall be deposited in the State Treasury in a trust and agency fund account to the credit of the commission. These agency funds shall be used to supplement general fund appropriations for the operations of the commission and shall not lapse. No part of the trust and agency fund account shall revert to the general funds of this state. No registration fee shall be charged for filing a registration statement.***
- (6) Upon registration pursuant to this section, an executive agency lobbyist shall be issued a card annually by the commission showing the executive agency lobbyist is registered. The registration card shall be valid from the date of its issuance through the thirty-first day of July of the following year.
- (7) The commission shall review each registration statement filed with the commission under this section to determine if the statement contains all of the required information. If the commission determines the registration statement does not contain all of the required information or that an executive agency lobbyist, employer, or real party in interest has failed to file a registration statement, the commission shall send written notification of the deficiency by certified mail to the person who filed the registration statement or to the person who failed to file the registration statement regarding the failure. Any person so notified by the commission shall, not later than fifteen (15) days after receiving the notice, file a registration statement or an amended registration statement that includes all of the required information. If any person who receives a notice under this subsection fails to file a registration statement or an amended registration statement within the fifteen (15) day period, the commission may initiate an investigation of the person's failure to file. If the commission initiates an investigation pursuant to this section, the commission shall also notify each elected executive official and the secretary of each cabinet listed in KRS 12.250 of the pending investigation.

- (8) In the biennial report published under KRS 11A.110(13), the commission shall, in the manner and form the commission determines, include a report containing statistical information on the registration statements filed under this section during the preceding biennium.
- (9) If an employer who engages an executive agency lobbyist, or a real party in interest on whose behalf the executive agency lobbyist was engaged is the recipient of a contract, grant, lease, or other financial arrangement pursuant to which funds of the state or of an executive agency are distributed or allocated, the executive agency or any aggrieved party may consider the failure of the real party in interest, the employer, or the executive agency lobbyist to comply with this section as a breach of a material condition of the contract, grant, lease, or other financial arrangement.
- (10) Executive agency officials may require certification from any person seeking the award of a contract, grant, lease, or financial arrangement that the person, his employer, and any real party in interest are in compliance with this section.

**Approved March 15, 2006.**

## CHAPTER 19

**(HB 80)**

AN ACT relating to students called to military active duty.

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

Section 1. KRS 38.470 is amended to read as follows:

If the Kentucky National Guard or Kentucky active militia is called into state active duty by the Governor *or into federal active duty by the President of the United States* for any purpose, requiring the service of members who are students in any institution of learning in the state, no teacher, professor, principal, or president of the institution shall discriminate against the student by reason of his absence, but shall credit him with all academic work accomplished to the date of his absence. Students shall be given reasonable time to make up work missed as a result of a call to state *or federal* active duty.

**Approved March 15, 2006.**

## CHAPTER 20

**(SB 35)**

AN ACT relating to the primary program.

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

Section 1. KRS 158.031 is amended to read as follows:

- (1) In this section, "primary school program" means that part of the elementary school program in which children are enrolled from the time they begin school until they are ready to enter the fourth grade. Notwithstanding any statute to the contrary, successful completion of the primary school program shall be a prerequisite for a child's entrance into fourth grade.
- (2) The Kentucky Board of Education shall establish, by administrative regulation, methods of verifying successful completion of the primary school program in carrying out the goals of education as described in KRS 158.6451.
- (3) The primary program shall include the following critical attributes: developmentally appropriate educational practices; multiage and multiability classrooms; continuous progress; authentic assessment; qualitative reporting methods; professional teamwork; and positive parent involvement.
- (4) Each school council or, if none exists, the school shall determine the organization of its ungraded primary program including the extent to which multiage groups are necessary to implement the critical attributes based on the critical attributes and meeting individual student needs.

- (5) The implementation of the primary program may take into consideration the necessary arrangements required for students attending part-time and will allow for grouping of students attending their first year of school when determined to be developmentally appropriate.
- (6) *A school district may advance a student through the primary program when it is determined that it is in the best educational interest of the student. A student who is at least five (5) years of age, but less than six (6) years of age, and is advanced in the primary program may be classified as other than a kindergarten student for purposes of funding under KRS 157.310 to 157.440 if the student is determined to have acquired the academic and social skills taught in kindergarten as determined by local board policy in accordance with the process established by Kentucky Board of Education administrative regulation.*
- (7) Data shall be collected by each school district on the number of students, in each school having a primary program, who take five (5) years to complete the primary program. The data shall be reported in the annual performance report described in KRS 158.6453.

Section 2. KRS 158.030 is amended to read as follows:

"Common school" means an elementary or secondary school of the state supported in whole or in part by public taxation. No school shall be deemed a "common school" or receive support from public taxation unless the school is taught by a certified teacher for a minimum school term as defined by KRS 158.070 and every child residing in the district who satisfies the age requirements of this section has had the privilege of attending it. Provided, however, that any child who is six (6) years of age, or who may become six (6) years of age by October 1, shall attend public school or qualify for an exemption as provided by KRS 159.030. Any child who is five (5) years of age, or who may become five (5) years of age by October 1, may enter a primary school program, as defined in KRS 158.031, *and may advance through the primary program without regard to age in accordance with subsection (6) of Section 1 of this Act.*

Approved March 17, 2006.

## CHAPTER 21

### (SB 50)

AN ACT relating to solid waste management.

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

Section 1. KRS 224.43-500 is amended to read as follows:

- (1) As used in this section:
  - (a) "Environmental remediation fee" means a one dollar and seventy-five cents (\$1.75) fee paid per ton of waste by generators of waste and collected at transfer stations and waste disposal facilities that is in addition to all other applicable fees and taxes assessed prior to January 1, 2003;
  - (b) "Transfer station" means a facility permitted by the cabinet where waste is transferred from one (1) vehicle to another for transportation to a municipal solid waste disposal facility; and
  - (c) "Public road" means any city, county, state, federal, or limited access street, highway, or turnpike, including bridges and bridge approaches.
- (2) The environmental remediation fee levied under this section is in addition to all other applicable fees and taxes assessed prior to January 1, 2003. Notwithstanding any law, franchise, or contract to the contrary, the owner or operator of a transfer station or municipal solid waste disposal facility, or the person who collects waste and delivers such waste to a transfer station or municipal solid waste disposal facility may pass through and obtain from the generator any environmental remediation fee required under this section.
- (3) ~~The [Beginning January 1, 2003, an] environmental remediation fee [of one dollar and seventy-five cents (\$1.75) per ton of waste]~~ shall be paid by generators of waste to be disposed of at a municipal solid waste disposal facility and collected by waste transfer stations or municipal solid waste disposal facilities in the Commonwealth. No environmental remediation fee shall be collected at a municipal solid waste disposal facility on waste for which the fee has been paid at a transfer station to the disposal facility. The cabinet shall, by administrative regulation, adopt a conversion formula to allow assessment of the fee by transfer stations that

do not have scales. For loads of waste weighing less than one (1) ton, the environmental remediation fee shall be one dollar and seventy-five cents (\$1.75).

- (4) Not later than thirty (30) days following the last day of each calendar quarter, every owner or operator of a transfer station or municipal solid waste disposal facility shall remit to the cabinet the environmental remediation fee collected during the prior quarter, with a report stating the number of tons of waste for which the environmental remediation fee was collected.

Section 2. KRS 224.43-505 is amended to read as follows:

- (1) A trust fund known as the Kentucky pride fund is hereby established in the State Treasury to receive money collected from environmental remediation fees established in KRS 224.43-500. The fund shall be used to accomplish the purposes established in this section. Any money accruing to the fund in any fiscal year shall not lapse but shall be carried forward to the next fiscal year. The fund may also receive state appropriations, gifts, grants, and federal funds. All interest earned on money in the fund shall be credited to the fund.
- (2) The cabinet shall administer the Kentucky pride fund as provided by this section and any administrative regulations promulgated pursuant thereto. Money from the fund received by the cabinet shall be distributed as follows:
  - (a) Five million dollars (\$5,000,000) of the money deposited into the fund each year shall be retained by the cabinet, subject to the following conditions:
    1. The cabinet may use up to two and one-half million dollars (\$2,500,000) of the money deposited into the fund as necessary for direct costs associated with site identification, characterization, and corrective action assessments of solid waste disposal sites and facilities that have ceased accepting waste before July 1, 1992, including former permitted municipal solid waste disposal facilities or abandoned solid waste disposal sites or facilities. The cabinet shall prioritize the sites and facilities based on risks to human health, safety, and the environment, and develop an implementation plan for closure and remediation of those sites and facilities. ~~The cabinet shall present the implementation plan to the Interim Joint Committee on Appropriations and Revenue no later than July 1, 2003.~~ Funds may be utilized to begin design and implementation of proper closure and corrective action for those sites and facilities with unabated pending violations.
    2. The cabinet shall suspend until July 2006 enforcement activity regarding landfill closure and remediation obligations against formerly permitted municipal solid waste disposal facilities owned by a city or county that ceased accepting waste prior to July 1, 1992, except as necessary to abate an environmental emergency.
    3. ~~The cabinet shall develop for presentation to the Interim Joint Committee on Appropriations and Revenue no later than December 31, 2003, a plan for state assumption of responsibility for closure and remedial obligations of formerly permitted city and county municipal solid waste landfills that ceased accepting waste prior to July 1, 1992, including recommendations on funding such obligations.~~
    4. ~~The cabinet shall develop for presentation to the Interim Joint Committee on Appropriations and Revenue no later than December 31, 2004, a plan for closure and remediation of all identified abandoned solid waste sites and facilities, including recommendations on funding such obligations.~~
    5. ~~Two and one-half million dollars (\$2,500,000) per year shall be used to pay debt service on bonds to be sold by the Kentucky Infrastructure Authority in the amount of at least twenty-five million dollars (\$25,000,000), the proceeds from which were deposited into the Kentucky pride fund with all proceeds from the issuance and sale of these bonds to be deposited in the Kentucky pride fund~~ established in this section and utilized for undertaking closure and corrective action at formerly permitted solid waste disposal facilities or abandoned solid waste sites or facilities that ceased accepting waste prior to July 1, 1992, which pose the most significant environmental or human health risk. Moneys not appropriated for the identification and characterization of orphaned or abandoned landfills, or debt service, may be used for the elimination of illegal open dumps, direct costs associated with the closure of orphaned landfills, **recycling grants, household hazardous waste grants,** or additional debt service.

- (b) The interest on all moneys deposited into the fund, including unused debt services, shall be distributed annually in an amount not to exceed one million dollars (\$1,000,000) to the Kentucky Environmental Education Council for implementation of the environmental education center component of the Environmental Education Master Plan.~~[-]~~
- (c) The remaining balance of the funds from the environmental remediation fee established in KRS 224.43-500, ***plus any unspent interest revenues***, shall be utilized by the cabinet for ***grants to counties for the elimination of illegal open dumps and to establish a recycling and household hazardous waste grants program. Any county, waste management district, city, urban-county government, or other political subdivision of the state shall be eligible to apply for recycling and household hazardous waste grants under this program.***~~in the counties of the Commonwealth, subject to the following provisions:~~
- ~~1. The cabinet shall prioritize expenditures from this fund among those counties with approved solid waste management plans in order to address those illegal open dumps posing the most significant public health and environmental risks;~~
  - ~~2. During the first funding year, the cabinet shall use the balance of funds from the environmental remediation fee to reimburse counties semiannually for seventy five percent (75%) of the costs relating to the cleanup of illegal open dumps it has identified as presenting the most significant public health and environmental risks;~~
  - ~~3. After the first funding year, the cabinet shall reimburse counties semiannually for seventy five percent (75%) of the direct expense of eliminating illegal open dumps providing they:
 
    - ~~a. Establish an effective universal municipal solid waste collection service that is available to all county residences and businesses;~~
    - ~~b. Employ a solid waste coordinator with enforcement powers;~~
    - ~~c. Remain in compliance with an approved solid waste management plan under this chapter;~~
    - ~~d. Enter into agreement with the cabinet to eliminate all identified illegal open dumps containing solid waste;~~
    - ~~e. Agree to use all legal methods at their disposal to collect delinquent solid waste collection fees; and~~
    - ~~f. Establish a committee to be designated as the clean county committee, composed of representatives from business, schools, agriculture, homemakers, and other concerned citizens, to increase awareness and develop education and enforcement strategies to keep the county free of litter and illegal open dumps.~~~~
  - ~~4. Counties that meet the requirements set out above in subparagraph 3. of this paragraph shall be provided the following incentives and rewards by the cabinet:
 
    - ~~a. Extra points when applying for Land and Water Conservation Fund grants, National Recreation Trails Funds grants, and funding from the state funded Community Rivers and Streams Program; and~~
    - ~~b. Priority consideration for funds from the Division of Conservation State Cost Share Program for dumps on farmland and the Waste Tire Trust Fund for tire dumps; and~~~~
  - ~~5. The cabinet may waive the matching requirement of subsection (3) of this section for illegal dump cleanup within a county during any year in which the county demonstrates that it has enacted and enforced an ordinance mandating collection by all households and businesses in a universal collection program.~~
- (d) Two and one-half million dollars (\$2,500,000) shall be transferred in each of the fiscal years 2002-03 and 2003-04 and annually thereafter from the road fund established in KRS 48.010(13)(g) and two and one-half million dollars (\$2,500,000) shall be transferred in each of the fiscal years 2002-03 and 2003-04 and annually thereafter from the highway construction contingency fund to the Kentucky pride fund established in this section, to be reserved and distributed ***annually***~~semiannually~~ for anti-litter control programs with distributions to be made as follows:

1. Thirty-three and one-third percent (33-1/3%) of the money shall be distributed ~~annually~~~~[semiannually]~~ based on each county's miles of public roads as a percentage of the total miles of public roads in the Commonwealth at the time of distribution;
  2. Thirty-three and one-third percent (33-1/3%) of the money shall be distributed ~~annually~~~~[semiannually]~~ based on the county's rural population as a percentage of the total rural population of the Commonwealth at the time of distribution. "Rural population" means the population residing outside a city, town, or urban area with a population of two thousand five hundred (2,500) persons or more;
  3. Thirty-three and one-third percent (33-1/3%) of the money shall be distributed ~~annually~~~~[semiannually]~~ based on the county's population as a percentage of the total population of the Commonwealth at the time of distribution;
  4. Of the moneys apportioned to counties on the basis of miles of public roads and population as provided for in subparagraphs 1. and 3. of this paragraph, the cabinet shall provide to the participating incorporated cities within the jurisdiction of each respective county which, by ordinance or other means, provides municipal solid waste collection service, an amount of funds equal to the ratio of that city's total miles of public roads in the county and the ratio of that city's population to the population of the county, to be used for the purpose of litter cleanup on public roads within city boundaries;~~and~~
  5. Moneys received by counties and cities pursuant to *this paragraph shall be applied for by November 1 of the year preceding the grant distribution and*~~[this subsection]~~ shall be used to meet obligations with respect to the litter cleanup of public roads required by the provisions of KRS 224.43-345;~~and~~~~[ ]~~
  6. *Litter abatement funding rejected or otherwise returned from the grant recipients shall be applied to the following year's allotment for litter abatement grants.*
- (3) *Any county may apply for a grant for the elimination of illegal open dumps subject to the following provisions:*
- (a) *The cabinet first shall prioritize expenditures from this fund among those counties with approved solid waste management plans in order to address those illegal open dumps posing the most significant public health and environmental risks;*
  - (b) *The cabinet shall provide grants to counties for eliminating illegal open dumps. To be eligible for grant funding, the applicant shall:*
    1. *Establish an effective universal municipal solid waste collection service that is available to all county residences and businesses;*
    2. *Employ a solid waste coordinator with enforcement powers;*
    3. *Remain in compliance with an approved solid waste management plan under this chapter;*
    4. *Enter into agreement with the cabinet to provide a twenty-five percent (25%) match which may be in kind to the grant amount and comply with the grant criteria, except that the grant match may be waived for illegal dump cleanups projected to cost more than fifty thousand dollars (\$50,000);*
    5. *Agree to use all legal methods at their disposal to collect delinquent solid waste collection fees; and*
    6. *Establish a committee to be designated as the clean county committee, composed of representatives from business, schools, agriculture, homemakers, and other concerned citizens, to increase awareness and develop education and enforcement strategies to keep the county free of litter and illegal open dumps.*
- (4) *The cabinet shall impose the following requirements for recycling and household hazardous waste management grants to counties, waste management districts, cities, urban-county governments, or other political subdivisions of the state:*

- (a) *Each grantee shall provide a twenty-five percent (25%) match to the grant amount which may be in kind and shall comply with the grant criteria;*
  - (b) *Each grantee shall demonstrate that the proposed project will remain financially viable after grant funds have been expended;*
  - (c) *The grantee shall demonstrate that the service added by the project is needed and would otherwise be unavailable within the proposed service area; and*
  - (d) *Projects that create opportunities for regional recycling or regional household hazardous waste management shall be given priority.*
- (5) *Counties that meet the requirements set out above in subsection (3) of this section shall be provided the following incentives and rewards by the cabinet:*
- (a) *Extra points when applying for Land and Water Conservation Fund grants, National Recreation Trails Funds grants, and funding from the state-funded Community Rivers and Streams Program; and*
  - (b) *Priority consideration for funds from the Division of Conservation State Cost Share Program for dumps on farmland and the Waste Tire Trust Fund for tire dumps.*
- ~~[(3) Prior to providing the financial assistance provided under paragraphs (c) and (d) of subsection (2) of this section, the cabinet shall require a county to provide a match of twenty five percent (25%) of the total amount of the financial assistance to be provided by the cabinet. The match provided by the county may be in kind.]~~
- ~~[(6)]~~ ~~[(4)]~~ The cabinet shall be reimbursed for reasonable costs related to the implementation of the provisions of this section, not to exceed seven hundred fifty thousand dollars (\$750,000) annually. ~~[The cabinet shall report to the General Assembly at its regular session in 2003 regarding costs and expenditures relating to the provisions of this section.]~~

**Approved March 17, 2006.**

## **CHAPTER 22**

### **(SB 76)**

AN ACT relating to hazardous waste management.

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

Section 1. KRS 224.46-520 is amended to read as follows:

- (1) No person shall engage in the storage, treatment, recycling, or disposal of hazardous waste without first notifying the cabinet and obtaining construction and operation permits from the cabinet. The cabinet shall promulgate regulations establishing standards for such permits but in no case shall a permit to construct or operate a hazardous waste site or facility or a regional integrated waste treatment and disposal demonstration facility be issued unless it can be demonstrated that the proposed facility can be integrated into the surroundings in an environmentally compatible manner, including but not limited to, insuring that hydrologic, seismologic, geologic, and soil considerations have been adequately addressed in the permit application and in an operational plan. In no case shall a permit to construct a hazardous waste incinerator, landfill, or other site or facility for the land disposal of hazardous waste be approved or issued prior to notification of the cabinet by the local unit of government of its actions pursuant to KRS 224.40-310(6). The cabinet shall not issue a construction permit to a regional integrated waste treatment and disposal demonstration facility until it has been issued a certificate of environmental safety and public necessity. A person desiring a construction permit shall file an application on forms supplied by the cabinet which shall contain such information as the cabinet deems necessary and provide evidence that the hazardous waste shall be treated, stored or disposed of in the manner prescribed by the cabinet. The applicant shall not initiate construction at the proposed site of a new facility for the storage, treatment, or disposal of hazardous waste until notice has been given to that portion of the public most likely to be affected by the operation of the proposed facility pursuant to KRS 224.40-310(1) to (5) and until a construction permit for said facility has been issued by the cabinet. The cabinet may consider past performance in this or related fields by the applicant. The cabinet, in making a determination to issue, deny, or condition a construction permit, shall consider the following:



- (a) An evaluation of alternatives, to include other locations and other treatment, storage, and disposal approaches, different from those proposed, available to the applicant;
- (b) An evaluation of the public health, safety, and environmental aspects of the proposals;
- (c) An evaluation of the social and economic impacts of the proposed action on the affected community, to include, at a minimum, changes in property values, community perception and other psychic costs, and the costs and availability of public services, facilities and improvements required to support the facility and protect public health, safety, and the environment;
- (d) An evaluation of mitigation measures to alleviate problems identified in paragraphs (b) and (c) of this subsection; and
- (e) The relationship of the proposal to local planning and existing development.

Except that in the case of hazardous waste incinerators, landfills, or other sites or facilities for the land disposal of hazardous waste, the provisions of paragraphs (c) and (e) of this subsection shall be determined by the local unit of government pursuant to KRS 224.40-310(6); in the case of a regional integrated waste treatment and disposal demonstration facility the provisions of paragraphs (c) and (e) of this subsection shall be determined by the siting board established pursuant to KRS 224.46-820.

- (2) The cabinet may prohibit the land disposal of any hazardous wastes. The criteria and list of hazardous waste to be prohibited by the cabinet from land disposal shall be identical to any such criteria and list promulgated by the United States Environmental Protection Agency pursuant to the Resource Conservation and Recovery Act of 1976, as amended, (Public Law 94-580). The land disposal of hazardous waste may be permitted for methods determined by the cabinet to be protective of human health and the environment for as long as the waste remains hazardous.
- (3) In conjunction with the application for permits under this section the applicant shall establish adequate financial responsibility as follows:
  - (a) The applicant shall file as part of his application for a permit to construct the facility an estimate of the cost of closing the facility after its capacity is reached or operations have otherwise ceased and an estimate of the cost of post-closure care. In the case of storage facilities, the cost of closing shall include the cost of properly disposing of the hazardous waste stored. The cabinet shall evaluate this cost estimate and either accept the estimate as made or shall revise it in accordance with acceptable guidelines, using, where available, actual data on closure costs associated with similar existing facilities. Before a permit to operate can be issued, the applicant for any hazardous waste permit shall assure that the funds needed to close the facility are available by establishing assurance through one (1) or more of the following mechanisms: cash, certificates of deposit, irrevocable credit, or other sureties satisfactory to the cabinet and the mechanism shall be established by agreement with the cabinet. The agreement shall provide that disbursement is permissible only upon written approval of the cabinet and whenever, on the basis of any information, the cabinet determines that the owner or operator is in violation of any of the closure requirements for the facility, that the cabinet shall have the right to use part or all of the closure fund to carry out the closure requirements. The financial institution, surety company, or escrow agent shall release these funds upon receiving a forfeiture order of the cabinet issued pursuant to an appropriate administrative hearing considering one (1) or more closure violations. Upon determination that closure has been satisfactorily accomplished, the cabinet shall release the applicant from further financial responsibility for closure;
  - (b) Any applicant for a hazardous waste disposal permit shall file with the cabinet as part of his application an estimate of the annual cost of post-closure monitoring and routine maintenance at the site. The cabinet shall evaluate the cost estimate, and, after such modification as may be necessary in light of its evaluation, shall give notice of acceptance of the cost estimate. This cost estimate which will be referred to as the annual post-closure operating cost shall then be used to determine the amount of the post-closure monitoring and maintenance fund to be used for monitoring and maintenance for a period of a minimum of thirty (30) years after facility closure. The post-closure monitoring and maintenance fund shall be cash, irrevocable credit, or other sureties satisfactory to the cabinet and shall be established by an agreement with the cabinet. The agreement shall provide that whenever, on the basis of any information, the cabinet determines that the owner or operator of the facility is in violation of any of the post-closure monitoring and maintenance requirements, the cabinet shall have the right to use part or all

of the funds to carry out the post-closure monitoring and maintenance for the facility. The funds shall be released upon receipt of a forfeiture order of the cabinet issued pursuant to an appropriate administrative hearing considering one (1) or more post-closure monitoring and maintenance violations. One (1) year after closure, and annually thereafter for a period of thirty (30) years, the applicant who has carried out all necessary post-closure maintenance and monitoring requirements may upon application to the cabinet be reimbursed out of the post-closure monitoring and maintenance fund an amount equal to the estimated costs for monitoring and routine maintenance for that year. Request for release of funds for reimbursement shall be accompanied by an itemized list of costs incurred. Upon determination that the expenditures incurred are in accordance with the approved plan, or otherwise justified, the cabinet may authorize the release of the funds to the applicant in writing. Any funds remaining in the account following a termination hearing in which the applicant is released of further responsibility shall likewise be released to the applicant; and

- (c) All applicants for any hazardous waste permit shall provide evidence of financial responsibility in an amount and for a time period specified by the cabinet for the purpose of corrective action on and off-site and satisfying claims arising out of injury to persons or property resulting from the release or escape of hazardous waste into the environment. Such financial responsibility may be established by one (1) or a combination of evidence of liability insurance, self-insurance, or other evidence of financial responsibility acceptable to the cabinet. The level of self-insurance shall not exceed ten percent (10%) of equity, and financial responsibility shall be maintained during the entire operation of the facility and until termination. The minimum liability coverage for sudden occurrences, exclusive of legal defense costs, for a storage, treatment, or disposal facility shall be one million dollars (\$1,000,000) per occurrence with an annual aggregate of two million dollars (\$2,000,000). The minimum liability coverage for nonsudden occurrences, exclusive of legal defense costs, for a hazardous waste facility involving land disposal shall be three million dollars (\$3,000,000) per occurrence with an annual aggregate of six million dollars (\$6,000,000). Combined coverage for sudden and nonsudden occurrences shall be no less than the combined totals herein set forth for separate coverage. The cabinet shall accept a demonstration of financial responsibility during the post-closure period of a facility for a lesser amount for sudden or non-sudden occurrences where it is shown that a lesser amount of financial responsibility will be adequate to provide compensation for third-party injury or property damage and corrective action, considering site and facility conditions and other site-specific factors. Financial responsibility in post-closure for sudden and non-sudden occurrences and corrective action may be demonstrated through a letter of credit, surety or other bond, corporate guarantee, trust fund, liability insurance, self-insurance, or combination of these or other methods as approved by the cabinet.
- (4) The cabinet shall promulgate regulations establishing minimal standards for closure, post-closure monitoring and maintenance, and termination of sites for the disposal of hazardous waste. Any person who obtains a disposal permit for hazardous waste shall be responsible for the post-closure monitoring and maintenance of the permitted facility for a minimum of thirty (30) years after closure of the facility. ~~The permittee[, and]~~ may apply to the cabinet for termination of the responsibility for post-closure monitoring and maintenance at any time **during the thirty (30) year post-closure monitoring and maintenance period** ~~after the site has been closed for at least thirty (30) years~~. Upon receipt of such application, the cabinet shall provide notice to the public and to the owner or operator and an opportunity for a hearing on the termination of the site. In this proceeding, the burden shall be on the applicant to prove by clear and convincing evidence that additional post-closure monitoring and maintenance is not necessary for adequate protection of public health or the environment. The cabinet shall determine either that post-closure monitoring and maintenance of the site is no longer required, in which case the applicant shall be relieved of such responsibility; or that additional post-closure monitoring and maintenance of the site as specified in a plan of operation is still required, in which case the cabinet may order appropriate remedial measures, impose restrictive covenants as to future use of the property involved, or otherwise condition termination as may be necessary for adequate protection of public health and the environment. **The cabinet may require additional monitoring, site maintenance, or remedial measures consistent with KRS Chapter 224 any time after termination of the post-closure monitoring and maintenance of the permitted facility in the event that the cabinet determines such actions are necessary for the protection of human health and the environment.**
- (5) In any case where the owner or operator is in bankruptcy, reorganization, or arrangement pursuant to the Federal Bankruptcy Code or where jurisdiction cannot be obtained with reasonable diligence in any state court or any federal court over an owner or operator likely to be insolvent at the time of judgment, any claim arising from conduct for which evidence of financial responsibility shall be provided under this section may be

asserted directly against the guarantor providing such evidence of financial responsibility. In the case of any action pursuant to this subsection, such guarantor shall be entitled to invoke all rights and defenses which would have been available to the owner or operator if any action had been brought against the owner or operator by the claimant and which would have been available to the guarantor if an action had been brought against the guarantor by the owner or operator.

- (6) The total liability of any guarantor shall be limited to the aggregate amount which the guarantor has provided as evidence of financial responsibility to the owner or operator under this section. Nothing in this subsection shall be construed to limit any other federal statutory, contractual or common law liability of a guarantor to its owner or operator including, but not limited to, the liability of such guarantor for bad faith either in negotiating or in failing to negotiate the settlement of any claim. Nothing in this subsection shall be construed to diminish the liability of any person under Section 107 or 111 of the Comprehensive Environmental Response, Compensation and Liability Act of 1980 or other applicable law.
- (7) For the purpose of this subsection, the term guarantor means any person, other than the owner or operator, who provides evidence of financial responsibility for an owner or operator under this section.
- (8) Any hazardous waste treatment, storage, or disposal facility shall close in accordance with the permit and this chapter, if the site or facility has not been maintained in operational condition in conformance with this chapter, for any period of six (6) months or longer. The permittee shall be afforded an opportunity to be heard on the proposed termination of authorization to operate, and termination under this section shall not be required where the permittee demonstrates that steps have been taken to bring the facility, within a reasonable time not to exceed ninety (90) days, into full operational status in accordance with this chapter and applicable regulations. Within ninety (90) days, the cabinet shall review existing hazardous waste treatment, storage, or disposal permits to determine compliance with this section.

**Approved March 17, 2006.**

## CHAPTER 23

(SB 88)

AN ACT relating to telecommunications equipment for the deaf.

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

Section 1. KRS 163.525 is amended to read as follows:

- (1) As used in this section and KRS 163.527:
  - (a) "***Specialized telecommunications equipment***~~[Telecommunications device for the deaf" or "TDD]"~~ means ***devices such as, but not limited to, telecommunications devices for the deaf, amplified phones, loud ringers, visual alert signalers, tactile signalers, captioned telephones, and appropriate wireless devices***~~[a keyboard mechanism attached to a standard telephone set which allows for messages to be typed rather than spoken]; and~~
  - (b) "***Telecommunications Access***~~[TDD distribution]~~ program" means the program to furnish ***specialized telecommunications equipment***~~[TDDs]~~ to deaf, hard-of-hearing, and speech-impaired persons in order that they may ***have equal access to telecommunications services through***~~[use]~~ the telecommunications relay service established pursuant to KRS 278.548. The program shall include maintenance and repair of the equipment.
- (2)
  - (a) On or before July 1, 1995, the Commission on the Deaf and Hard of Hearing shall establish a program to distribute ***specialized telecommunications equipment***~~[TDDs]~~ to any deaf, hard-of-hearing, or speech-impaired person qualified to receive the equipment pursuant to subsection (3) of this section.
  - (b) Prior to the establishment of the ***Telecommunications Access***~~[TDD distribution]~~ program, the Commission on the Deaf and Hard of Hearing shall initiate an investigation, conduct public hearings, and solicit the advice and counsel of deaf, hard-of-hearing, and speech-impaired persons and the organizations serving them.

- (c) The Commission on the Deaf and Hard of Hearing may contract with any person, public, or private organization to provide part or all components of the **Telecommunications Access**~~[TDD-distribution]~~ program, if applicable statutory procurement provisions are followed. The Commission on the Deaf and Hard of Hearing may use assistance from public agencies of the state or federal government or from private organizations to accomplish the purposes of this section. The Kentucky Commission on the Deaf and Hard of Hearing shall enter into memoranda of agreement with the Public Service Commission for coordination and oversight of funding and operations to meet the objectives of this section and KRS 278.5499. The Commission on the Deaf and Hard of Hearing may also enter into memoranda of agreement with other state agencies to accomplish the purposes of this section.
- (3) Factors to determine a person's eligibility to receive **specialized telecommunications equipment**~~[a-TDD]~~ shall include, but not be limited to:
  - (a) Kentucky residency;
  - (b) Attainment of at least five (5) years of age; and
  - (c) Certification as deaf, hard of hearing, or severely speech-impaired by a licensed physician, audiologist, speech pathologist, or by any other method recognized by the Commission on the Deaf and Hard of Hearing. Certification implies that the individual cannot use the telephone for communication without adaptive equipment.
- (4) No more than one (1) **piece of specialized telecommunications equipment**~~[TDD]~~ shall be provided to a person qualified to receive the equipment pursuant to subsection (3) of this section. However, a malfunctioning **piece of specialized telecommunications equipment**~~[TDD]~~ originally distributed by the program may be returned for repair or replacement. The Commission on the Deaf and Hard of Hearing may prioritize distribution of the **specialized telecommunications equipment**~~[TDDs]~~ on the basis of need.
- (5) The Commission on the Deaf and Hard of Hearing shall establish procedures for application and distribution of **specialized telecommunications equipment**~~[TDDs]~~ by the promulgation of administrative regulations in accordance with provisions of KRS Chapter 13A.

Section 2. KRS 163.527 is amended to read as follows:

The Commission on the Deaf and Hard of Hearing shall provide to the General Assembly an annual report on the operation of the **Telecommunications Access**~~[TDD-distribution]~~ program. The report shall be due on July 1 of each year, beginning July 1, 1995, and, at a minimum, provide:

- (1) The number of persons served and the number of **pieces of specialized telecommunications equipment**~~[TDDs]~~ distributed;
- (2) The revenues and expenditures of the program;
- (3) Discussion of any major policy or operational issues;
- (4) Any changes the commission plans to make in the program that does not require legislative action; and
- (5) Any proposals for legislative changes in the program.

Section 3. KRS 278.547 is amended to read as follows:

As used in KRS 278.547 to 278.5499, unless the context requires otherwise:

- (1) "**Specialized telecommunications equipment**~~[Telecommunications device for the deaf or "TDD"]~~" means **devices such as, but not limited to telecommunications devices for the deaf, amplified phones, loud ringers, visual alert signalers, tactile signalers, captioned telephones, and appropriate wireless devices**~~[a keyboard mechanism attached to a standard telephone set which allows for messages to be typed rather than spoken]~~.
- (2) "Telecommunications relay service" means a procedure by which a deaf, hard-of-hearing, or speech-impaired **user of specialized telecommunications equipment**~~[TDD-user]~~ can communicate with an intermediary party, who then verbally relays the first party's message or request to a third party, or vice versa. The service includes, **but is not limited to** the switching, transmitting, and the voice and typed translation of calls.
- (3) "**Telecommunications Access**~~[TDD-distribution]~~ program" means the program to furnish **specialized telecommunications equipment**~~[TDDs]~~ to deaf, hard-of-hearing, and speech-impaired persons in order that

they may use the telecommunications relay service. The program shall include maintenance and repair of the equipment.

Section 4. KRS 278.5499 is amended to read as follows:

- (1) The Public Service Commission shall determine the appropriate funding mechanism for the **Telecommunications Access**~~[TDD distribution]~~ program established pursuant to KRS 163.525. The funding mechanism shall be designed to collect reasonably necessary funds, not to exceed one cent (\$.01) per access line per month, from subscribers of telecommunication utilities. The telecommunications industry shall not be required to absorb the cost of funding the **Telecommunications Access**~~[TDD distribution]~~ program.
- (2) The Public Service Commission shall distribute the funds collected from this funding mechanism to the Commission on the Deaf and Hard of Hearing for the purpose of implementing and operating the **Telecommunications Access**~~[TDD distribution]~~ program. The secretary of the cabinet to which the Commission on the Deaf and Hard of Hearing is attached by statute or executive order shall establish oversight conditions with the Commission on the Deaf and Hard of Hearing to ensure the funds are being used solely for the purposes consistent with this section and KRS 163.525.
- (3) The Public Service Commission, with the advice of the Commission on the Deaf and Hard of Hearing, shall initiate an investigation, conduct public hearings, and determine the appropriate funding mechanism for the **Telecommunications Access**~~[TDD distribution]~~ program no later than January 1, 1995. As part of this determination, the commission may review the funding mechanism for the telecommunications relay service pursuant to KRS 278.549. The commission shall consider whether a telecommunications utility experiences a competitive disadvantage resulting from the funding mechanism when compared to other telecommunication utilities.

**Approved March 17, 2006.**

## CHAPTER 24

**(HB 385)**

AN ACT relating to licensing of electricians.

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

Section 1. KRS 227A.030 is amended to read as follows:

- (1) The provisions of KRS 227A.010 to 227A.140 shall not apply to installations under the exclusive control of electric utilities for the purpose of communication, metering, or for the generation, control, transformation, transmission, and distribution of electric energy located in buildings used exclusively by utilities for those purposes or located outdoors on property owned or leased by the utility or on public highways, streets, or roads, or outdoors by established rights on private property.
- (2) Nothing in KRS 227A.010 to 227A.140 shall require that a maintenance worker or maintenance engineer performing routine maintenance of electrical systems be licensed.
- (3) Nothing in KRS 227A.010 to 227A.140 shall prohibit or interfere with the ability of a homeowner or farmer to install or repair electrical wiring on his or her real property.
- (4) Nothing in KRS 227A.010 to 227A.140 shall require that a retailer or its agent engaged in making installations of an appliance purchased at a retail establishment be licensed.
- (5) Nothing in KRS 227A.010 to 227A.140 shall be construed to require persons making installations exempt by KRS 227.460 to be licensed or to work for a licensed person.
- (6) Nothing in KRS 227A.010 to 227A.140 shall preclude the use of unlicensed, nonresident electricians in temporary, emergency, or industrial shutdown situations. Those unlicensed, nonresident electricians shall apply for an electrician's license or a master electrician's license after they are employed and engaged in electrical work in the Commonwealth of Kentucky for a period of thirty (30) days. The license shall be obtained by the temporary, unlicensed, nonresident electricians within sixty (60) days of securing employment.

- (7) Nothing in KRS 227A.010 to 227A.140 shall apply to a person performing work at a surface or underground coal mine or at a coal preparation plant.
- (8) Nothing in KRS 227A.010 to 227A.140 shall apply to a person performing work for a telecommunications company for which the voltage is fifty (50) volts or less.
- (9) Nothing in KRS 227A.010 to 227A.140 shall prohibit a factory-authorized representative from the installation, maintenance, or service of a medical equipment device. This exemption does not include work providing electrical feeds into the power distribution unit or installation of conduits and raceways. This exemption covers only those factory engineers or third-party service companies with equivalent training who are qualified to perform such service.
- (10) Nothing in KRS 227A.010 to 227A.140 shall apply to low-voltage, power-limited installations for control or coordination of interconnected devices separated from a power source by a Class 2 or Class 3 transformer installed by a person licensed as:
  - (a) A master or journeyman heating, ventilation, and air conditioning technician employed by a licensed HVAC contractor pursuant to KRS 198B.658;
  - (b) A fire protection sprinkler contractor pursuant to KRS 198B.560;
  - (c) A manufactured housing dealer or certified installer pursuant to KRS 227.610;
  - (d) A boiler mechanic pursuant to KRS 236.210;
  - (e) A master or journeyman plumber pursuant to KRS 318.030;
  - (f) An onsite sewage disposal system installer pursuant to KRS 211.357; or
  - (g) An electrician or master electrician employed by an electrical contractor pursuant to KRS 227A.010 to 227A.140.
- (11) The provisions of KRS 227A.010 to 227A.140 shall not apply to work performed at industrial manufacturing facilities *or natural gas pipeline facilities* by employees of those facilities.

**Approved March 17, 2006.**

## CHAPTER 25

### (SB 137)

AN ACT relating to blasting.

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

Section 1. KRS 351.315 is amended to read as follows:

- (1) No person shall detonate explosives in any blasting operation in which more than five (5) pounds of explosives or the equivalent are used in a single charge or in which less than five (5) pounds of explosives are used by a regular user, excluding blasting for agriculture and underground coal, unless he is licensed by the department. The department shall issue a license to use explosives to any person who:
  - (a) Has worked in blasting operations for at least twenty-four (24) months under the immediate supervision of an experienced blaster or has worked in blasting operations for twelve (12) months and has completed a formal training program approved by the department; and
  - (b) Has passed an examination prescribed by the department which shall test the examinee's practice of blasting operations and the storage, moving, handling, and detonation of explosives.
- (2) Application for license shall be in writing upon a form furnished by the department and shall be accompanied by a photograph of the applicant. If the applicant is successful in passing the examination, a license indicating his competency to detonate explosives shall be issued upon the payment of a fee of twenty-five dollars (\$25).
- (3) Any person who is a licensed blaster in another state where the qualifications prescribed at the time of licensing were, in the opinion of the commissioner, equal to those prescribed in the Commonwealth at the date of application, and where reciprocal licensing privileges satisfactory to the department are granted to licensees of the Commonwealth, may be granted a license without an examination, upon the payment of a fee.

- (4) Each blaster shall be required to renew his license every three (3) years by application to the department, which application shall be accompanied by a fee. Each applicant for renewal of a Kentucky blaster's license ~~other than a certified surface coal miner,~~ shall furnish proof that during the preceding three (3) years, he has attended a minimum of sixteen (16) hours of blaster's training approved by the department. Each applicant for renewal of a limited Kentucky blaster's license shall furnish proof that during the preceding three (3) years, he has attended a minimum of four (4) hours of blaster's training approved by the department.
- (5) The department shall not issue a blaster's license to any person not entitled to transport or receive explosives under existing federal law, including persons who:
  - (a) Are less than twenty-one (21) years of age; or
  - (b) Have been convicted in any court of a crime punishable by imprisonment for a term exceeding one (1) year, unless the conviction has been specifically exempted by the United States Bureau of Alcohol, Tobacco and Firearms or its successor.
- (6) All fees provided in this section shall be set by the department by administrative regulation; however, the fee for an application shall not exceed forty dollars (\$40), the fee for license renewal shall not exceed sixty dollars (\$60), and the fee for reciprocal licensing shall not exceed sixty dollars (\$60).
- (7) The commissioner may suspend any license for due cause, but no license may be revoked until the licensee has been granted adequate opportunity for a hearing conducted in accordance with KRS Chapter 13B.

**Approved March 17, 2006.**

## CHAPTER 26

(HB 383)

AN ACT relating to water well drillers.

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

Section 1. KRS 223.991 is amended to read as follows:

- (1) Any person, firm or corporation (municipal or private) who violates any provisions of KRS 223.160 to 223.220 or the rules and regulations adopted thereunder shall be liable to a civil penalty not to exceed the sum of one thousand dollars (\$1,000) for said violation and an additional civil penalty not to exceed one thousand dollars (\$1,000) for each day of operation in violation of KRS 223.160 to 223.220 or of the rules and regulations adopted thereunder. In addition, the person, firm or corporation may be enjoined in the manner set forth in KRS Chapter 224 from continuing such violations.
- (2) Any person who fails to comply with the certification provisions of KRS 223.425 shall be liable for a civil penalty ~~not to exceed the sum of~~ **not less than two thousand five hundred dollars (\$2,500) and not more than five thousand dollars (\$5,000) per occurrence,** ~~one thousand dollars (\$1,000) for each day during which such violation continues,~~ and in addition may be concurrently enjoined from any such violations as hereinafter provided.
- (3) Any person certified under the provisions of KRS 223.425, who violates KRS 223.405 to 223.460 or fails to perform any duties imposed by these sections, or who violates any determination, rule, regulation or order or determination of the secretary promulgated pursuant thereto may be subject to proceedings for certificate suspension or revocation, or nonrenewal of a certificate.
- (4) It shall be the duty of the cabinet to institute an action for the recovery of the penalties herein provided for, and to bring an action for an injunction against any person violating or threatening to violate the certification provisions of KRS 223.425 or violating or threatening to violate any order or determination of the cabinet promulgated pursuant thereto.
- (5) Any person found guilty of violating the certification provisions of KRS 223.425 or the rules and regulations adopted thereunder shall be guilty of a misdemeanor and may be fined not less than one hundred dollars (\$100) nor more than five hundred dollars (\$500) for each violation or imprisoned not more than thirty (30) days or both. Each day the violation continues shall be considered a separate violation.
- (6) Civil and criminal penalties shall not be deemed mutually exclusive.

- (7) All enforcement proceedings shall be conducted pursuant to KRS Chapter 224, and all certificate revocation and enforcement actions shall be subject to the administrative and judicial procedures contained in KRS Chapter 224.

Section 2. KRS 223.415 is amended to read as follows:

- (1) The board shall be appointed by the Governor upon the advice of the secretary after soliciting recommendations of interested parties. All members of the board shall be residents of the Commonwealth. The board shall be composed of the following:
  - (a) A driller who is an active member of both the National Water Well Association and the Kentucky Water Well Association and whose business is actively involved in drilling water wells. This member shall serve for an initial term of three (3) years;
  - (b) A member who is a representative of the cabinet who shall serve as the executive secretary and treasurer of the board and shall be responsible for maintaining records, to serve for an initial term of three (3) years;
  - (c) A member who is a hydrogeologist or hydrologist from the Kentucky Geological Survey to serve for an initial term of two (2) years;
  - (d) Three (3) members who are water well drillers *and who are presently in the business of drilling wells*, each representing a different geographic region within the Commonwealth, to serve for an initial term of two (2) years; ~~provided that of the drillers selected, two (2) must be certified to install wells using the cable tool drilling method and presently in the business of drilling wells using this method, and one (1) must be certified in the use of rotary method and presently in the business of drilling wells using this method~~; and
  - (e) A member from the public at large, who shall not be in any way connected with a water well business, to serve for an initial term of two (2) years.
- (2) Upon the expiration of the respective terms, each successor shall be appointed in the same manner as the predecessor for a term of three (3) years.
- (3) At the first meeting of the board held in each calendar year, the board shall elect a chairperson who shall serve for one (1) year. A majority of members shall decide upon rules of procedure.
- (4) The board shall hold as many meetings a year as are necessary to effectuate the purpose of KRS 223.405 to 223.460, but the board must hold at least quarterly meetings. Notice of a meeting shall be sent to each member at least ten (10) days prior to the meeting. Five (5) members shall constitute a quorum. Rules of procedure adopted by the board may provide for such additional meetings as are necessary.
- (5) The members of the board shall serve without compensation but may be reimbursed for all actual and necessary expenses incurred while discharging their official duties.

**Approved March 17, 2006.**

## **CHAPTER 27**

### **(HB 327)**

AN ACT relating to agricultural records.

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

SECTION 1. A NEW SECTION OF KRS CHAPTER 257 IS CREATED TO READ AS FOLLOWS:

- (1) *Except as provided in subsections (2) and (3) of this section, the board shall not release any agricultural or food system records, data, or information considered a part of the critical infrastructure. "Critical infrastructure" shall have the same meaning as in 42 U.S.C. sec. 5195c(e).*
- (2) *Any records, data, or information excluded under application of subsection (1) of this section shall be subject to inspection only upon order of a court of competent jurisdiction.*



- (3) *Nothing in this section shall limit the release of records, data, or information to another state or federal agency if the release of the information is necessary to prevent or control disease or to protect public health, safety, or welfare.*

SECTION 2. A NEW SECTION OF KRS CHAPTER 257 IS CREATED TO READ AS FOLLOWS:

- (1) *Except as provided in subsections (2) and (3) of this section, the board shall not release any records, data, or information collected, recorded, or otherwise, deemed confidential for the purposes of the national animal identification system.*
- (2) *Any records, data, or information deemed confidential under application of subsection (1) of this section shall be subject to inspection only upon order of a court of competent jurisdiction.*
- (3) *Nothing in this section shall limit the release of records, data, or information to another state or federal agency if the release of the information is necessary to prevent or control disease or to protect public health, safety, or welfare.*

Section 3. KRS 257.010 is amended to read as follows:

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

- (1) "Board" means the Board of Agriculture;
- (2) "Commissioner" means the Commissioner of Agriculture;
- (3) "Communicable disease" includes hog cholera, brucellosis, leptospirosis, anthrax, black leg, catarrhal influenza of cattle, contagious pleuro-pneumonia, foot and mouth disease or aphthous fever, glanders, hemorrhagic septicemia, maladie du coit or dourine, mange of cattle, necrobacillosis and foot rot in sheep, hydrophobia, rinderpest, scabies in cattle, Texas tick or southern cattle fever, tuberculosis, equine viral arteritis, or any other disease proclaimed by the board to be of a transmissible character;
- (4) "Compost" means the humus-like product of the process of composting domestic livestock, poultry, or fish, which may be used as a soil conditioner or enhancer;
- (5) "Composting" means the biological decomposition of organic matter which inhibits pathogens;
- (6) "Experiment station" means the agricultural experiment station;
- (7) "Fish" means the bodies and parts of bodies of all animal aquatic life being raised, or kept for sale to a wholesaler or retailer, or for direct sale to the public;
- (8) "Livestock" means cattle, sheep, swine, deer and elk, whose regulatory requirements are under KRS Chapters 150 and 246, that are privately owned and raised in a confined area for breeding stock, food, fiber, and other products, goats, horses, or any other animals of the bovine, ovine, porcine, caprine, or equine species;
- (9) *"National animal identification system" means a national program intended to identify animals and track them as they come into contact with or commingle with animals other than herd mates from their premises of origin;*
- (10) "National Poultry Improvement Plan" shall have the same meaning as set out in the U.S. Code of Federal Regulations, 9 C.F.R. Part 145, and the auxiliary provisions in 9 C.F.R. Part 147;
- ~~(11)(10)~~ "Owner" means any person owning or leasing from another, or having in charge any domestic animal;
- ~~(12)(11)~~ "Poultry" means all chickens, ducks, turkeys, or other domestic fowl being raised or kept on any premises in the Commonwealth for profit; and
- ~~(13)(12)~~ "Premises" means any portion of land, or any structure erected on land, and any vehicle or vessel used in the transportation of passengers, goods, or animals.

**Approved March 17, 2006.**

**CHAPTER 28****(SB 49)**

AN ACT relating to gift cards.

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

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

- (1) *"Gift card," as used in this section, means a certificate, electronic card, or other medium issued by a merchant that evidences the giving of consideration in exchange for the right to redeem the certificate, electronic card, or other medium for goods, food, services, credit, or money of at least an equal value. "Gift card" includes any electronic card issued by a merchant with a monetary value where the issuer has received payment for the full monetary value for the future purchase or delivery of goods or services and any certificate issued by a merchant where the issuer has received payment for the full monetary face value of the certificate for the future purchase or delivery of goods and services. "Gift card" does not include a prepaid calling card used to make telephone calls, or a general-use, prepaid card or other electronic payment device that is issued by a bank or other financial institution that is usable at multiple, unaffiliated merchants, or at automated teller machines, or both, or a gift card issued by a merchant for a promotional program for which no separate monetary consideration is given.*
- (2) *Subject to subsection (5) of this section, no person or entity shall sell a gift card containing an expiration date that is less than one (1) year after the date the gift card is issued.*
- (3) *No person or entity shall charge service charges or fees relative to that gift card, including dormancy fees, latency fees, or administrative fees, that have the effect of reducing the total amount for which the holder of the gift card may redeem the gift card until the expiration date on the card has expired.*
- (4) *A gift card sold without an expiration date printed on the front or back of the card is valid until redeemed or replaced with a new gift card.*
- (5) *If the expiration date on the card is not less than one hundred twenty (120) days from the date of issue, subsection (2) of this section does not apply to any of the following gift cards:*
  - (a) *Distributed by the issuer to a consumer pursuant to an awards, loyalty, or promotional program without any money or anything of value being given in exchange for the gift card by the consumer;*
  - (b) *Sold below face value at a volume discount to employers or to nonprofit and charitable organizations for fundraising purposes;*
  - (c) *Sold by a nonprofit or charitable organization for fundraising purposes, or;*
  - (d) *Given by an employer to an employee, if use of the card is limited to the employer's business establishment. As used in this paragraph, business establishment may include a group of merchants that are affiliated with that business establishment.*
- (6) *Any person who violates subsection (3) of this section is liable to the holder of the card for any amount that the redemption value of the gift card was reduced, any court costs incurred, and reasonable attorney's fees.*

SECTION 2. A NEW SECTION OF KRS CHAPTER 244 IS CREATED TO READ AS FOLLOWS:

*No person under the age of twenty-one (21) may redeem a gift card or any portion of a gift card for the purchase of alcoholic beverages. A person holding a license under KRS 243.030 or KRS 243.040 may redeem a gift card for the purchase of alcoholic beverages if the person presenting the card is twenty-one (21) years of age or older.*

**Approved March 24, 2006.**

**CHAPTER 29****(SB 91)**

AN ACT relating to licensing massage therapists.

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

Section 1. KRS 309.350 is amended to read as follows:

As used in KRS 309.350 to 309.364 unless the context otherwise requires:

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

Section 2. KRS 309.352 is amended to read as follows:

KRS 309.350 to 309.364 shall not preclude:

- (1) Persons duly licensed, registered, or certified as massage therapists in another state or territory, the District of Columbia, or a foreign country when invited to this state to teach a course related to massage therapy or to consult with a person licensed under KRS 309.350 to 309.364;
- (2) Students practicing massage therapy while enrolled in a program recognized by the board and completing a clinical requirement for graduation while under the supervision of a board-licensed massage therapist;
- (3) A person administering a massage to members of the person's immediate family;
- (4) Persons who restrict manipulation of the soft tissues of the human body to the hands, feet, or ears, and do not hold themselves out to be massage therapists;
- (5) Persons who use procedures within the scope of practice of their profession, which has established standards and ethics, provided that their services use touch, words, and directed movement to deepen awareness of existing patterns of movement in the body as well as to suggest new possibilities of movement while engaged, but who are not designated or implied to administer massage or to be massage therapists. These practices include, but are not limited to, the Feldenkrais Method, ~~polarity therapy,~~ and the Trager Approach;
- (6) Persons engaged within the scope of practice of a profession with established standards and ethics in which touch is limited to what is essential for palpation and affecting of the human energy system, provided that their services are not designated or implied to be massage or massage therapy. ***These practices include but are not limited to polarity therapy;***

- (7) Persons duly licensed, certified, or registered in another state or territory, the District of Columbia, or a foreign country when incidentally in this state to provide service as a part of an emergency response team working in conjunction with disaster relief officials or as part of a charity event;
- (8) Students participating in massage therapy classes or continuing education while in the classroom or practicing on a classmate and not holding themselves out as massage therapists or accepting compensation for the practice; or
- (9) Practitioners of the following occupations and professions regulated by state law while engaging in the practices for which they are duly licensed and while not holding themselves out to be massage therapists:
  - (a) Physicians, osteopaths, podiatrists, and athletic trainers regulated under KRS Chapter 311;
  - (b) Chiropractors regulated under KRS Chapter 312;
  - (c) Registered nurses and practical nurses regulated under KRS Chapter 314;
  - (d) Barbers and cosmetologists regulated under KRS Chapters 317 and 317A, respectively;
  - (e) Occupational therapists regulated under KRS Chapter 319A; and
  - (f) Physical therapists regulated under KRS Chapter 327.

Section 3. KRS 309.353 is amended to read as follows:

- (1) No person shall practice massage therapy or hold himself or herself out to be a massage therapist unless the person meets the educational and licensing requirements of KRS 309.358 and 309.360 and holds a valid license that has not been suspended or revoked.
- ~~(2)(1)~~ A licensed massage therapist may represent himself or herself as a massage therapist or licensed massage therapist and may use the **abbreviation**~~abbreviations~~ "M.T." ~~or~~ "L.M.T." as part of or immediately following his or her name to identify the profession.
- ~~(3)(2)~~ It shall be unlawful for any person, or for any business entity, its employees, agents, or representatives, to practice massage or massage therapy or to use in connection with his, her, or its name or business activity the words "massage," "massage therapy," "massage therapist," "massage practitioner," "masseur," or "masseuse," or the letters ~~"M.T." or~~ "L.M.T.," or any other words, letters, abbreviations, or insignia indicating or implying directly or indirectly that massage therapy is provided or supplied unless massage therapy is provided by a massage therapist licensed and practicing in accordance with KRS 309.350 to 309.364.
- (4) ***Any advertisement or sign to induce the public into believing that one is a massage therapist shall be prima facie evidence of a violation of this section if the person making the advertisement or displaying the sign is not licensed to practice massage therapy in accordance with KRS 309.350 to 309.364.***

Section 4. KRS 309.355 is amended to read as follows:

- (1) The board shall administer and enforce the provisions of KRS 309.350 to 309.364 and shall have the responsibility to evaluate the qualifications of applicants for licensure and to authorize issuing, renewing, suspending, and revoking licenses.
- (2) ***The board shall investigate alleged violations brought to its attention, conduct investigations, and schedule and conduct administrative hearings in accordance with KRS Chapter 13B to enforce the provisions of KRS 309.350 to 309.364 and administrative regulations promulgated pursuant to KRS 309.350 to 309.364. The board shall have the authority to administer oaths, receive evidence, interview persons, and require the production of books, papers, documents, or other evidence.*** The board may institute civil and criminal proceedings against violators of KRS 309.350 to 309.364~~, shall investigate alleged violations brought to its attention, and shall take appropriate action~~. The Attorney General, Commonwealth's attorneys, and county attorneys shall assist the board in prosecuting violations of KRS 309.350 to 309.364.
- (3) The board shall promulgate administrative regulations, pursuant to KRS Chapter 13A, to carry out and enforce provisions of KRS 309.350 to 309.364, including creating a code of **ethics**~~ethical standards~~, standards of practice~~for licensed massage therapists~~, and continuing education requirements **for licensed massage therapists**.
- (4) The board shall keep a record of its proceedings and a register of all persons licensed as massage therapists. The register shall include the name, license number and date of issue, last known place of business, and

residence of each licensee. The board shall publish annually a directory of licensed massage therapists and their places of business. The list shall be available to any Kentucky citizen upon request and payment of a fee not to exceed the cost of the publication.

- (5) The board shall make an annual report to the Governor and the General Assembly, which shall contain an account of its duties performed, actions taken, and appropriate recommendations.
- (6) The board may seek an injunction in Franklin Circuit Court against any individual who practices massage therapy in the Commonwealth without a license.

Section 5. KRS 309.357 is amended to read as follows:

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

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

Section 6. KRS 309.358 is amended to read as follows:

- (1) Between June 24, 2003, and June 24, 2005, the board shall issue an initial license as a massage therapist to an applicant who:
  - (a) Is eighteen (18) years of age or older;
  - (b) Has paid the application fee and other fees required by the board;
  - (c) Is a person of good moral character;
  - (d) Has successfully completed a course of study consisting of a minimum of five hundred (500) classroom hours of supervised instruction in a massage therapy training program approved by the board; and
  - (e) Has successfully passed an examination administered by a certifying agency that has been approved by the National Commission for Certifying Agencies.
- (2) On and after June 24, 2005, the board may issue a license as a massage therapist to an applicant who:
  - (a) Is eighteen (18) years of age or older;
  - (b) Has paid the application fee and other fees required by the board;
  - (c) Is a person of good moral character;
  - (d) Has successfully completed a course of study consisting of a minimum of six hundred (600) classroom hours of supervised instruction in a massage therapy training program approved by the board; and
  - (e) Has successfully passed an examination administered by *the National Certification Board for Therapeutic Massage and Bodywork* or a certifying agency that has been approved by the National Commission for Certifying Agencies.

Section 7. KRS 309.359 is amended to read as follows:

The board may grant a license to any person who is licensed, certified, or registered in another state *of the United States* ~~for country~~ that has standards at least as stringent as those required by KRS 309.358. *The board may grant a license by endorsement to applicants licensed, certified, or registered in another state of the United States that has lesser standards than Kentucky's if the board determines that the applicant's combined initial training, professional experience, continuing education, or other credentials constitute an equivalent to the standards in Section 6 of this Act.* Applicants who are not from a state that has standards at least as stringent as those required by KRS 309.358 may appeal to the board for a hearing to determine if their experience and education meet the criteria.

Section 8. KRS 309.361 is amended to read as follows:

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

- (2) ***Waivers or extensions of continuing education may be approved at the discretion of the board.***

Section 9. KRS 309.362 is amended to read as follows:

- (1) The board may deny or refuse to renew a license, may suspend or revoke a license, may issue an administrative reprimand, or may impose probationary conditions ***or fines not to exceed five hundred dollars (\$500)*** when the licensee ~~or applicant~~ has engaged in unprofessional conduct that has endangered or is likely to endanger the health, welfare, or safety of the public. Unprofessional conduct shall include the following:
- (a) Obtaining or attempting to obtain a license by fraud, misrepresentation, concealment of material facts, or making a false statement to the board;
  - (b) Being convicted of a felony in any court if the act or acts for which the licensee or applicant for license was convicted are determined by the board to have a direct bearing on whether the person is trustworthy to serve the public as a licensed massage therapist. "Conviction," as used in this paragraph, shall include a finding or verdict of guilty, an admission of guilt, or a plea of nolo contendere in a court of law;
  - (c) Violating any lawful order or administrative regulation promulgated by the board;
  - (d) Violating any provision of this chapter ***or administrative regulations promulgated thereunder;***
  - (e) Having sexual contact as defined by KRS 510.010(7) with a client or having engaged or attempted to engage in lewd or immoral conduct with any client or patient;
  - (f) Engaging in fraud or material deception in the delivery of professional services, including reimbursement or advertising services, in a false or misleading manner; ~~or~~
  - (g) Evidence of gross negligence or gross incompetence in the practice of massage therapy; ***or***
  - (h) ***Violating the standards of practice or the code of ethics as promulgated by administrative regulations.***
- (2) ***Any licensed massage therapist who does not desire to meet the qualifications for active license renewal shall, upon application and payment of an inactive renewal fee, be issued an inactive license. The license shall not entitle the license holder to use the term "licensed massage therapist," nor to engage in the practice of massage therapy. The inactive renewal fee shall not exceed fifty dollars (\$50) annually.***
- (3) ***To regain active status, the licensee shall upon application show completion of one (1) hour of continuing professional education for each month the license has been in an inactive state not to exceed five (5) years. Waivers or extensions of continuing education may be approved at the discretion of the board. Beyond five (5) years, the licensee shall meet the requirements in Section 6 of this Act.***
- (4) The board may, at its discretion, deny, refuse to renew, suspend or revoke a license, or impose probationary conditions following an administrative hearing pursuant to KRS Chapter 13B and in accordance with administrative regulations promulgated by the board.
- (5) ~~(3)~~ The surrender of a license shall not deprive the board of jurisdiction to proceed with disciplinary actions under KRS 309.350 to 309.364.

Section 10. KRS 309.363 is amended to read as follows:

- (1) A person, institution, or business entity ~~offering~~ ~~desiring to have the board determine the standing of~~ a massage therapy program of instruction shall file a completed application for a certificate of good standing with the board on a form prescribed by the board. The completed application shall provide proof acceptable to the board that the following criteria have been met:
- (a) The ~~school~~ ~~program~~ is licensed to operate by the Kentucky State Board for Proprietary Education, ***the Council on Postsecondary Education, or their*** ~~its~~ equivalent in another state;
  - (b) A curriculum statement showing clock hours devoted to each subject with the following minimums:
    - 1. One hundred ***twenty-five (125)*** ~~(100)~~ hours of anatomy, physiology, or ***kinesiology*** ~~(pathology)~~;

2. A two hundred (200) hour course to include massage theory, technique, and practice focusing on gliding strokes, kneading, direct pressure, deep friction, joint movement, superficial warming techniques, percussion, compression, vibration, jostling, shaking, and rocking;~~{and}~~
  3. Two hundred (200) hours of approach to the business of massage, specifically including contraindications, benefits, business, history, ethics, *client documentation*, legalities of massage, and *modality* courses designed to meet the school's specific program objectives;
  4. ***Forty (40) hours of pathology; and***
  5. The ~~school~~~~board~~ may use its discretion in allotting the additional ***thirty-five (35)***~~{one hundred (100)}~~ curricular hours that are required under KRS 309.358;
- (c) A listing of instructional staff and their qualifications ***as follows:***
1. ~~{showing a minimum educational equivalent for each instructor and aide for licensure under KRS 309.350 to 309.364, or proof of qualifying for issuance of a license under KRS 309.359.}~~Instructors ~~of~~~~in~~ the practical courses shall be ***licensed massage therapists and shall***~~{required to}~~ have three (3) years of experience in the practice of massage therapy.
  2. ***Instructors of science courses shall be either licensed massage therapists with three (3) years of experience in the practice of massage therapy or have certification or specific higher education in the subject they are teaching.***
- (2) The board shall accept National Certification Board for Therapeutic Massage and Bodywork guidelines in approving continuing education.

SECTION 11. A NEW SECTION OF KRS 309.350 TO 309.364 IS CREATED TO READ AS FOLLOWS:

***Any person who violates Section 3 of this Act shall be guilty of a Class B misdemeanor.***

**Approved March 24, 2006.**

## CHAPTER 30

### (HB 256)

AN ACT relating to termination of employment.

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

Section 1. KRS 337.100 is amended to read as follows:

- (1) No employer shall terminate an employee who is a volunteer firefighter, rescue squad member, emergency medical technician, peace officer, or a member of an emergency management agency because that employee, when acting as a volunteer firefighter, rescue squad member, emergency medical technician, peace officer, or a member of an emergency management agency, is absent or late to the employee's employment in order to respond to an emergency prior to the time the employee is to report to his or her place of employment.
- (2) An employer may charge any time that an employee who is a volunteer firefighter, rescue squad member, emergency medical technician, peace officer, or a member of an emergency management agency loses from employment because of the employee's response to an emergency against the employee's regular pay.
- (3) An employer may request an employee who loses time from the employee's employment to respond to an emergency to provide the employer with a written statement from the supervisor or acting supervisor of the volunteer fire department, rescue squad, emergency medical services agency, law enforcement agency, or the director of the emergency management agency stating that the employee responded to an emergency and listing the time and date of the emergency.
- (4) ***No employer shall terminate an employee who is a volunteer firefighter, rescue squad member, emergency medical technician, peace officer, or member of an emergency management agency who is absent for a period of no more than twelve (12) months from the employee's employment because of injuries incurred in the line of duty. The volunteer firefighter, rescue squad member, emergency medical technician, peace officer, or member of an emergency management agency shall provide, at the request of his or her employer:***

- (a) *A written statement from the supervisor, acting supervisor, or director of the volunteer fire department, rescue squad, emergency medical services agency, law enforcement agency, or emergency management agency under whose command the employee was on active duty and on assignment with that fire department, rescue squad, emergency medical services agency, law enforcement agency, or emergency management agency when the injury occurred; and*
  - (b) *A written statement from at least one (1) licensed and practicing physician stating that the volunteer firefighter, rescue squad member, emergency medical technician, peace officer, or member of an emergency management agency is injured and a date for the employee's return to work.*
- (5) Any employee that is terminated in violation of the provisions of this section may bring a civil action against his or her employer. The employee may seek reinstatement to the employee's former position, payment of back wages, reinstatement of fringe benefits, and where seniority rights are granted, the reinstatement of seniority rights. In order to recover, the employee shall file this action within one (1) year of the date of the violation of this section.

**Approved March 24, 2006.**

## CHAPTER 31

(HB 247)

AN ACT relating to hay.

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

Section 1. KRS 260.033 is amended to read as follows:

- (1) The Department of Agriculture shall promote the sale of hay produced in the state by ~~operating, maintaining, and~~ administering a standard grading program for evaluating hay *quality*.
- (2) The department shall, after consultation with the University of Kentucky College of Agriculture and associations actively involved in promoting the sale of hay within the state, promulgate *administrative regulations establishing quality standards and procedures* for grading ~~marking, weighing, storing, transporting, and harvesting~~ hay, *and* ~~These standards~~ shall promote the sale of hay ~~by standardizing the quality and quantity of the hay~~ produced by participants in the department's standard grading program.
- ~~{(3) The department shall undertake such measures as are appropriate to aid, encourage, foster, and promote the sale, development, and improvement of hay produced in the state which has been graded by a department standard grading program.~~
- ~~(4) The department shall employ persons necessary to carry out the provisions of this section.~~
- ~~(5) The department shall administer the provisions of this section and shall promulgate administrative regulations to carry out the provisions of this section. The department shall conduct examinations, inspections, or hearings necessary for the proper administration of this standard grading program. All authorized hearings shall be conducted in accordance with KRS Chapter 13B.~~
- ~~(6) The department shall collect a reasonable fee for grading services provided to a participant in the standard grading program. However, the fee shall not exceed ten dollars (\$10) per sample graded by the department's employees. All fees collected under the provisions of this section shall be credited to the department for use in carrying out the standard grading program.~~

**Approved March 24, 2006.**

## CHAPTER 32

(HB 148)

AN ACT relating to barbers.

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

Section 1. KRS 317.410 is amended to read as follows:



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

- (1) A "barber" is any person who engages in the practice of "barbering" for the public generally or for consideration;
- (2) "Barbering" is the practice upon the human neck and head, principally of shaving or trimming the beard or cutting the hair but includes also:
  - (a) Giving facial and scalp massage or treatments with oils, creams, lotions or other preparations, either by hand or any contrivance;
  - (b) Singeing, shampooing, pressing, arranging, dressing or dyeing the hair or applying hair tonics; and
  - (c) Applying to the neck or head cosmetics, lotions, powders, oils, clays or other preparations;
- (3) **"Barber pole" means a cylinder or pole with alternating stripes of any combination, including but not limited to red and white, or red, white, and blue, which run diagonally along the length of the pole.**~~["Barber shop" is any establishment of whatsoever kind in which the practice of "barbering" is conducted for the general public or for consideration];~~
- (4) ~~["Board" means the Kentucky Board of Barbering;~~
- ~~(5) ["Barber school" or "school of barbering" means an operation, place or establishment of whatsoever kind or form in or through which persons are trained or taught the practice of barbering;~~
- (5) **"Barber shop" is any establishment of whatsoever kind in which the practice of "barbering" is conducted for the general public or for consideration;**
- (6) **"Board" means the Kentucky Board of Barbering;**
- (7) **"Independent contract owner" means any barber licensed under this chapter who leases or rents space in a barber shop. No apprentice to a barber shall be permitted to act as an independent contract owner;**
- (8) "Lapse fees" means the annual renewal license fee which would have been paid for the period during which a license has lapsed;~~[-]~~

Section 2. KRS 317.420 is amended to read as follows:

- (1) No person shall engage in the practice of "barbering" for other than cosmetic purposes nor shall any person engage in barbering for the treatment of physical or mental ailments, except that the provisions of this chapter shall not apply to:
  - (a) Persons authorized by the law of this state to practice medicine, chiropractic, optometry, dentistry, chiropractic, nursing, or embalming when incidental practices of barbering are performed by them in the normal course of the practice of their profession;
  - (b) Commissioned medical or surgical personnel of the United States Army, Navy, Air Force, or Marine Hospital Service performing incidental practices of barbering in the course of their duties; or
  - (c) Barbering services performed at an institution operated by or under contract to the Department of Corrections.
- (2) Except as provided in subsection (1) of this section no person shall engage in the practice of barbering for the public generally or for consideration without the appropriate license required by this chapter.
- (3) No person unless duly and properly licensed pursuant to this chapter shall:
  - (a) Teach barbering;
  - (b) Operate a barber shop;
  - (c) Engage in a barber apprenticeship;~~[-or]~~
  - (d) Conduct or operate a school for barbers; **or**
  - (e) **Lease or rent booth space as an independent contract owner.**

- (4) No person shall aid or abet any person in violating the provisions of this section, nor shall any person engage or employ for consideration any person for the performance of any practice licensed by this chapter unless the person to perform such practice holds and displays the appropriate license therefor.
- (5) ***Except as provided in this chapter, no person or business shall:***
- (a) ***Advertise barbering services, unless the person or business and the personnel it employs are licensed under this chapter; or***
  - (b) ***Use or display a barber pole for the purpose of advertising barbering services to the public unless;***
    - 1. ***It has a barber shop license; and***
    - 2. ***Employs a barber licensed under this chapter.***

Section 3. KRS 317.430 is amended to read as follows:

- (1) There is hereby created an independent agency of the state government to be known as the Kentucky Board of Barbering, which shall have complete supervision over the administration of the provisions of this chapter relating to barbers, barbering, barber shops, barber schools, the teaching of barbering, and barber apprenticeship.
- (2) The Kentucky Board of Barbering, hereinafter referred to as the barber board or board, shall be composed of five (5) members appointed by the Governor. At least one (1) member shall be a master barber licensed to practice barbering in this state who is a member of a nationally recognized professional organization of master barbers and who is not otherwise a member of a union of barbers, a second and different member shall be a barber licensed to practice barbering in this state who is a member of an organized labor union of barbers, a third and different member shall be a barber who is not a member of a union or labor organization of barbers and a fourth and different member shall be a citizen at large who is not associated with or financially interested in the practice or business regulated. At all times in the filling of vacancies of membership on the barber board, this balance of representation shall be maintained.
- (3) Appointments shall be for a term of two (2) years, except that of the members appointed after July 15, 1998, three (3) members appointed to fill the terms expiring October 1, 1998, shall serve until February 1, 1999; and two (2) members appointed to fill the terms expiring July 1, 1999, shall serve until February 1, 2000; and subsequent appointments shall be for two (2) year terms ending on February 1.
- (4) The Governor shall not remove any member of the barber board except for cause.
- (5) The barber board shall elect from its members one (1) to serve as chairman, one (1) to serve as vice chairman, and a third to serve as secretary.
- (6) Three (3) members shall constitute a quorum for the transaction of business.
- (7) In addition to the other qualifications specified in this section, barber members of the barber board shall be at least twenty-three (23) years of age, citizens of the United States, residents of Kentucky and must have engaged in the practice of barbering in this state for a period of at least five (5) years.
- (8) No member of the barber board shall be financially interested in, or have any financial connection with any barber or cosmetology school, wholesale cosmetic or barber supply or equipment business, nor shall any member of the barber board teach barbering, cosmetology, or manicuring for monetary considerations.
- (9) Each member of the barber board shall receive a compensation of ***one hundred dollars (\$100)***~~{fifty dollars (\$50)}~~ per day for each day of attendance at a meeting of the board, and shall be reimbursed for necessary traveling expenses.
- (10) The board shall hold such meetings at such places in the state and at such times as are deemed necessary by the board to discharge its duties.

Section 4. KRS 317.440 is amended to read as follows:

- (1) To protect the health and safety of the public or to protect the public against misrepresentation, deceit, or fraud in the practice or teaching of barbering, the board shall promulgate administrative regulations ***governing the:***
  - (a) ~~{Governing the}~~ Location and housing of barber shops or schools;
  - (b) ~~{Governing the}~~ Quantity and quality of equipment, supplies, materials, records, and furnishings required in barber shops or schools;

- (c) ~~{Governing the}~~ Training and supervision of barber apprentices;
- (d) ~~{Governing the}~~ Qualifications of teachers of barbering;
- (e) ~~{Governing the}~~ Hours and courses of instruction at barber schools;
- (f) ~~{Governing the}~~ Examinations of applicants for barber, apprentice barber, or teacher of barbering;
- (g) ***Qualifications of independent contract owners.***

- (2) The board shall establish fees by administrative regulation according to the schedules established in KRS 317.450.
- (3) Administrative regulations pertaining to health and sanitation shall be approved by the Kentucky secretary for health and family services before becoming effective.

Section 5. KRS 317.450 is amended to read as follows:

- (1) (a) The board shall issue a license to practice barbering to any person who:
  - 1. Is at least seventeen and one-half (17-1/2) years of age;
  - 2. Is of good moral character and temperate habit;
  - 3. Has acted as a licensed apprentice for at least nine (9) months under the immediate supervision of a licensed barber;
  - 4. Has satisfactorily passed the examination prescribed by the barber board; and
  - 5. Has paid a fee not to exceed fifty dollars (\$50).
- (b) The board may ~~{reciprocate with other states and}~~ issue a barber license ***by endorsement to a resident of another state, district, or territory within the United States of America*** upon payment of a fee not to exceed two hundred fifty dollars (\$250) and upon submission of satisfactory evidence that the requirements for licensure in the other state are substantially equivalent to the requirements of this state at the time of application. ***In the absence of the required equivalency, an applicant from another state, district, or territory within the United States of America, shall show proof of three (3) years or more experience immediately before making application and be currently licensed and in good standing with the state, district, or territory in which he or she is licensed.*** The board may also require an applicant under this section to pass ***a written and practical***~~{an}~~ examination to establish equivalency.
- (2) The board shall issue a license to act as an apprentice to a barber to any person who:
  - (a) Is at least sixteen and one-half (16-1/2) years of age;
  - (b) Is of good moral character and temperate habit;
  - (c) Has ***graduated from***~~{at least four (4) years of}~~ high school ***or possesses a General Educational Development (GED) certificate***~~{education}~~;
  - (d) Has graduated from an accredited or licensed school of barbering;
  - (e) Has satisfactorily passed the examination prescribed by the barber board by promulgation of administrative regulations; and
  - (f) Has paid a fee not to exceed fifty dollars (\$50).
- (3) The board shall:
  - (a) Issue a license to operate a barber shop to any barber licensed under the provisions of this chapter upon application and payment of a fee not to exceed fifty dollars (\$50).
  - (b) ~~{The board shall}~~ Refuse to issue the license upon a failure of the licensed barber to comply with the provisions of this chapter or the administrative regulations promulgated by the board.
  - (c) ***Allow the licensed owner of a barber shop, which is licensed under this chapter, to rent or lease space in his or her barber shop to an independent contract owner.***

- (d) *Allow an unlicensed owner of a barber shop, which is licensed under this chapter and managed by a barber licensed under this chapter, to rent or lease space in his or her barber shop to an independent contract owner.*
- (4) The board shall issue a license to operate a school of barbering to any person, firm, or corporation who or which:
- (a) Applies for a license upon forms furnished by the board;
  - (b) Has the equipment and facilities that may be required by administrative regulations promulgated by the board;
  - (c) Has furnished adequate evidence to the board that:
    - 1. There is an intent to establish a bona fide school for the education and training of competent barbers; and
    - 2. A sufficient number of teachers licensed by the board will be employed to conduct the school, including at least one (1) teacher with a minimum of twelve (12) months' experience teaching in a barber school that includes administrative experience; and
  - (d) Pays a fee not to exceed one hundred fifty dollars (\$150).
- (5) The board shall issue a license to teach barbering to any person who:
- (a) Is of good moral character and temperate habit;
  - (b) Has *graduated from high school, or possesses a General Educational Development (GED) certificate*~~a high school education~~;
  - (c) Has been a licensed and practicing barber for at least eighteen (18) months;
  - (d) Has satisfactorily passed the examination prescribed by the board by promulgation of administrative regulations; and
  - (e) Has paid a fee not to exceed one hundred dollars (\$100).
- (6) *The board shall issue a license to any barber who holds an independent contract owner's license who:*
- (a) *Is of good moral character and temperate habit;*
  - (b) *Has graduated from high school, or possesses a General Educational Development (GED) certificate;*
  - (c) *Is a licensed and practicing barber under this chapter;*
  - (d) *Has paid a fee not to exceed fifty dollars (\$50).*
- (7) Applications for examination required in this section shall be accompanied by an examination fee as follows:
- (a) Barber -- not to exceed one hundred fifty dollars (\$150);
  - (b) Apprentice to a barber -- not to exceed one hundred fifty dollars (\$150);
  - (c) Teaching barbering -- not to exceed one hundred fifty dollars (\$150).
- ~~(8)~~ Licensures issued pursuant to this section shall expire on the first day of July next following the date of their issuance. Any license shall automatically be renewed by the board upon receipt of the required annual license fee no later than thirty-one (31) days after the expiration date if the applicant for renewal is otherwise in compliance with the provisions of this chapter and the administrative regulations of the board.
- ~~(9)~~ The annual renewal license fee for each type of license renewal shall be as follows:
- (a) Barber -- not to exceed fifty dollars (\$50);
  - (b) Apprentice to barber -- not to exceed fifty dollars (\$50);
  - (c) Teacher of barbering -- not to exceed fifty dollars (\$50);
  - (d) Barber shop -- not to exceed fifty dollars (\$50);
  - (e) Barber school -- not to exceed one hundred fifty dollars (\$150).

~~(10)(9)~~ Except as provided in subsection (7) of this section, the fee for the renewal of an expired license, if the period of expiration does not exceed five (5) years, shall be as follows:

- (a) Barber -- not to exceed twenty-five dollars (\$25) plus lapse fees;
- (b) Apprentice -- not to exceed twenty-five dollars (\$25) plus lapse fees;
- (c) Barber shop -- not to exceed twenty-five dollars (\$25) plus lapse fees;
- (d) Barber school -- not to exceed twenty-five dollars (\$25) plus lapse fees;
- (e) Teacher of barbering -- not to exceed twenty-five dollars (\$25) plus lapse fees.
- (f) Independent contract owner - - not to exceed twenty-five dollars (\$25) plus lapse fees.**

Section 6. KRS 317.540 is amended to read as follows:

No license shall be renewed or issued by the barber board to any barber school, unless such school provides:

- (1) As a prerequisite of graduation from a barber school a prescribed course of instruction of not less than fifteen hundred (1,500) hours shall be given within a reasonable period with not more than eight (8) hours nor less than four (4) hours of instruction a day, exclusive of Sundays;
- (2) Courses of instruction in histology of the hair, skin, nails, muscles, and nerves of the face and neck; elementary chemistry with emphasis on sterilization and antiseptics; disease of the skin, hair, and glands; massaging and manipulating of the muscles of the upper body; cutting, shaving, arranging, dressing, coloring, bleaching, and tinting the hair and such other courses as may be prescribed by regulation of the board;
- (3) Such facilities, equipment, materials, and qualified teachers and apprentice teachers as may be required by rules and regulations of the board adopted pursuant to this chapter, but in no event shall any school have fewer than one (1) licensed teacher per **twenty (20)**~~fifteen (15)~~ students **enrolled**, or more than two (2) students per chair.

Section 7. KRS 317.580 is amended to read as follows:

No barber, **independent contract owner**, student, or apprentice shall:

- (1) Knowingly continue to practice while he has an infectious or communicable disease;
- (2) Fail to provide the head rest of each chair with a relaundersed towel or a sheet of clean paper for each patron;
- (3) Fail to place around the patron's neck a strip of cotton, towel or neck strip so that the haircloth does not come in contact with the nude skin of the patron's body;
- (4) Use on one (1) patron a towel that has been used upon another patron, unless the towel has been relaundersed; or
- (5) Use on any patron any razor, scissors, tweezers, comb, sachet, rubber disc or part of vibrator or other similar equipment or appliance that comes into contact with the head, face, hands, or neck of a patron, until the equipment or appliance has been immersed in boiling water for ten (10) minutes or in a sterilizing solution and placed in a wet or dry sterilizer until again used. Only such methods of sterilization as are bacteriologically effective and approved by the Department for Health Services shall be used.
- (6) Fail to wash his or her hands in a sink both before and after contact with each patron. Methods to sterilize hands that are bacteriologically effective as approved by the United States Food and Drug Administration's Food Code, Sections 2-301.11 through 2-304.11 shall also be recognized and used. Barber shop licenses issued after the effective date of this Act shall require that a sink with hot and cold running water be located in the room where barbering is done.**

Section 8. KRS 317.590 is amended to read as follows:

- (1) The board may refuse to issue or renew a license or may revoke or suspend or place in probation such licenses as are issued upon proper showing of the applicant's or licensee's:
  - (a) Gross malpractice or incompetence;
  - (b) Mental or physical health that would endanger public health or safety;

- (c) Failure to comply with regulations or rules of the board;
  - (d) False or deceptive advertising;
  - (e) Practicing in an unlicensed shop or in a shop knowing that the shop is not complying with this chapter or regulations of the board promulgated pursuant to this chapter;
  - (f) Unprofessional conduct;~~{or}~~
  - (g) Teaching in an unlicensed school or in a school knowing that the school is not complying with this chapter or administrative regulations of the board promulgated pursuant to this chapter; **or**
  - (h) *Practicing as an independent contract owner in any manner that violates any provision of this chapter or the administrative regulations promulgated under this chapter.***
- (2) The licensee may have the alternative, subject to the approval of the board, to pay, in lieu of part or all of the days of the suspension period, a payment of not less than twenty-five dollars (\$25) per day and not to exceed five hundred dollars (\$500) total.
  - (3) The board may require retesting of any licensee upon proper showing of gross malpractice or incompetence on the part of each licensee.

Section 9. KRS 317.595 is amended to read as follows:

- (1) For purposes of subsection (2) of this section, any person engaged in barbering who ***is licensed as a barber and who*** leases or rents space at a barber shop from the holder of a license to operate the barber shop shall be deemed an independent ***contract owner***~~{contractor}~~.
- (2) The board shall not hold the holder of a license to operate a barber shop responsible for violations of this chapter, or of administrative regulations promulgated pursuant to this chapter, that are committed by an independent ***contract owner***~~{contractor}~~.

**Approved March 24, 2006.**

## CHAPTER 33

### (HB 250)

AN ACT relating to accountants.

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

Section 1. KRS 325.261 is amended to read as follows:

The license of "certified public accountant" shall be granted by the board to any person who satisfies the following requirements:

- (1) Is no less than eighteen (18) years of age;
- (2) Is of good moral character;
- (3) ~~{Meets the following educational credentials prior to applying for the examination:~~
  - ~~(a) — }Has a baccalaureate degree or master's degree conferred by a college or university recognized by the board with a major or concentration program in accounting or its equivalent, as defined in administrative regulations promulgated by the board;~~{or}~~~~
  - ~~(b) — Beginning in the year 2000 with a new examination applicant, approved to sit for the first examination of the year or subsequent examination, has completed one hundred fifty (150) college semester hours which include a baccalaureate degree conferred by a college or university recognized by the board with a major or concentration program in accounting or its equivalent, as defined in administrative regulations promulgated by the board;}~~
- (4) ***Passes a board-approved examination in accounting, auditing, and other related subjects as the board deems appropriate. To be eligible to apply for the examination, a person shall first satisfy the requirement of subsections (1) to (3) of this section***~~{Has one (1) year of accounting or attest experience obtained while employed in an accounting or auditing position in public practice, academia, industry, or government that shall~~

~~be verified by a certified public accountant who, during the time being verified, held an active license to practice from any state];~~

- (5) *Completes one hundred fifty (150) college semester hours that include a baccalaureate or masters degree conferred by a college or university recognized by the board with a major or concentration in accounting or its equivalent, as defined in administrative regulations promulgated by the board;*~~[Passes a board approved examination in accounting, auditing, and other related subjects as the board deems appropriate. To be eligible to apply for the examination, a person shall first satisfy requirements of subsections (1), (2), and (3) of this section; and]~~
- (6) *Obtains one (1) year of accounting or attest experience while employed in an accounting or auditing position in public practice, academia, industry, or government that shall be verified by a certified public accountant who, during the time being verified, held an active license to practice from any state. The one (1) year of experience required under this subsection shall be obtained after the completion of the education requirements established in subsection (3) of this section;*
- (7) *At the time of applying for a license is a United States citizen, a citizen of a foreign country who is legally residing in the United States, or is an employee of a public accounting firm, company, or an institution of post secondary education located outside the United States but which has an office or campus located in the United States; and*
- (8) Submits a complete application for a license to practice as a certified public accountant in accordance with KRS 325.330.

SECTION 2. A NEW SECTION OF KRS CHAPTER 325 IS CREATED TO READ AS FOLLOWS:

*Effective April 1, 2007, any candidate who was approved to sit for the examination prior to January 1, 2000, and has not yet passed the examination shall be required to submit to the board prior to his or her being licensed, proof that he or she meets the requirements of subsection (5) of Section 1 of this Act.*

Approved March 24, 2006.

## CHAPTER 34

(HB 277)

AN ACT relating to the promotion of history and declaring an emergency.

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

SECTION 1. A NEW SECTION OF KRS CHAPTER 42 IS CREATED TO READ AS FOLLOWS:

*The General Assembly hereby finds and declares as follows:*

- (1) *The Commonwealth's public buildings and their surrounding grounds provide Kentucky's citizens and others a place at which they may conduct public business, visit and interact with government officials, and learn about the Commonwealth's history and government;*
- (2) *The Commonwealth's public buildings and public properties are themselves important symbols of Kentucky's history;*
- (3) *Whether it be former battlegrounds, Native American sites, parks, recreation areas, historic government sites, homes of famous Kentuckians, or any other site of interest, without historic artifacts, monuments, symbols, and texts on the properties and in the buildings, most persons would not even know of the significance of the site or building;*
- (4) *Kentucky is justly proud of its history, as the past is the prologue to how we live today, how our government functions, and what things we hold to be important to us;*
- (5) *It is not in Kentucky's best interest to hide its heritage or traditions, or the beliefs or deeply held opinions of its citizens;*
- (6) *It is in Kentucky's best interest that its public buildings and public properties reflect the Commonwealth's rich history by exhibiting items of significance to Kentucky's civic and cultural development;*

- (7) *The display of historic artifacts, monuments, symbols, and texts in and on the grounds of Kentucky's public buildings and public properties promotes its citizens' awareness of their common history and an appreciation of the persons and events contributing to that history;*
- (8) *The free exercise of religion, as well as the right to have no religion, is a right guaranteed by the Constitution of the United States and the Constitution of Kentucky;*
- (9) *The right of the people to express themselves is enshrined in the freedom of speech guaranteed by the Constitution of the United States and the Constitution of Kentucky;*
- (10) *While the authors of the Constitution of the United States and the Constitution of Kentucky were guaranteeing the free exercise of religion and prohibiting the establishment of a state-sponsored religion, these same authors and the public officials of that date publicly and regularly proclaimed a belief in a supreme being, prayed openly, and placed religious-based statements and symbols in and on their public buildings and properties, and that tradition has continued unbroken to this day;*
- (11) *The free exercise of religion, in all of its myriad expressions, is a significant component of Kentucky's historical heritage and may be acknowledged as such;*
- (12) *Historic artifacts, monuments, symbols, and texts, including but not limited to religious materials, may be displayed in Kentucky's public schools, within the framework of applicable legal precedents, if they are displayed in connection with a course of study that is academic, balanced, objective, and not devotional in nature, and that neither favors nor disfavors religion generally or any particular religious belief; and*
- (13) *Historic artifacts, monuments, symbols and texts, including but not limited to religious materials, may be displayed in Kentucky's public buildings and on Kentucky's public properties if they are displayed in a:*
  - (a) *Balanced, objective, and not solely religious manner;*
  - (b) *Manner that neither favors nor disfavors religion generally;*
  - (c) *Manner that neither favors nor disfavors any religious belief; and*
  - (d) *Manner which promotes the display of Kentucky's historic, cultural, political, and general heritage and achievements.*

SECTION 2. A NEW SECTION OF KRS CHAPTER 42 IS CREATED TO READ AS FOLLOWS:

*Any agency or instrumentality of state government may display historic artifacts, monuments, symbols, and texts, including but not limited to religious materials, in public buildings and public property owned by the Commonwealth if the display is consistent with the requirements of Section 1 of this Act.*

SECTION 3. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

*Any city, county, charter county, urban-county government, consolidated local government, or special district, or any agency or instrumentality thereof, may display historic artifacts, monuments, symbols, and texts, including but not limited to religious materials, in public buildings and on public property owned by that unit of government if the display is consistent with the requirements of Section 1 of this Act.*

SECTION 4. A NEW SECTION OF KRS CHAPTER 158 IS CREATED TO READ AS FOLLOWS:

*Any school council organized pursuant to KRS 160.345 or, if none exists, the school's governing body, may authorize the display of historic artifacts, monuments, symbols, and texts, including but not limited to religious materials, in conjunction with a course of study that includes an elective course in history, civilization, ethics, comparative religion, literature, or other subject area that uses such artifacts, monuments, symbols, and texts as instructional material, if the display is:*

- (1) *Appropriate to the overall educational purpose of the course; and*
- (2) *Consistent with the requirements of Section 1 of this Act.*

SECTION 5. A NEW SECTION OF KRS CHAPTER 6 IS CREATED TO READ AS FOLLOWS:

*In commemoration of the fiftieth anniversary of the resolution which passed through the 84th United States Congress and subsequently was signed by President Dwight D. Eisenhower on July 30, 1956, thereby making "In God We Trust" the national motto of the United States, the General Assembly hereby directs the Legislative Research Commission to display the national motto "In God We Trust" on the wall directly above and behind the dais of the Speaker of the Kentucky House of Representatives. The display shall be consistent with the historic and*



*patriotic display of the national motto located directly above and behind the dais of the Speaker of the United States House of Representatives.*

Section 6. KRS 7.090 is amended to read as follows:

- (1) There is created a Legislative Research Commission as an independent agency in the legislative branch of state government, which is exempt from control by the executive branch and from reorganization by the Governor. The Commission shall have the duties, responsibilities, and powers assigned to it or authorized it by the General Assembly, by statute or otherwise.
- (2) The Legislative Research Commission shall be composed of the President of the Senate, the President Pro Tempore of the Senate, the Speaker of the House of Representatives, the Speaker Pro Tempore of the House of Representatives, the majority and minority floor leaders of the Senate and the House of Representatives, the majority and minority whips of the Senate, the majority and minority whips of the House, and the majority and minority caucus chairmen of the Senate and House of Representatives. Any vacancy in the Commission shall be filled by the remaining members thereof who are of the same chamber membership and political party affiliation as the person having vacated Commission membership. If the vacancy is in the membership of the House of Representatives, the successor shall be from the House, and if the vacancy is from the Senate membership of the Commission, the successor shall be from the Senate. A member thus elected to fill any vacancy shall hold office for the unexpired term of his predecessor. The President of the Senate and the Speaker of the House of Representatives shall serve as co-chairmen of the Commission.
- (3) The Legislative Research Commission shall meet during regular and special sessions of the General Assembly, and during the intervals between sessions at such times and places as the co-chairmen may determine. Meetings of the Commission shall be called by the co-chairmen on their own initiative, or at the written request of any three (3) members of the Commission. Any action of the Commission shall require an affirmative roll call vote of a majority of the Commission's entire membership. For attending meetings of the Commission or any of its subcommittees whose membership consists only of members of the Commission between sessions of the General Assembly, the members of the Commission shall be paid their necessary traveling expenses and in addition thereto an amount per day equal to the per diem compensation they receive during any session. For attending meetings of interim joint committees or other Commission subcommittees, members of the Commission shall be paid an amount per day equal to that received by all other members of the committees or subcommittees who are not designated as chairmen or co-chairmen thereof.
- (4) The Commission shall appoint a director, who shall have had graduate training in government in a recognized university or college or practical experience in governmental administration, and who shall hold office at the pleasure of the Commission. The salary of the director shall be determined by the Commission. The Commission shall have exclusive jurisdiction over the employment of such personnel as may be necessary to effectuate the provisions of KRS 7.090 to 7.110.
- (5) Any professional, clerical, or other employees required by any committee appointed by the General Assembly shall be provided to the committee by the Legislative Research Commission. The chairman of the committee shall advise the director of the Legislative Research Commission of his need for personnel. In the event that the personnel required by any committee cannot be met by the staff of the Legislative Research Commission, the director shall employ personnel as necessary to meet the needs of the committee, and shall fix the rate of compensation of the employees.
- (6) The director shall, at the discretion of the Commission and under its supervision and control, provide for the allocation of the work and activities of all employees of the Commission.
- (7) The Commission may, in effectuating the provisions of KRS 7.090 to 7.110, contract with any public or private agency or educational institution or any individual for research studies, the gathering of information, or the printing and publication of its reports.
- (8) The Legislative Research Commission shall constitute administrative offices for the General Assembly and the director shall serve as administrative officer for the assembly when it is not otherwise in session.
- (9) A Senate bill may be pre-filed or approved as pre-filed by an interim joint committee if it receives the affirmative votes of a majority of the Senate members of that interim joint committee. A House of Representatives bill may be pre-filed or approved as pre-filed by an interim joint committee if it receives the affirmative votes of a majority of the House members of that interim joint committee. An interim joint committee shall not pre-file a bill or approve a bill as pre-filed in any other manner.

- (10) The President of the Senate and the Speaker of the House of Representatives shall have the authority to approve the in-state and out-of-state per diem and expenses for members of their respective chambers.
- (11) *The Legislative Research Commission shall display the national motto "In God We Trust" on the wall directly above and behind the dais of the Speaker of the House of Representatives. The display shall be consistent with the historic and patriotic display of the national motto located directly above and behind the dais of the Speaker of the United States House of Representatives.*

Section 7. The General Assembly of the Commonwealth of Kentucky takes notice of the fact that the monument inscribed with the Ten Commandments, which was originally given to the Commonwealth by the Fraternal Order of Eagles in 1971 and was displayed on the grounds of the New State Capitol for a period of time, was returned to the Fraternal Order of Eagles within the past few years and is now on display at the Hopkinsville Chapter of the organization. The General Assembly further takes notice of the fact that the Hopkinsville Chapter of the Fraternal Order of Eagles has expressed a willingness to return the monument to the Commonwealth. Therefore, the General Assembly directs the Historic Properties Advisory Commission to retrieve from the Fraternal Order of Eagles, Hopkinsville Chapter, the monument inscribed with the Ten Commandments and once again to locate that monument on the grounds of the New State Capitol, in accordance with applicable legal precedents and the provisions of Section 1 of this Act. In consultation with the Kentucky Historical Society, the Historic Properties Advisory Commission shall develop a marker to be placed next to the monument inscribed with the Ten Commandments detailing aspects of the legislative and judicial history related to the display of this monument of the Ten Commandments.

Section 8. Since the United States Court of Appeals for the Sixth Circuit has recently clarified what constitutes the promotion of history and since it is important that state government, units of local government, schools, and the public be able to implement the provisions of this Act at the earliest possible moment, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming a law.

**Approved March 24, 2006.**

## **CHAPTER 35**

### **(HB 267)**

AN ACT relating to agriculture.

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

Section 1. KRS 260.010 is amended to read as follows:

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

- (1) ~~"Closed package" means a package the contents of which cannot be seen or inspected when the package is closed.~~
- (2) "Commissioner" means the Commissioner of Agriculture.
- (2)(3) "Experiment station" means the agricultural experiment station.
- (3) ~~(4) "Grower" means a bona fide producer of strawberries, either by himself, tenant, sharecropper or hired person.~~
- (5) "Hay" means grass, alfalfa, clover, or other forage crop cut and dried as fodder.
- (4) ~~(6) "Not hand picked" includes windfalls, drops and apples shaken or knocked from the tree.~~
- (7) "Producer" means a person who cultivates or harvests hay or other agricultural products for sale.

Section 2. KRS 260.990 is amended to read as follows:

- (1) ~~Any person who knowingly violates any of the provisions of KRS 260.040 to 260.120 shall, for the first offense, be fined not less than ten dollars (\$10), nor more than twenty five dollars (\$25), for the second offense, he shall be fined not less than twenty five dollars (\$25), nor more than fifty dollars (\$50), and for the third and each subsequent offense, he shall be fined not less than fifty dollars (\$50), nor more than two hundred dollars (\$200). Whenever a violation is with respect to a lot or shipment consisting of fifty (50) or more closed packages, there may be imposed in addition to the above penalties twenty five cents (\$0.25) for the first offense, fifty cents (\$0.50) for the second offense and one dollar (\$1) for each subsequent offense for each package in excess of fifty (50) with respect to which the violation is committed.~~

~~(2)~~ Any person who violates a stop order in violation of KRS 260.550(2) shall be fined one hundred dollars (\$100) for the first offense, be fined two hundred fifty dollars (\$250) for the second offense, and have his or her license revoked or suspended or, if the person has no license, be fined one thousand dollars (\$1,000) for each subsequent offense.

~~(2)(3)~~ Any person who violates a withdraw from sale order in violation of KRS 260.550(3) shall be guilty of a Class B misdemeanor.

Section 3. The following KRS sections are repealed:

260.040 Commissioner to enforce law -- Apples exempt.

260.050 Packages of apples to be marked.

260.060 Sale or distribution of improperly marked, adulterated or misbranded apples prohibited.

260.070 Standard barrel for apples -- Dimensions.

260.080 Standard grades for apples.

260.090 Minimum size of apples -- Tolerances.

260.100 When apple packages deemed misbranded.

260.110 When apple packages deemed adulterated.

260.120 Guaranty relieves recipient from liability -- Guarantor liable.

260.130 Growers exempt.

260.140 Packages of strawberries to be marked.

260.150 Standard grades for strawberries.

260.160 Commissioner to enforce KRS 260.130 to 260.160 -- Functions.

**Approved March 24, 2006.**

## CHAPTER 36

(SB 75)

AN ACT relating to the hazardous waste assessment fee.

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

Section 1. KRS 224.46-580 is amended to read as follows:

- (1) The General Assembly declares that it is the purpose of this section to promote the development of statewide programs, under the responsibility of a single agency, which are intended to protect the health of the citizens and the environment of the Commonwealth from present and future threats associated with the management of hazardous wastes and the release of toxic chemicals regulated under Title III, Section 313 of the Superfund Amendments and Reauthorization Act of 1986, including disposal, treatment, recycling, storage, and transportation. The intent of the General Assembly is to add to and coordinate, and not replace, existing efforts and responsibilities in the areas of hazardous waste management, toxic chemical manufacture, processing, or other use, and to leave the primary burden and responsibility for hazardous waste and toxic chemical reduction on private industry; and further to finance assistance and coordination by imposing assessments on the generation of hazardous waste. The assessments are intended to produce a reduction in waste generated; to promote the use of new techniques in recycling, treatment, and alternatives other than land disposal; and to place the burden of financing additional hazardous waste management activities necessarily undertaken by state agencies on the users of those products associated with the generation of hazardous waste. The General Assembly further finds that Kentucky's industries need assistance in developing and implementing pollution prevention goals and that a fund should be established to provide technical and financial assistance to those industries.

- (2) The Environmental and Public Protection Cabinet is given the authority to administer the provisions and programs of this section and the responsibility to achieve the purposes of this section.
- (3) In addition to all specific responsibilities contained elsewhere in this chapter, the cabinet shall:
  - (a) Respond effectively and in a timely manner to emergencies created by the release of hazardous substances, as defined in KRS 224.01-400, into the environment. The cabinet shall provide for adequate containment and removal of the hazardous substances in order that the threat of a release or actual release of the substance may be abated and resultant harm to the environment minimized. The provisions of KRS 45A.695 to 45A.725 may be suspended by the cabinet if necessary to respond to an environmental emergency.
  - (b) Provide for post-closure monitoring and maintenance of hazardous waste disposal sites upon termination of post-closure monitoring and maintenance responsibilities by persons permitted to operate the facility pursuant to this chapter.
  - (c) Identify, investigate, classify, contain, or clean up any release, threatened release, or disposal of a hazardous substance where responsible parties are economically or otherwise unavailable to properly address the problem and the problem represents an imminent danger to the health of the citizens and the environment of the Commonwealth.
- (4) The cabinet shall have the authority to finance the nonfederal share of the cost for clean up of sites under the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (Pub. L. 96-510).
- (5) The cabinet shall recover, when possible, actual and necessary expenditures incurred in carrying out the duties under this section. Any expenditures recovered shall be placed in the hazardous waste management fund.
- (6) It is the expressed purpose of this section to accomplish effective hazardous waste and toxic chemical management that results in a reduction of the generation of hazardous wastes and the release of toxic chemicals within the Commonwealth; further, it is a purpose of this chapter to allocate a portion of the cost of administering necessary governmental programs related to hazardous waste and toxic chemical management to those industries whose products are reasonably related to the generation of hazardous waste.
- (7) There is hereby imposed upon every person engaged within this state in the generation of hazardous waste an annual hazardous waste assessment to be determined pursuant to this section according to the quantity by weight of hazardous waste generated, except that no assessment shall be levied against generators for any quantity of "special wastes," waste oil, or spent material from air pollution control devices controlling emissions from coke manufacturing facilities. The assessment shall not be imposed upon any person for any quantities of hazardous waste generated by others for which that person is a secondary handler that stores, processes, or reclaims the waste. The assessment shall be reported and paid to the Environmental and Public Protection Cabinet for the generation of hazardous waste on an annual basis on January 1 of each year. The payment shall be accompanied by a report or return in a form that the cabinet may prescribe. If a federal law is enacted which accomplishes or purports to accomplish the purposes set forth in this section and which levies an assessment or tax upon any business assessed pursuant to this section, the amount of the assessment to be levied upon the business under this section shall be reduced by the amount of the federal assessment or tax upon the business. The reduction shall only be authorized when funds raised by the federal assessment or tax are made available to the state for any of the activities to be funded under this section. If federal moneys are available to carry out the duties imposed by subsection (3) of this section, the assessment shall cease to be levied and collected until such time as federal moneys are no longer available to the Commonwealth for these purposes. The assessment shall be charged against generators of hazardous waste until June 30, ~~2008~~~~[2006]~~. After this date, no further hazardous waste management assessment shall be charged against generators. ***The hazardous waste assessment shall be waived for any generator owing less than fifty dollars (\$50) for the year. However, a return must be filed by generators to whom a payment waiver applies.***
- (8) The assessment on generators shall be one and two-tenths cents (\$0.012) per pound if the waste is liquid, or two-tenths of a cent (\$0.002) per pound if the waste is solid.
  - (a) Hazardous waste that is injected into a permitted underground injection well shall be assessed on a dry weight basis;
  - (b) Hazardous waste treated, detoxified, solidified, neutralized, recycled, incinerated, or disposed of on-site shall be assessed at one-half (1/2) of the appropriate rate, except for recycled waste used in the steel manufacturing process which shall be exempt;

- (c) Waste that is subject to regulation under Section 402 or 307B of the Federal Clean Water Act shall be exempt; and
  - (d) Emission control dust and sludge from the primary production of steel that is recycled by high temperature metals recovery or managed by stabilization of metals shall be exempt.
- (9) Except for waste brought into the state by a company to an affiliated manufacturing facility of the company receiving the waste, any person who transports hazardous waste into the state for land disposal or treatment which is generated outside of the state shall pay an assessment to the hazardous waste facility which first receives the waste for storage, treatment, or land disposal. The assessment rate shall be identical to the rate described in subsection (8) of this section. The facility shall remit the assessment to the cabinet on an annual basis on January 1 of each year. The payment shall be accompanied by a return the cabinet shall prescribe.
  - (10) If any generator or hazardous waste facility subject to the provisions of subsection (8) or (9) of this section fails or refuses to file a return or furnish any information requested in writing by the cabinet, the cabinet may, from any information in its possession, make an estimate and issue an assessment against the generator or hazardous waste facility and add a penalty of ten percent (10%) of the amount of the assessment so determined. This penalty shall be in addition to all other applicable penalties in this chapter.
  - (11) If any generator or hazardous waste facility subject to the provisions of subsection (8) or (9) of this section fails to make and file a return required by this chapter on or before the due date of the return or the due date as extended by the cabinet, unless it is shown to the satisfaction of the cabinet, that the failure is due to reasonable cause, five percent (5%) of the assessment found to be due by the cabinet shall be added to the assessment for each thirty (30) days or fraction thereof elapsing between the due date of the return and the date on which it is filed, but the total penalty shall not exceed twenty-five percent (25%) of the assessment.
  - (12) If the assessment imposed by this chapter, whether assessed by the cabinet, or the generator, or any installment or portion of the assessment is not paid on or before the date prescribed for its payment, there shall be collected, as a part of the assessment, interest upon the unpaid amount at the rate of eight percent (8%) per annum from the date prescribed for its payment until payment is actually made to the cabinet.
  - (13) There is hereby created within the State Treasury a trust and agency fund which shall not lapse to be known as the hazardous waste management fund. The fund shall be deposited in an interest-bearing account. The cabinet shall be responsible for collecting and receiving funds as provided in this section, and all such assessments collected or received by the State Treasury shall be deposited in the hazardous waste management fund. All interest earned on the money deposited in the fund shall be deposited to the fund. When the State Treasurer certifies to the cabinet that the uncommitted balance of the hazardous waste management fund exceeds six million dollars (\$6,000,000), assessments shall not be collected until the State Treasurer certifies to the cabinet that the balance in the hazardous waste management fund is less than three million dollars (\$3,000,000). The implementation of the cap on the fund shall be suspended from July 13, 1990, until July 1, 1991. In addition, for assessments paid after July 1, 1991, the cabinet shall refund or grant a credit against the next assessment to come due, on a pro-rated basis, any money collected in one (1) year in excess of the cap.
  - (14) There is hereby created within the State Treasury a trust and agency account which shall not lapse to be known as the pollution prevention fund. The fund shall be placed in an interest-bearing account. The fund shall be administered by the Center for Pollution Prevention. The cabinet shall remit to the fund each fiscal year twenty percent (20%) of the funds received by the hazardous waste management fund subject to the enacted budget bill. The cabinet shall provide to the center estimates of the amount of the hazardous waste assessment expected to be collected during each upcoming fiscal year.
  - (15) Upon request of the secretary, moneys accumulated in the hazardous waste management fund shall be released in amounts necessary to accomplish the performance of the duties imposed by subsection (3) of this section. However, moneys from the fund shall not be used when federal moneys are available to carry out these duties, except when immediate action is required to protect public health or the environment, in which case the cabinet shall actively pursue reimbursement of the fund by any available federal moneys.
  - (16) If any person responsible for a release or threatened release of a hazardous substance fails to take response actions or to make reasonable progress in completing response actions ordered by the cabinet, the cabinet may bring an action to compel performance or may take appropriate response actions and order the responsible person to reimburse the cabinet for the actual costs incurred by the cabinet.

- (17) If disposal activities have occurred at a hazardous waste site, the cabinet shall record in the office of the county clerk in the county in which a waste site is situated a notice containing a legal description of the property that discloses to any potential transferee that the land was used to dispose hazardous waste and that further information on the hazardous waste site may be obtained from the cabinet.
- (18) No person shall affect the integrity of the final cover, liners, or any other components of any containment system after closure of a hazardous waste site on or in which hazardous waste remains without prior written approval of the cabinet.

**Approved March 24, 2006.**

## CHAPTER 37

### (SB 136)

AN ACT relating to surface coal mining.

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

Section 1. KRS 350.060 is amended to read as follows:

- (1)
  - (a) No person shall engage in surface coal mining and reclamation operations without having first obtained from the cabinet a permit designating the area of land affected by the operation. Permits shall authorize the permittee to engage in surface coal mining and reclamation operations upon the area of land described in his application for a period not to exceed five (5) years. However, if an applicant demonstrates that a specified longer term is reasonably needed to obtain necessary financing for equipment and the opening of the operation and if the application is full and complete for the specified longer term, the cabinet may grant a permit for the longer term. No mining shall be permitted beyond the time period obligations of the initial or extended bond coverage.
  - (b) Subject to the provisions of KRS 350.010(1) and (2), no person shall knowingly and willfully receive, transport, sell, convey, transfer, trade, exchange, donate, purchase, deliver, or in any way derive benefit from coal removed from any surface mining operation which does not have a permit as required under this section.
- (2) No permit or revision application shall be approved unless the application affirmatively demonstrates, and the cabinet finds in writing on the basis of the information set forth in the application or from information otherwise available, that the permit application is accurate and complete and that all the requirements of this chapter have been complied with.
- (3) A person desiring a permit to engage in surface coal mining operations shall file an application which shall state:
  - (a) The location and area of land to be affected by the operation, with a description of access to the area from the nearest public highways;
  - (b) The owner or owners of the surface of the area of land to be affected by the permit and the owner or owners of all surface area adjacent to any part of the affected area;
  - (c) The owner or owners of the coal to be mined;
  - (d) The source of the applicant's legal right to mine the coal on the land affected by the permit;
  - (e) The permanent and temporary post office addresses of the applicant, which shall be updated immediately if changed at any point prior to final bond release;
  - (f) Whether the applicant or any person, partnership, or corporation associated with the applicant holds or has held any other permits under this chapter, and an identification of the permits;
  - (g) The names and addresses of every officer, partner, director, or person performing a function similar to a director of the applicant, together with the names and addresses of any individual owning of record ten percent (10%) or more of any class of voting stock of the applicant, and whether the applicant or any person is subject to any of the provisions of subsection (3) of KRS 350.130 and he shall so certify. The permittee shall submit updates of this information as changes occur or as otherwise provided by administrative regulation; however, failure to submit updated information shall constitute a violation of

this chapter only upon the permittee's refusal or failure to timely submit the information to the cabinet upon request. Upon receipt of updated information satisfactory to the cabinet, the cabinet shall promptly update its computer system containing the information;

- (h) A listing of any violations of this chapter, Public Law 95-87, and any law, rule, or regulation in effect for the protection of air or water resources incurred by the applicant in connection with any surface coal mining and reclamation operation during the three (3) year period prior to the date of an application. The list shall indicate the final resolution of the violations; and
  - (i) Whether the area of land to be affected by the operation has been previously mined and is in compliance with current reclamation standards, and, if not, identify the needed reclamation work.
- (4) The application for a permit shall be accompanied by an official document, and an affidavit attesting to the document's authenticity, which will evidence what particular business entity the applicant is, whether a foreign or domestic corporation, a partnership, an entity doing business as another, or, if sole proprietorship, an affidavit so stating.
- (5) The application for a permit shall be accompanied by copies, in numbers satisfactory to the cabinet, of a United States Geological Survey topographic map or other map acceptable to the cabinet on which the applicant has indicated the location of the operation, the course which would be taken by drainage from the operation to the stream or streams to which the drainage would normally flow, the name of the applicant and date, and the name of the person who located the operation on the map.
- (6) The application for a permit shall be accompanied by copies, in numbers satisfactory to the cabinet, of an enlarged United States Geological Survey topographic map or other map acceptable to the cabinet meeting the requirements of paragraphs (a) to (i) of this subsection. The map shall:
- (a) Be prepared and certified by a professional engineer registered under the provisions of KRS Chapter 322. The certification shall be in the form as provided in subsection (8) of this section, except that the engineer shall not be required to certify the true ownership of property under paragraph (d) of this subsection;
  - (b) Identify the area to correspond with the application;
  - (c) Show adjacent deep mining;
  - (d) Show the boundaries of surface properties and names of owners of the affected area and adjacent to any part of the affected area;
  - (e) Be of a scale of 1:24,000 or larger;
  - (f) Show the names and locations of all streams, creeks, or other bodies of public water, roads, buildings, cemeteries, oil and gas wells, and utility lines on the area of land affected and within five hundred (500) feet of the area;
  - (g) Show by appropriate markings the boundaries of the area of land affected, the cropline of the seam or deposit of coal to be mined, and the total number of acres involved in the area of land affected;
  - (h) Show the date on which the map was prepared, the north point, and the quadrangle name; and
  - (i) Show the drainage plan on and away from the area of land affected. The plan shall indicate the directional flow of water, constructed drainways, natural waterways used for drainage, and the streams or tributaries receiving the discharge.
- (7) Each application shall include a determination of the probable hydrologic consequences of the mining and reclamation operations, both on and off the mine site, with respect to the hydrologic regime, quantity and quality of water in surface and groundwater systems, including the dissolved and suspended solids under seasonal flow conditions, and the collection of sufficient data for the mine site and surrounding areas so that an assessment can be made by the cabinet of the probable cumulative impacts of all anticipated mining in the area upon the hydrology of the area and particularly upon water availability. This determination shall not be required until the time hydrologic information on the general area prior to mining is made available from an appropriate federal or state agency. The permit shall not be approved until the information is available and is incorporated into the application.

- (8) All certifications required by this chapter to be made by professional engineers shall be done in the form prescribed by the cabinet and shall be reasonably specific as to the work being certified. The cabinet may reject any document or map as incomplete if it is not properly certified.
- (9) In addition to the information and maps required above, each application for a permit shall be accompanied by detailed plans or proposals showing the method of operation; the manner, time, and distance for backfilling; grading work; and a reclamation plan for the affected area, which proposals shall meet the requirements of this chapter and administrative regulations adopted pursuant thereto.
- (10) The application for a permit shall be accompanied by proof that the applicant has public liability insurance coverage satisfactory to the cabinet for the surface mining and reclamation operations for which the permit is sought, or proof that the applicant has satisfied self-insurance requirements as provided by administrative regulations of the cabinet. The coverage shall be maintained in full force and effect during the terms of the permit and any permit renewal, and until reclamation operations are completed.
- (11) A basic fee set by administrative regulation, and bearing a reasonable relationship to the cost of processing the permit application but not to exceed three hundred seventy-five dollars (\$375), plus a fee set by administrative regulation but not to exceed seventy-five dollars (\$75), for each acre or fraction thereof of the area of land to be affected by the operation, shall be paid before the permit required in this section shall be issued; provided that if the cabinet approves an incremental bonding plan submitted by the applicant, the acreage fees may be paid in increments and at times corresponding to the approved plan. The applicant shall file with the cabinet a bond payable to the Commonwealth of Kentucky with surety satisfactory to the cabinet in the sum to be determined by the cabinet for each acre or fraction thereof of the area of land affected, with a minimum bond of ten thousand dollars (\$10,000), conditioned upon the faithful performance of the requirements set forth in this chapter and of the administrative regulations of the cabinet. The cabinet shall forfeit the entire amount of the bond for the permit area or increment in the event of forfeiture. In determining the amount of the bond, the cabinet shall take into consideration the character and nature of the overburden; the future suitable use of the land involved; the cost of backfilling, grading, and reclamation to be required; and the probable difficulty of reclamation, giving consideration to such factors as topography, geology, hydrology, and revegetation potential. The bond amount shall initially be computed to be sufficient to assure completion of reclamation if the work had to be performed by the cabinet in the event of forfeiture. The cabinet shall promulgate administrative regulations setting forth bonding requirements including, but not limited to, requirements for the amount, duration, release, and forfeiture of bonds.
- ~~(12) Surface coal mining and reclamation operations which affected two (2) acres or less, as defined by administrative regulations of the cabinet, which were conducted pursuant to two (2) acre or less permits issued by the cabinet, which were commenced on or before June 5, 1987, and on which mining ceased on or before November 7, 1987, shall be exempt from the requirements of this chapter, except as follows. Reclamation of the operations shall be accomplished in accordance with administrative regulations promulgated by the cabinet for operations of two (2) acres or less. The cabinet shall not require that the highwalls left by the operations be eliminated. Bond shall be maintained until reclamation is successfully completed. All procedural provisions and the penalty provisions of KRS 350.990 shall apply to operations conducted pursuant to this subsection. The cabinet shall enforce this subsection consistent with this chapter, except that the cabinet shall not issue orders requiring cessation of operations for mere failure to abate a violation.~~
- ~~(13)}~~ The cabinet shall promulgate administrative regulations for the permitting of operations with surface effects of underground mining and other surface coal mining and reclamation operations consistent with this section. The cabinet shall recognize the distinct differences between the surface effects of underground mining and strip mining, as also provided in KRS 350.151, in promulgating permitting requirements for these operations; provided, that the cabinet shall require that all the areas overlying underground workings be permitted but that the areas overlying underground workings not affected by operations and facilities occurring on the surface shall not be subject to the payment of acreage fees or bond requirements of subsection (11) of this section, KRS 350.070, or KRS 350.151.
- ~~(13)}~~~~(14)}~~ Any valid permit issued pursuant to this chapter shall carry with it the right of successive renewal upon expiration with respect to areas within the boundaries of the existing permit. An applicant for renewal of a permit shall pay a basic fee set by regulation, not to exceed three hundred seventy-five dollars (\$375). The holders of the permit may apply for renewal and the renewal shall be issued, provided that on application for renewal the burden shall be on the opponents of renewal, subsequent to the fulfillment of the public notice requirements of this chapter, unless it is established and written findings by the cabinet are made that:



- (a) The terms and conditions of the existing permit are not being satisfactorily met;
- (b) The present surface coal mining and reclamation operation is not in compliance with the environmental protection standards of this chapter;
- (c) The renewal requested substantially jeopardizes the applicant's continuing responsibility on existing permit areas;
- (d) The applicant has not provided evidence that the performance bond in effect for the operation will continue in full force and effect for any renewal requested in the application as well as any additional bond the cabinet might require; or
- (e) Any additional revised or updated information required by the cabinet has not been provided.

Prior to the approval of any renewal of permit, the cabinet shall provide notice to the appropriate public authorities.

~~(14)(15)~~ If an application for renewal of a valid permit includes a proposal to extend the mining operation beyond the boundaries authorized in the existing permit, the portion of the application for renewal of a valid permit which addresses any new areas of surface disturbance shall be subject to the full standards applicable to new applications under this chapter.

~~(15)(16)~~ Any permit renewal shall be for a term not to exceed the period of the original permit. Application for permit renewal shall be made at least one hundred twenty (120) days prior to the expiration of the valid permit. ~~However, if a permit has expired or if a permit renewal application has not been timely filed, and the operator or permittee desires to continue the surface coal mining operation, the cabinet shall forthwith cause a notice of noncompliance to be issued. The notice of noncompliance shall be deemed to have been complied with, and the permit may be renewed, if the cabinet receives a permit renewal application within thirty (30) days of the receipt of the notice of noncompliance. Upon the submittal of a permit renewal application, the operator or permittee shall be deemed to have timely filed the permit renewal application and shall be entitled to continue, under the terms of the expired permit, the surface coal mining operation, pending the issuance of the permit renewal. Failure to comply with the remedial measures of the notice of noncompliance shall result in the cessation of the surface coal mining operation.~~

~~(16)(17)~~ Notwithstanding any of the provisions of this section, a permit shall terminate if the permittee has not commenced the surface coal mining operations covered by the permit within three (3) years of the issuance of the permit. However, the cabinet may grant reasonable extensions of time upon a showing that the extensions are necessary by reason of litigation precluding commencement of operations, or threatening substantial economic loss to the permittee, or by reason of conditions beyond the control and without the fault or negligence of the permittee. With respect to coal to be mined for use in a synthetic fuel facility or specific major electric generating facility, the permittee shall be deemed to have commenced surface mining operations at the time the construction of the synthetic fuel or generating facility is initiated.

~~(17)(18)~~ Each application for a permit or revision for auger mining on a previously mined area shall contain information to describe the area to be affected, to show that the proposed method of operation will result in stable post-mining conditions, and reduce or eliminate adverse environmental conditions created by previous mining activities. If the cabinet determines that the affected area cannot be stabilized and reclaimed subsequent to augering or that the operation will result in an adverse impact to the proposed or adjacent area, the permit or revision shall not be issued. The cabinet shall, consistent with all applicable requirements of this chapter, issue a permit or revision if the applicant demonstrates that the proposed coal mining operations will provide for reduction or elimination of the highwall, or reduction or abatement of adverse impacts resulting from past mining activities, or stabilization or enhancement of a previously mined area. The cabinet shall insure that all reasonably available spoil material will be used to backfill the highwall to the extent practical and feasible; provided, however, that in all cases the holes be properly sealed and backfilled to a minimum of four (4) feet above the coal seam being mined.

~~(18)(19)~~ All operations involving the loading of coal which do not separate the coal from its impurities, and which are not located at or near the mine site, shall be exempt from the requirements of this chapter.

Section 2. KRS 350.075 is amended to read as follows:

- (1) In order to bring about a more desirable land use or promote the public interest and the environment, the cabinet may, at its discretion, issue special permits for the remining of previously affected areas, including but

not limited to, secondary coal recovery operations, such as coal extraction from coal refuse piles and coal recovery from slurry ponds. Such permits may provide for alternate requirements for revegetation, topsoil, bonding, premining data collection requirements, water quality requirements where there are pre-existing pollutional discharges resulting from previous mining, and other provisions which may encourage remining and secondary coal recovery.

- (2) The cabinet is hereby authorized to promulgate administrative regulations as necessary in order to implement the provisions of this section.

~~{(3) The cabinet shall, on or before August 1, 1986, submit to the Federal Office of Surface Mining proposed regulations to amend the state program to provide for such permits.}~~

Section 3. KRS 350.090 is amended to read as follows:

- (1) Under the provisions of this chapter and administrative regulations adopted by the cabinet, a permittee shall prepare and the permittee or operator shall carry out a method of operation, plan of grading and backfilling, and a reclamation plan for the area of land affected by his operation. In developing a method of operation, and the plans of backfilling, grading, and reclamation, all measures shall be taken to eliminate damages to members of the public, their real and personal property, public roads, streams, and all other public property from soil erosion, rolling stones and overburden, water pollution, and hazards dangerous to life and property. The permit application containing the required plans and other information as required shall be submitted to the cabinet and~~[-, except for applications or renewals submitted in compliance with KRS 350.060(2),]~~ the cabinet shall notify the applicant by certified mail, return receipt requested, within sixty-five (65) cumulative working days after receipt of a complete application whether it is acceptable. If applicable notice, hearing, and conference procedures prevent a decision from being issued within the sixty-five (65) cumulative working day period, the cabinet shall have additional reasonable time to issue its decision, not to exceed twenty (20) days from the completion of the notice, hearing, and conference procedures. If the permit application is not acceptable, the cabinet shall set forth the reasons for which the application or plans are not acceptable and it may propose modifications, delete areas, or reject the entire application. If the applicant disagrees with the decision of the cabinet, he may, by written notice, request a hearing conducted by the cabinet in the manner provided by KRS 350.0305. The cabinet shall notify the applicant by certified mail, return receipt requested, within twenty (20) days after the hearing of its decision. Any person aggrieved by a final order of the cabinet may appeal through the courts as set forth in KRS 350.0305.
- (2) If the permittee desires to seek funds from the reclamation development fund to develop an economic development unit during reclamation, the permittee shall submit, along with the reclamation plan, a reclamation development plan outlining the reclamation development project and showing how it will conform with the reclamation standards of this chapter.
- (3) No permittee, operator, or person shall throw, dump, pile, or permit the dumping, piling, or throwing, or otherwise placing any overburden, stones, rocks, coal, particles of coal, earth, soil, dirt, debris, trees, wood, logs, or any other materials or substances of any kind or nature beyond or outside of the area of land which is under permit and for which bond has been posted under KRS 350.060 or place these materials in such a way that normal erosion or slides brought about by natural physical causes will permit the materials to go beyond or outside of the area of land which is under permit and for which bond has been posted under KRS 350.060.

Section 4. KRS 350.093 is amended to read as follows:

- (1) As determined by administrative regulations of the cabinet, time and distance limits shall be established requiring backfilling, grading, and planting to be kept current, so that all reclamation efforts proceed in an environmentally sound manner and as contemporaneously as practicable under regulations promulgated by the cabinet. All backfilling and grading shall be completed before necessary equipment is moved from the operation; except that the cabinet may for good cause approve the moving of equipment before all backfilling and grading is completed.
- (2) (a) The cabinet may allow a permittee to defer the time criteria of contemporaneous reclamation requirements on specified areas if the permittee can demonstrate that the deferment is necessary to address at least one (1) of the following:
  1. Adverse condition including weather, labor, and other conditions clearly beyond the permittee's control;
  2. Other bona fide mining operations carried out on a strip mined area, pursuant to KRS 350.080; or

3. Coal marketing problems.

- (b) Application for a deferment pursuant to this section shall be in the form prescribed by the cabinet. The applicant shall have the burden of establishing the need for the deferment. The applicant for the deferment shall demonstrate that reclamation on the site is contemporaneous as of the date of the request for deferment and that distance requirements for contemporaneous reclamation will be met during the period of the deferment. Approval of the deferment request shall be made in writing. The approval shall state that the deferment is justified and that no environmental damage will occur during the period of deferment. Reclamation deferments may be approved for a period reasonably related to the specified conditions justifying the deferment, but the aggregate deferral period shall not exceed thirty (30) months. The deferral shall not extend beyond the expiration date of the permit. The cabinet shall periodically reexamine and update the amount of the bond on the permit area so that the amount of the bond is sufficient to assure completion of reclamation if the work had to be performed by the cabinet in the event of forfeiture.
- (3) If the permittee or operator desires to conduct drift mining or other underground mining upon the premises or use the openings for haulageways or other lawful purposes, the permittee or operator may designate locations to be used for purposes at which places it will not be necessary to backfill until the drift or other underground mining or other use is completed, during which time the bond on file for that portion of the operation shall not be released. That portion of the locations shall be described and designated on the map attached thereto. If the permittee or operator wishes to combine surface operations with underground mining operations to assure maximum practical recovery of coal resources, the cabinet may grant a variance, pursuant to regulations promulgated by the cabinet, for specific areas within the reclamation plan from the requirement that reclamation efforts proceed pursuant to subsection (1) of this section so as to permit underground mining operations prior to reclamation.
- (4) The cabinet may release in whole or in part the reclamation bond or deposit for a particular operation if the cabinet is satisfied that the reclamation covered by the bond or deposit or portion thereof has been accomplished as required by this chapter. These bond releases shall be made in accordance with the following schedule:
  - (a) When the permittee completes the backfilling, regrading, and drainage control of a bonded area in accordance with his approved reclamation plan, the release of sixty percent (60%) of the bond or collateral for the applicable permit area.
  - (b) After revegetation has been established on the regraded mined lands in accordance with the approved reclamation plan, additional bond or collateral for the applicable permit shall be released. When determining the amount of bond to be released after successful revegetation has been established, the cabinet shall retain that amount of the bond for the revegetated area which would be sufficient for a third party to cover the cost of reestablishing revegetation; this amount shall be retained for the period specified for permittee responsibility for reestablishing revegetation. No part of the bond or deposit shall be released under this subsection as long as the lands to which the release would be applicable are contributing suspended solids to streamflow or runoff outside the permit area in excess of requirements set by this chapter or until soil productivity for prime farm lands has returned to levels of yield equivalent to those of unmined land of the same soil type in the surrounding area under equivalent management practices as determined from soil surveys that may be required to be included in the permit application. If a sedimentation pond is to be retained as a permanent impoundment, the portion of bond may be released under this subsection so long as provisions for sound future maintenance by the permittee or the landowner have been made with the cabinet.
  - (c) When the permittee has completed successfully all surface coal mining and reclamation activities, the release of the remaining portion of the bond, or collateral, but not before the expiration of the period specified for permittee responsibility. No bond shall be fully released until all reclamation requirements of this chapter are fully met.
- (5) Upon satisfying the requirements of subsections (4)(a), (b), or (c) of this section, the permittee may file, or the cabinet shall initiate, an application for total or partial bond release.
  - (a) A permittee shall have the right to begin public advertisement of its request for bond release at the time it files its request for the release. The cabinet may undertake, at permittee expense, public advertisement of any cabinet initiated bond release. If the cabinet initiates a bond release pursuant to this subsection

but chooses not to advertise the release pursuant to this section, and the permittee does not advertise the request for the release within the time schedules established by this subsection, the bond release application shall be denied. All public advertisements of bond release applications, whether authorized by the permittee or the cabinet, shall begin within sixty (60) days after either the filing of a bond release request by the permittee or the initiation of a bond release by the cabinet. Public advertisement shall occur at least once a week for four (4) successive weeks in a newspaper of general circulation in the locality of the surface coal mining operation.

- (b) The public advertisement required by this subsection shall include: the permit number and permit approval date, notification of the precise location of the land affected, the number of acres, the type and amount of the bond filed and the portion sought to be released, the type and appropriate dates of reclamation work performed, a description of the results achieved as they relate to the operator's approved reclamation plan, and the name and address of the cabinet to which written comments, objections, or requests for public hearings and informal conferences on the specific bond release may be submitted. Proof of advertisement shall be placed with the bond release application within thirty (30) days after the advertisement.
- (c) Within thirty (30) days of filing of any bond release request, the permittee shall submit copies of letters which it has sent to adjoining property owners, local governmental bodies, planning agencies, sewage and water treatment authorities, and water companies in the locality in which the surface coal mining and reclamation operation took place, notifying them of the intention to seek release from the bond. For bond releases initiated by the cabinet, the cabinet shall undertake the notification requirements set forth in this subsection.
- (d) Upon the filing of an application for bond release by a permittee, or the initiation of the release by the cabinet, the cabinet shall notify, within thirty (30) days of the filing or initiation, the municipality where the surface coal mining operation is located, pursuant to regulations promulgated by the cabinet.
- (6) Upon the filing of any partial or total bond release request by a permittee, the cabinet shall within thirty (30) days conduct an inspection and evaluation of the reclamation work involved. The evaluation shall consider, among other things, the degree of difficulty to complete any remaining reclamation, whether pollution of surface or subsurface water is occurring, the probability of continuance of future occurrence of the pollution, and the estimated cost of abating the pollution.
- (7) The cabinet shall notify the permittee in writing of its decision to release or not to release all or part of the performance bond or deposit within five (5) days following receipt of proof of public advertisement as required in subsection (5)(b), or the end of the thirty (30) day public comment period, whichever is later, if no public hearing is held pursuant to subsection (10) of this section; and if there has been a public hearing held pursuant to subsection (10) of this section, within thirty (30) days thereafter.
- (8) If the cabinet disapproves the application for release of the bond or portion thereof, the cabinet shall notify the permittee, in writing, stating the reasons for disapproval and recommending corrective actions necessary to serve the release and allowing opportunity for a public hearing. The cabinet shall not disapprove an application for release of a surety bond or a bond secured by a letter of credit as provided for under subsection (4)(a) or (b) of this section or under the partial release provisions applicable to an interim permit, or take any action to forfeit the surety bond, or bond secured by letter of credit, solely upon the permittee's failure to pay penalties or fines, if applicable reclamation requirements for the requested release have been fully met. The cabinet shall not continue to hold under the interim or permanent program remaining surety bond proceeds or the remaining bond secured by a letter of credit where a forfeiture has occurred solely as a result of a failure to pay penalties or fines, if the reclamation requirements of this chapter have been fully met.
- (9) The bond liability of the permittee shall include only those actions which the permittee is obliged to take under the permit, including completion of the reclamation plan. ~~Actions of third parties which are beyond the control and influence of the permittee and for which the permittee is not responsible under the permit shall not be covered by the bond.~~
- (10) Any person having a valid legal interest which might be adversely affected by release of the bond, and the responsible officer or head of any governmental agency so designated by cabinet regulations, shall have the right to file written objections to the proposed bond release with the cabinet, and to request a hearing in accordance with procedural regulations promulgated by the cabinet.

Section 5. KRS 350.445 is amended to read as follows:

The following performance standards shall be applicable to steep-slope strip mining and shall be in addition to those general performance standards required by KRS 350.405 to 350.435; provided, however, that the provisions of this section shall not apply to those situations in which a permittee or operator is mining on flat or gently rolling terrain, on which an occasional steep slope is encountered through which the mining operation is to proceed, leaving a plain or predominantly flat area, or where a permittee or operator is in compliance with the provisions of KRS 350.450(2):

- (1) The permittee or operator shall insure that when performing strip mining on steep slopes, debris, abandoned or disabled equipment, spoil material, or waste mineral matter not be placed on the downslope below the bench or mining cut; provided, that spoil material in excess of that required for the reconstruction of the approximate original contour under the provisions of KRS 350.410 or 350.445(2) shall be permanently stored pursuant to KRS 350.440.
- (2) The permittee or operator shall complete backfilling with spoil material and shall be required to cover completely the highwall and return the site to the approximate original contour, which material will maintain stability following mining and reclamation.
- (3) The permittee or operator may not disturb land above the top of the highwall unless the cabinet finds that the disturbance will facilitate compliance with the environmental protection standards of this subsection; provided, however, that the land disturbed above the highwall shall be limited to that amount necessary to facilitate compliance. The land above the highwall may be disturbed for construction of a permanent road only where the applicant affirmatively demonstrates, and the cabinet makes a detailed and written determination, that the proposed disturbance facilitates compliance with this chapter and provided that the land disturbed shall be limited to that amount necessary to facilitate such compliance. The cabinet shall make this determination upon a demonstration by the permittee that:
  - (a) The permittee will completely eliminate the production highwall and backfill the mined areas to approximate original contour with no road remaining on the bench;
  - (b) The road will be placed on a solid base rather than on fill material and drainage will be diverted from the mining area;
  - (c) The road will comply with all applicable design criteria, including a drainage plan for avoiding seepage or uncontrolled discharge of water into the backfilled areas;
  - (d) The spoil calculations and spoil disposal plans include the road cut material and the extent, if any, that road cut material will be used to eliminate a production highwall;
  - (e) The road will connect to another road or roads and is necessary in order to support the approved postmining land uses;
  - (f) Where practical and feasible, an undisturbed barrier will be left between the production highwall and the road itself. When an undisturbed barrier is not feasible, witness monuments will be left at a minimum of two (2) locations above the production highwall;
  - (g) The road will be constructed to a size and design appropriate to ~~support coal mining activities and~~ the proposed post-mining land use;
  - (h) The proposed mine plan and sequencing of the road construction in relation to the mining activity will minimize placement of spoil material into valley or hollow fills and will maximize permanent retention of mined spoil on the mine bench;
  - (i) There will be no coal removal from the construction of the permanent road except for incidental nonmerchantable coal that is disposed of in an approved manner; and
  - (j) All other performance standards of the chapter are met.
- (4) For the purposes of this section, the term "steep slope" is any slope above twenty (20) degrees or such lesser slope as may be defined by the cabinet, by regulation, after consideration of soil, climate, and other characteristics of the region.

Section 6. The following KRS section is repealed:

350.285 Removal of coal on private land -- Implementation of section.

**Approved March 24, 2006.**

## CHAPTER 38

(HB 57)

AN ACT relating to organ and tissue donation.

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

SECTION 1. A NEW SECTION OF KRS CHAPTER 194A IS CREATED TO READ AS FOLLOWS:

- (1) *Contingent upon the availability of funding, the Cabinet for Health and Family Services shall facilitate the establishment of a statewide electronic registry for organ and tissue donation for transplantation purposes. The cabinet may contract with a public or private nonprofit entity to perform gatekeeper functions of the registry that include but are not limited to the operation, maintenance, privacy, and security of the registry.*
- (2) *An ongoing collaboration shall be established among the Transportation Cabinet, the Cabinet for Health and Family Services, the Kentucky Circuit Court Clerks Trust for Life, the Kentucky Hospital Association, the Kentucky Medical Association, and the federally certified organ and tissue procurement organizations that operate in Kentucky to develop strategies for the operation of the registry. Strategies shall include but not be limited to:*
  - (a) *Donor designation at the time of application or renewal of a driver's license;*
  - (b) *Online registration as a donor;*
  - (c) *Removal or exit from the registry;*
  - (d) *Timely access to the registry by relevant parties in accordance with federal laws and regulations relating to organ and tissue donation and procurement for transplantation purposes; and*
  - (e) *Evaluation of the effectiveness of the registry.*
- (3) *The cabinet may promulgate administrative regulations pursuant to KRS Chapter 13A to implement the provisions of this section.*

Approved March 24, 2006.

## CHAPTER 39

(SB 138)

AN ACT relating to penalties.

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

Section 1. KRS 351.990 is amended to read as follows:

- (1) Any person who violates any of the provisions of KRS 351.315 to 351.375, or any **administrative** regulation, determination, or order **promulgated in accordance with KRS 351.315 to 351.375**~~issued thereunder~~ shall be subject to a civil fine not less than **two hundred fifty dollars (\$250)**~~twenty dollars (\$20)~~ nor more than **five thousand dollars (\$5,000)**~~one thousand dollars (\$1,000)~~ for each violation.
- (2) Any person who ~~shall~~ willfully **violates**~~violate~~ any of the provisions of KRS 351.315 to 351.375, or any administrative regulation, determination, or order promulgated **in accordance with**~~pursuant to the sections of~~ KRS 351.315 to 351.375 which ~~has~~**have** become final shall be guilty of a Class A misdemeanor.
- (3) Any person who violates any of the provisions of KRS 351.330(16) shall be guilty of a Class B misdemeanor.
- (4) Any person who violates any of the provisions of KRS 351.345(2) shall be guilty of a Class D felony.
- (5) Any operator who fails to obtain his license as required by KRS 351.175 shall be guilty of a Class A misdemeanor as defined in KRS 532.090. Each day the mine is operated without a license constitutes a separate offense. Venue for the offenses shall lie in the county in which the offense occurred.
- (6) Any operator operating a mine with knowledge that the mine has been placed under a valid closure order pursuant to KRS 351.175 shall be guilty of a Class D felony. Jurisdiction shall lie in the Circuit Court of the county in which the offense occurred.

- (7) *Any blasting operation that results in the death or serious physical injury of a person may be subject to a civil fine not more than twenty thousand dollars (\$20,000). For the purposes of this subsection, "serious physical injury" means an injury which has a reasonable potential to cause death.*

**Approved March 24, 2006.**

## **CHAPTER 40**

### **(SB 170)**

AN ACT relating to emergency management services license plates.

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

Section 1. KRS 186.162 is amended to read as follows:

- (1) As used in this section and in KRS 186.043, 186.164, 186.166, and 186.174:
  - (a) "Special license plate" means a unique license plate issued under this chapter to a group or organization that readily identifies the operator of the motor vehicle bearing the plate as a member of a group or organization, or a supporter of the work, goals, or mission of a group or organization. The term shall not include regular license plates issued under KRS 186.240;
  - (b) "Street rod" means a modernized private passenger motor vehicle manufactured prior to the year 1949, or designed or manufactured to resemble a vehicle manufactured prior to 1949;
  - (c) "SF" means the portion of an initial or renewal fee to obtain a special license plate that is dedicated for use by the Transportation Cabinet;
  - (d) "CF" means the portion of an initial or renewal fee to obtain a special license plate that is dedicated for use by a county clerk; and
  - (e) "EF" means the portion of an initial or renewal fee to obtain a special license plate that is mandated by this chapter to be dedicated for use by a particular group or organization.
- (2) The initial purchase fee and renewal fee for a special license plate created under this chapter shall be as established in this subsection and includes the name of group or organization and the total initial and renewal fee required for the plate. The amount in parentheses indicates how the total fee is required to be divided:
  - (a) Disabled veterans who receive assistance to purchase a vehicle from the United States Veterans' Administration and recipients of the Congressional Medal of Honor:
    1. Initial Fee: \$0 (\$0 SF/\$0 CF/\$0 EF).
    2. Renewal Fee:\$0 (\$0 SF/\$0 CF/\$0 EF).
  - (b) Former prisoners of war and survivors of Pearl Harbor:
    1. Initial Fee: \$20 (\$12 SF/\$3 CF/\$5 EF to the veterans' program trust fund established under KRS 40.460).
    2. Renewal Fee:\$3 (\$0 SF/\$3 CF/\$0 EF).
  - (c) Members of the Kentucky National Guard:
    1. Initial Fee: \$20 (\$12 SF/\$3 CF/\$5 EF to the veterans' program trust fund established under KRS 40.460).
    2. Renewal Fee:\$8 (\$0 SF/\$3 CF/\$5 EF to the veterans' program trust fund established under KRS 40.460).
  - (d) Recipients of the Purple Heart; members of the Civil Air Patrol; active, retired, veteran, reserve, or auxiliary members of the United States Army, Navy, Air Force, Marine Corps, or Coast Guard; Merchant Marines who served between December 7, 1941, and August 15, 1945; and disabled veterans who have been declared to be at least seventy percent (70%) service-connected disabled by the United States Department of Veterans' Affairs, or who receive total service-connected disability rating for

compensation on individual unemployability and have not received assistance from the United States Department of Veterans' Affairs toward the purchase of a motor vehicle:

1. Initial Fee: \$20 (\$12 SF/\$3 CF/\$5 EF to the veterans' program trust fund established under KRS 40.460).
  2. Renewal Fee: \$20 (\$12 SF/\$3 CF/\$5 EF to the veterans' program trust fund established under KRS 40.460).
- (e) Recipients of the Distinguished Service Cross, Navy Cross, or Air Force Cross:
1. Initial Fee: \$3 (\$0 SF/\$3 CF/\$0 EF).
  2. Renewal Fee: \$3 (\$0 SF/\$3 CF/\$0 EF).
- (f) Disabled license plates:
1. Initial Fee: \$15 (\$12 SF/\$3 CF/\$0 EF).
  2. Renewal Fee: \$15 (\$12 SF/\$3 CF/\$0 EF).
- (g) Historic vehicles:
1. Initial Fee for two plates: \$53 (\$50 SF/\$3 CF/\$0 EF).
  2. Renewal Fee: Do not renew annually.
- (h) Members of Congress:
1. Initial Fee: \$40 (\$37 SF/\$3 CF/\$0 EF).
  2. Renewal Fee: \$20 (\$12 SF/\$3 CF/\$5 EF to the veterans' program trust fund established under KRS 40.460).
- (i) Volunteer firefighters:
1. Initial Fee: \$15 (\$12 SF/\$3 CF/\$0 EF).
  2. Renewal Fee: \$15 (\$12 SF/\$3 CF/\$0 EF).
- (j) ~~Disaster and Emergency management services~~:
1. Initial Fee: \$28 (\$25 SF/\$3 CF/\$0 EF).
  2. Renewal Fee: \$15 (\$12 SF/\$3 CF/\$0 EF).
- (k) Fraternal Order of Police:
1. Initial Fee: \$40 (\$37 SF/\$3 CF/\$0 EF).
  2. Renewal Fee: \$15 (\$12 SF/\$3 CF/\$0 EF).
- (l) Law Enforcement Memorial:
1. Initial Fee: \$75 (\$62 SF/\$3 CF/\$10 EF to the Kentucky Law Enforcement Memorial Foundation, Inc.).
  2. Renewal Fee: \$25 (\$12 SF/\$3 CF/\$10 EF to the Kentucky Law Enforcement Memorial Foundation, Inc.).
- (m) Personalized plates:
1. Initial Fee: \$40 (\$37 SF/\$3 CF/\$0 EF).
  2. Renewal Fee: \$40 (\$37 SF/\$3 CF/\$0 EF).
- (n) Street rods:
1. Initial Fee: \$40 (\$37 SF/\$3 CF/\$0 EF).
  2. Renewal Fee: \$15 (\$12 SF/\$3 CF/\$0 EF).
- (o) Nature plates:



1. Initial Fee: \$25 (\$12 SF/\$3 CF/\$10 EF to Kentucky Heritage Land Conservation Fund established under KRS 146.570).
  2. Renewal Fee:\$25 (\$12 SF/\$3 CF/\$10 EF to Kentucky Heritage Land Conservation Fund established under KRS 146.570).
- (p) Amateur radio:
1. Initial Fee: \$40 (\$37 SF/\$3 CF/\$0 EF).
  2. Renewal Fee:\$15 (\$12 SF/\$3 CF/\$0 EF).
- (q) Kentucky General Assembly:
1. Initial Fee: \$40 (\$37 SF/\$3 CF/\$0 EF).
  2. Renewal Fee:\$20 (\$12 SF/\$3 CF/\$5 EF to the veterans' program trust fund established under KRS 40.460).
- (r) Kentucky Court of Justice:
1. Initial Fee: \$40 (\$37 SF/\$3 CF/\$0 EF).
  2. Renewal Fee:\$8 (\$0 SF/\$3 CF/\$5 EF to the veterans' program trust fund established under KRS 40.460).
- (s) Masons:
1. Initial Fee: \$28 (\$25 SF/\$3 CF/\$0 EF).
  2. Renewal Fee:\$15 (\$12 SF/\$3 CF/\$0 EF).
- (t) Collegiate plates:
1. Initial Fee: \$50 (\$37 SF/\$3 CF/\$10 EF to the general scholarship fund of the university whose name will be borne on the plate).
  2. Renewal Fee:\$25 (\$12 SF/\$3 CF/\$10 EF to the general scholarship fund of the university whose name will be borne on the plate).
- (u) Independent Colleges:
1. Initial Fee: \$38 (\$25 SF/\$3 CF/\$10 EF to the Association of Independent Kentucky Colleges and Universities for distribution to the general scholarship funds of the Association's members).
  2. Renewal Fee:\$25 (\$12 SF/\$3 CF/\$10 EF to the Association of Independent Kentucky Colleges and Universities for distribution to the general scholarship funds of the Association's members).
- (v) Child Victims:
1. Initial Fee: \$38 (\$25 SF/\$3 CF/\$10 EF to the child victims' trust fund established under KRS 41.400).
  2. Renewal Fee:\$20 (\$12 SF/\$3 CF/\$5 EF to the child victims' trust fund established under KRS 41.400).
- (w) Kentucky Horse Council:
1. Initial Fee: \$38 (\$25 SF/\$3 CF/\$10 EF to the Kentucky Horse Council).
  2. Renewal Fee:\$20 (\$12 SF/\$3 CF/\$5 EF to the Kentucky Horse Council).
- (x) Ducks Unlimited:
1. Initial Fee: \$38 (\$25 SF/\$3 CF/\$10 EF to Kentucky Ducks Unlimited).
  2. Renewal Fee:\$25 (\$12 SF/\$3 CF/\$10 EF to Kentucky Ducks Unlimited).
- (y) Spay neuter:

1. Initial Fee: \$25 (\$12 SF/\$3 CF/\$10 EF to the animal control and care fund established under KRS 258.119).
  2. Renewal Fee:\$20 (\$12 SF/\$3 CF/\$5 EF to the animal control and care fund established under KRS 258.119).
- (z) Gold Star Mothers:
1. Initial Fee: \$15 (\$12 SF/\$3 CF/ \$0 EF).
  2. Renewal Fee:\$15 (\$12 SF/\$3 CF/ \$0 EF).
- (3) Any special license plate may be combined with a personalized license plate for a twenty-five dollar (\$25) state fee in addition to all other fees for the particular special license plate established in this section and in KRS 186.164(3). The twenty-five dollar (\$25) fee required under this subsection shall be divided between the cabinet and the county clerk of the county where the applicant is applying for the license plate with the cabinet receiving twenty dollars (\$20) and the county clerk receiving five dollars (\$5).

Section 2. KRS 186.164 is amended to read as follows:

- (1) The SF portion of the fee required under KRS 186.162 shall include the fee to reflectorize all license plates under KRS 186.240. All EF fees required under KRS 186.162 shall be collected at the time of an initial or renewal application by the county clerk who shall forward the EF fee to the cabinet. The cabinet shall remit EF fees to the group or organization identified in KRS 186.162 on a quarterly basis. The cabinet may retain any investment income earned from holding EF fees designated to be remitted under this subsection to offset administrative costs incurred by the cabinet in the administration of EF fees.
- (2) A special license plate shall be the color and design selected by the group or organization identified in subsection (13) of this section, contingent upon the approval of the Transportation Cabinet. In addition to the design selected for a special license plate, the name "Kentucky," an annual renewal decal, and any combination of letters or numerals required by the cabinet in the design shall also appear on the plate.
- (3) Except as provided in KRS 186.162, the total initial fee for a special license plate created under this chapter shall be twenty-eight dollars (\$28), of which the Transportation Cabinet shall receive twenty-five dollars (\$25) and the county clerk shall receive three dollars (\$3), and the total renewal fee shall be fifteen dollars (\$15), of which the Transportation Cabinet shall receive twelve dollars (\$12) and the county clerk shall receive three dollars (\$3). The twenty-five dollar (\$25) initial fee and twelve dollar (\$12) renewal fee received by the Transportation Cabinet under this subsection shall include an applicant's registration fee required under KRS 186.050.
- (4) An actual metal special license plate shall be issued on the same schedule as regular license plates are issued under KRS 186.240. The cabinet shall have the discretion to extend the time period that will exist between the date a metal special license plate is issued and the date that regular plates are issued under KRS 186.240. A renewal registration decal shall be issued all other years during the owner's or lessee's birth month, except as provided in KRS 186.041(2), 186.042(5), and 186.174(2). A person seeking a special license plate for a vehicle provided as part of the person's occupation shall conform to the requirements of KRS 186.050(14).
- (5)
  - (a) If a special license plate issued under this chapter deteriorates to the point that the lettering, numbering, or images on the face of the plate are not legible, the plate shall be replaced free of charge, if the owner or lessee has not transferred the vehicle to which the plate was issued during the current licensing period.
  - (b) If a special license plate issued under this chapter is lost, stolen, or damaged in an accident, the county clerk shall issue a new plate upon payment of a three dollar (\$3) county clerk fee, if the owner or lessee has not transferred the vehicle to which the plate was issued during the current licensing period.
- (6) Upon the sale, transfer, or termination of a lease of a vehicle with any special license plate issued under this chapter, the owner or lessee shall remove the special plate and return it and the certificate of registration to the county clerk. The county clerk shall reissue the owner or lessee a regular license plate and a certificate of registration upon payment of a three dollar (\$3) county clerk fee. If the owner or lessee requests, the county clerk shall reissue the special plate upon payment of a three dollar (\$3) county clerk fee for use on any other vehicle of the same classification and category owned by the person during the current licensing period. If the owner or lessee has the special plate reissued to another vehicle, the regular license plate that is being replaced shall be returned to the county clerk who shall forward the plate to the Transportation Cabinet.

- (7) A special license plate may be issued to the owner or lessee of a motor vehicle that is required to be registered under KRS 186.050(1), (3)(a), or (4)(a), except a special license plate shall not be issued to a taxicab, airport limousine, or U-Drive-It registered and licensed under this chapter or KRS Chapter 281. A person applying for a special license plate shall apply in the office of the county clerk in the county of the person's residence, except as provided in KRS 186.168(3). All special license plates issued under this chapter may be combined with a personalized license plate under the provisions of KRS 186.174. The fee to combine a special license plate with a personalized license plate shall be as established in KRS 186.162(3).
- (8) Within thirty (30) days of termination from election to, appointment to, or membership with any group or organization, an applicant to whom a special license plate was issued under this chapter shall return the special license plate to the county clerk of the county of his or her residence, unless the person is merely changing his or her status with the group or organization to retired.
- (9) A group wanting to create a special license plate that is not authorized under this chapter on June 20, 2005, shall comply with the following conditions before being eligible to apply for a special license plate:
- (a) The group shall be nonprofit and based, headquartered, or have a chapter in Kentucky;
  - (b) The group may be organized for, but shall not be restricted to, social, civic, or entertainment purposes;
  - (c) The group, or the group's lettering, logo, image, or message to be placed on the license plate, if created, shall not discriminate against any race, color, religion, sex, or national origin, and shall not be construed, as determined by the cabinet, as an attempt to victimize or intimidate any person due to the person's race, color, religion, sex, or national origin;
  - (d) The group shall not be a political party and shall not have been created primarily to promote a specific political belief;
  - (e) The group shall not have as its primary purpose the promotion of any specific faith, religion, or antireligion;
  - (f) The name of the group shall not be the name of a special product or brand name, and shall not be construed, as determined by the cabinet, as promoting a product or brand name; and
  - (g) The group's lettering, logo, image, or message to be placed on the license plate, if created, shall not be obscene, as determined by the cabinet.
- (10) If the cabinet denies to issue a group a special license plate based upon the conditions specified in subsection (9) of this section, the group may appeal the denial to the next regularly scheduled session of the General Assembly for review of the denial and action on the group's request for a special license plate. The cabinet shall, immediately upon denying to issue a group a special license plate, notify in writing the chairperson of both the House and Senate Transportation Committees of the General Assembly of the denial and the reasons upon which the cabinet based the denial. The House and Senate chairpersons shall be required to present the information to his or her respective committee for consideration within the first ten (10) days of the next regularly scheduled session of the General Assembly, if requested to do so in writing by the group who was denied a special license plate. A person seeking a personalized license plate under KRS 186.174 shall be subject to the conditions specified in subsection (9)(c) to (g) of this section.
- (11) If the cabinet approves a request for a special license plate, the cabinet shall begin designing and printing the plate after the group collects a minimum of nine hundred (900) applications with each application being accompanied by a twenty-five dollar (\$25) state fee. The applications and accompanying fee shall be submitted to the cabinet at one (1) time as a whole and shall not be submitted individually or intermittently.
- (12) An initial applicant for, or an applicant renewing, his or her registration for a special license plate may, at the time of application, make a voluntary contribution that the county clerk shall forward to the cabinet. The cabinet shall, on an annual basis, remit the voluntary contributions to the appropriate group identified to be used for the declared purpose stated under subsection (13) of this section. The cabinet may retain any investment income earned from holding voluntary contributions designated to be remitted under this subsection to offset administrative costs incurred by the cabinet in the administration of the contributions. Any group or organization that receives a mandatory EF fee under KRS 186.162 shall submit the information required under subsection (13)(a) and (c) of this section to the Transportation Cabinet within thirty (30) days of June 20, 2005.

- (13) If a group wants to receive a donation when the group or organization's special license plate is initially purchased or renewed under subsection (12) of this section, the group shall, at the time the nine hundred (900) applications are submitted to the Transportation Cabinet, also submit a notarized affidavit to the cabinet attesting to:
- (a) The name, address, and telephone number for the group or organization. If the group or organization does not have its headquarters in the Commonwealth, then the name, address, and telephone number for the group or organization's Kentucky state chapter shall be required. The names of the officers of the group or organization shall also be required. If the entity receiving funds under subsection (12) of this section is not a state governmental agency, a program unit within a state governmental agency, or is a group or organization that does not have a statewide chapter, then an extra donation for use by the group or organization shall be prohibited;
  - (b) The amount of the monetary donation the group wants to receive when a person purchases the group or organization's special license plate; and
  - (c) The purpose for which the donated funds will be used by the group or organization. Donated funds shall not be limited for use by members of the group or organization, and shall not be used for administrative or personnel costs of the group or organization.
- (14) All funds received by a group or organization under subsection (12) of this section shall be deposited into an account separate from all other accounts the group or organization may have, and the account shall be audited yearly at the expense of the group or organization. The completed audit shall be forwarded to the Transportation Cabinet in Frankfort. One hundred percent (100%) of the funds received by a group or organization under subsection (12) of this section shall be used for the express purpose identified by the group in subsection (13) of this section. Any group or organization that receives a mandatory EF fee under KRS 186.162 shall comply with the provisions of this subsection.
- (15) The secretary of the Transportation Cabinet shall promulgate administrative regulations under KRS Chapter 13A to establish additional rules to implement the issuance of special license plates issued under this chapter, including but not limited to:
- (a) Documentation that will be required to accompany an application for a special license plate to provide proof of election to the United States Congress or the Kentucky General Assembly; election or appointment to the Kentucky Court of Justice; membership in a Masonic Order, Fraternal Order of Police, or ~~disaster and~~ emergency **management**~~services~~ organization; membership in the Gold Star Mothers of America; or ownership of an amateur radio operator license;
  - (b) The time schedule permissible for a group or organization to request a design change for the special license plate; and
  - (c) The procedures for review of proposed license plates and the standards by which proposed special license plates are approved or rejected in accordance with subsection (9) of this section.
- (16) Any individual, group, or organization that fails to audit any funds received under this chapter, or that intentionally uses any funds received in any way other than attested to under subsection (13) of this section or for administrative or personnel costs in violation of subsection (13) of this section shall be guilty of a Class D felony and upon conviction shall, in addition to being subject to criminal penalties, be assessed a mandatory five thousand dollar (\$5,000) fine.

Section 3. KRS 186.166 is amended to read as follows:

- (1) The Transportation Cabinet shall, unless directed otherwise by the General Assembly, perpetually produce the following special license plates: military license plates, U.S. Congressional license plates, volunteer firefighter license plates, ~~disaster and~~ emergency **management**~~services~~ license plates, Fraternal Order of Police license plates, Law Enforcement Memorial license plates, street rod license plates, nature license plates, amateur radio license plates, Kentucky General Assembly license plates, Kentucky Court of Justice license plates, Masonic Order license plates, collegiate license plates, independent college and university license plates, child victims' trust fund license plates, Kentucky Horse Council license plates, Ducks Unlimited license plates, Gold Star Mothers license plates, and spay neuter license plates.

- (2) The design of the plates identified for perpetual production under this section may be revised upon request of a group or organization requesting a design revision under the provisions of KRS 186.164(15).

**Approved March 24, 2006.**

## CHAPTER 41

### (HB 472)

AN ACT clarifying that state lottery prizes paid in installments over time may be assigned under certain circumstances.

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

Section 1. KRS 154A.110 is amended to read as follows:

- (1) Proceeds of lottery prizes shall be subject to Kentucky state income tax. Any attachments, garnishments, or executions authorized and issued pursuant to statute shall also be withheld if served upon the process agent of the corporation. This section shall not apply to a retailer.
- (2) The board shall adopt rules to establish a system of verifying the validity of tickets claimed to win prizes and to effect payment of such prizes, except that:
  - (a) No prize, nor any portion of a prize, nor any right of any person to a prize awarded shall be assignable, ***except as provided in subsection (6) of this section.*** Any prize, or portion thereof, remaining unpaid at the death of a prize winner shall be paid to the estate of such deceased prize winner or to the trustee under a revocable living trust established by the deceased prize winner as settlor, provided that a copy of such a trust has been filed with the corporation along with a notarized letter of direction from the settlor and no written notice of revocation has been received by the corporation prior to the settlor's death. Following such a settlor's death and prior to any payment to such a successor trustee, the corporation shall obtain from the trustee and each trust beneficiary a written agreement to indemnify and hold the corporation harmless with respect to any claims that may be asserted against the corporation arising from payment to or through the trust. Notwithstanding any other provisions of this section, any person, pursuant to an appropriate judicial order, shall be paid the prize to which a winner is entitled.
  - (b) No ticket shall knowingly be sold to any person under the age of eighteen (18), but this section does not prohibit the purchase of a ticket by a person eighteen (18) years of age or older for the purpose of making a gift to any person of any age. In such case, the corporation shall direct payment to an adult member of the person's family or the legal guardian of the person on behalf of such person. The person named as custodian shall have the same powers and duties as prescribed for a custodian pursuant to the Uniform Transfers to Minors Act.
  - (c) No prize shall be paid arising from claimed tickets that are stolen, counterfeit, altered, fraudulent, unissued, produced or issued in error, unreadable, not received or not recorded by the corporation within applicable deadlines, lacking in captions that conform and agree with the play symbols as appropriate to the lottery game involved, or not in compliance with such additional specific rules and public or confidential validation and security tests of the corporation appropriate to the particular lottery game involved.
  - (d) No particular prize in any lottery game shall be paid more than once, and in the event of a binding determination that more than one claimant is entitled to a particular prize, the sole remedy of such claimants is the award to each of them of an equal share in the prize.
  - (e) A holder of a winning cash ticket from a Kentucky lottery game shall claim a prize within three hundred sixty-five (365) days (for a ticket issued before January 1, 1995), and within one hundred eighty (180) days (for a ticket issued on or after January 1, 1995), or for a multistate lottery game within one hundred eighty (180) days, after the drawing in which the prize was won. In any Kentucky lottery game in which the player may determine instantly if he has won or lost, he shall claim a prize within three hundred sixty-five (365) days (for lottery games commenced or tickets printed or reprinted before January 1, 1995), and within one hundred eighty (180) days (for lottery games commenced or tickets printed or reprinted on or after January 1, 1995), or for a multistate lottery game within one hundred eighty (180) days, after the end of the lottery game as announced by the corporation. However, a holder of a pull-tab

lottery ticket shall claim a prize within the time period and in the manner printed on the ticket. If a valid claim is not made for a prize within the applicable period, the prize shall constitute an unclaimed prize for purposes of subsection (3) of this section.

- (f) No prize shall be paid upon a ticket purchased or sold in violation of this chapter. Any such prize shall constitute an unclaimed prize for purposes of subsection (3) of this section.
- (3) Any unclaimed prize money may be retained by the corporation and added to the pool from which future prizes are to be awarded or used for special prize promotions, or may be appropriated by the General Assembly directly from the corporation for any public purpose. For fiscal years 2000-2001 and 2001-2002, any unclaimed prize money in excess of six million dollars (\$6,000,000) shall be transferred to the affordable housing trust fund established by KRS 198A.710.
- (4) The corporation is discharged of all liability upon payment of a prize.
- (5) No ticket shall be purchased by and no prize shall be paid to any of the following persons:
  - (a) Any member of the board of directors, officers, or employees of the corporation;
  - (b) Any vendors or related entities, or any member of the board of directors, officers, employees of, partners in, or owners of any vendors or related entities to the vendors; or
  - (c) Any spouse, child, brother, sister, or parent residing as a member of the same household in the principal place of abode of any such person.
- (6) *The right of any person to receive payments due under a prize that is paid in installments over time by the corporation, excluding prizes payable for the winner's life, may be voluntarily assigned, in whole or in part, if the assignment is made to a person or entity designated pursuant to an order of the Circuit Court located in the judicial circuit where the headquarters of the corporation is located. The Circuit Court shall issue an order approving a voluntary assignment, specifying the exact dollar amount of each prize payment or payments assigned, or any portion thereof, the dates of the payments being assigned, the name of the assignor as it appears on the lottery claim form or the full legal name of the assignor if different than the name as it appears on the lottery claim form, and the full legal name of the assignee to whom the assigned payments will be made, and directing the corporation to make the specified payments to the assignee, if all of the following conditions have been met:*
  - (a) *The assignment is in writing, executed by the assignor either before or after the effective date hereof, and by its terms, subject to the laws of this Commonwealth.*
  - (b) *The assignor provides a sworn affidavit attesting that the assignor:*
    - 1. *Is of sound mind, in full command of his or her faculties, and is not acting under duress;*
    - 2. *Has had the opportunity to receive independent legal, financial, and tax advice concerning the effects of the assignment;*
    - 3. *Understands that he or she will not receive the prize payments, or portions thereof, for the years assigned;*
    - 4. *Understands and agrees that with regard to the assigned payments, the Commonwealth, the corporation, and its respective officials and employees will have no further liability or responsibility to make the assigned payments to the assignor;*
    - 5. *Has been provided with a one (1) page written disclosure statement in bold type, fourteen (14) point font or larger, setting forth:*
      - a. *The payments being assigned, by amounts and payment dates;*
      - b. *The purchase price being paid; and*
      - c. *The amount, if any, of any origination or closing fees that will be charged to the lottery winner; and*
    - 6. *Has disclosed the existence or non-existence of a current spouse; and, if married, unless the court finds the assignor may make the assignment without the spouse's consent, the assignor has submitted to the court a signed and notarized statement wherein the spouse consents to the assignment.*

- (7) *Written notice of any petition seeking court approval of an assignment under subsection (6) of this section and of a court hearing, if any, concerning the proposed assignment shall be delivered by certified mail, return receipt requested, to the corporation's registered agent at least fifteen (15) days prior to entry of the court order or a court hearing, if any. The corporation is not a necessary or indispensable party and is not required to appear in or be named as a party to any action seeking court approval of a voluntary assignment, but may intervene as of right in any such proceeding.*
- (8) *A voluntary assignment under subsection (6) of this section shall not include or cover payments or portions of payments that are, at the time of entry of the court order, subject to offset or withholding due to:*
- (a) *A defaulted or delinquent child support obligation;*
  - (b) *A debt owed to a state agency; or*
  - (c) *Any attachments, garnishments, or executions authorized and issued pursuant to statute and served upon the process agent of the corporation as set forth in subsection (1) of this section;*
- unless appropriate provision is made in the court order to satisfy the obligation or obligations giving rise to the offset or withholding at the time of closing of the assignment transaction. Each court order shall provide that any delinquent child support obligation owed by the assignor as of the date of the court order and any debts owed to a state agency by the assignor as of the date of the court order shall be offset by the corporation first against remaining payments or portions thereof then due the assignor and then against payments due the assignee each year until paid in full.*
- (9) *A court order approving a voluntary assignment under subsection (6) of this section, together with any other order issued in connection with any one (1) prize drawn, shall not require the corporation to divide any single prize payment among more than three (3) different persons or entities.*
- (10) *The Commonwealth, the corporation, and their respective officials and employees shall be discharged of all further liability upon payment of a prize pursuant to court order issued under subsection (6) of this section. It shall be the responsibility of the assignor or the assignee to provide the corporation information necessary for the corporation to identify the parties to any assignment under subsection (6) of this section and to make the payments assigned.*
- (11) *The Kentucky Lottery Corporation may establish a reasonable fee, not to exceed one thousand dollars (\$1,000), to defray any administrative expenses associated with processing each assignment made pursuant to subsection (6) of this section. The fee amount shall reflect the direct and indirect costs associated with processing the assignments. A court order approving an assignment under subsection (6) of this section shall direct the assignee to pay the fee to the corporation no later than ten (10) days after entry of the order.*
- (12) *A certified copy of a court order approving a voluntary assignment under subsection (6) of this section shall be delivered by certified mail, return receipt requested, to the corporation's registered agent at least thirty (30) days prior to the date upon which the first assigned payment is to be paid to the assignee. Within ten (10) days of receipt of the court order, the corporation shall acknowledge in writing to both the assignor and the assignee its receipt of the court order and that the corporation shall thereafter make the prize payments in accordance with the court order.*
- (13) *Subsection (6) of this section supersedes and prevails over any provision in the Uniform Commercial Code, including KRS 355.9-406.*
- (14) *The right to assign prize payments pursuant to subsection (6) of this section shall be suspended upon:*
- (a) *The publication by the United States Internal Revenue Service, hereinafter referred to in this subsection as the "Service," of a revenue ruling or other public ruling of the Service, which rules that, based upon the right of assignment provided in subsection (6) of this section, Kentucky lottery prizewinners who do not assign any prize payments would be subject to an immediate income tax liability for the value of the entire prize rather than annual income tax liability for each installment when paid; or*

- (b) *The issuance by a court of competent jurisdiction of a published decision holding that, based upon the right of assignment provided in subsection (6) of this section, a lottery prizewinner who does not assign any prize payments under that subsection would be subject to an immediate income tax liability for the value of the entire prize rather than annual income tax liability for each installment when paid.*

Approved March 24, 2006.

## CHAPTER 42

### (HB 54)

AN ACT relating to consumer records.

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

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

*As used in Sections 1 to 3 of this Act, unless the context requires otherwise:*

- (1) *"Clear and proper identification" means information generally deemed sufficient to identify a person. If the consumer is unable to reasonably identify himself or herself with such information, a consumer reporting agency may require additional information to verify his or her identity;*
- (2) *"Consumer report" means a consumer report, as defined in the federal Fair Credit Reporting Act, 15 U.S.C. sec. 1681a(d);*
- (3) *"Consumer reporting agency" means a consumer reporting agency as defined by the federal Fair Credit Reporting Act, 15 U.S.C. sec. 1681a(f). "Consumer reporting agency" shall not mean a check acceptance service which provides check approval and guarantees services to merchants; and*
- (4) *"Security freeze" means a notice placed on a consumer file, at the request of the consumer and subject to certain exceptions, that prohibits a consumer reporting agency from releasing the consumer's consumer report or credit score relating to the extension of credit without the express authorization of the consumer.*

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

*The following persons are not required to place a security freeze on a consumer report in accordance with Sections 1 to 3 of this Act:*

- (1) *A check services or fraud prevention services company, which issues reports on incidents of fraud or authorizations for the purpose of approving or processing negotiable instruments, electronic funds transfers, or similar methods of payments;*
- (2) *A deposit account information service company, which issues reports regarding account closures due to fraud, substantial overdrafts, automated teller machine (ATM) abuse, or similar negative information regarding a consumer, to inquiring banks or other financial institutions for use only in reviewing a consumer request for a deposit account at the inquiring bank or financial institution;*
- (3) *A reseller of credit information that assembles or merges information contained in the database of another consumer reporting agency or multiple consumer reporting agencies, and does not maintain a permanent database of credit information from which new consumer reports are produced;*
- (4) *Any database or file which consists solely of any information adverse to the interests of the consumer, including but not limited to criminal record information, which is used for fraud prevention or detection, tenant screening, employment screening, or any purpose permitted by the federal Fair Credit Reporting Act, 15 U.S.C. sec. 1681b;*
- (5) *A person to the extent such person offers fraud prevention services that issues reports on incidents of fraud or reports used primarily in the detection or prevention of fraud;*
- (6) *A bank, as defined in 12 U.S.C. sec. 1813(a) or KRS Chapter 287;*
- (7) *A credit union, as defined in 12 U.S.C. sec. 1752 or KRS Chapter 290;*
- (8) *A savings association, as defined in 12 U.S.C. sec. 1813(b), or an association, as defined in KRS Chapter 289;*



- (9) *An insurer, as defined in KRS Chapter 304; and*
- (10) *A retail establishment selling its own inventory.*

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

- (1) (a) *A consumer may elect to place a security freeze on the consumer's consumer report by written request, sent by certified mail, that includes clear and proper identification, to a consumer reporting agency at an address designated by the consumer reporting agency to receive such request. A consumer reporting agency shall place a security freeze on a consumer's consumer report no later than ten (10) business days after receiving a written request for the security freeze from the consumer.*
  - (b) *When a security freeze is in place, information from a consumer's consumer report shall not be released to a third party without prior express authorization from the consumer. This subsection does not prevent a consumer reporting agency from advising a third party that a security freeze is in effect with respect to the consumer's consumer report.*
- (2) *The consumer reporting agency shall, no later than ten (10) business days after the date the agency receives the request for a security freeze, provide the consumer with a unique personal identification number or password to be used by the consumer when providing authorization for the access to his or her credit file for a specific period of time. In addition, the consumer reporting agency shall simultaneously provide to the consumer in writing the process of placing, removing, and temporarily lifting a security freeze and the process for allowing access to information from the consumer's credit file for a specific period while the security freeze is in effect.*
- (3) *A consumer may request in writing a replacement personal identification number or password. The request must comply with the requirements for requesting a security freeze under subsection (1) of this section. The consumer reporting agency shall, not later than the tenth business day after the date the agency receives the request for a replacement personal identification number or password, provide the consumer with a new, unique personal identification number or password to be used by the consumer instead of the number or password that was provided under subsection (2) of this section.*
- (4) *If a third party requests access to a consumer report on which a security freeze is in effect, and this request is in connection with an application for credit, the third party may treat the application as incomplete.*
- (5) *If the consumer wishes to allow his consumer report or credit score to be accessed for a specific period of time while a freeze is in place, the consumer shall contact the consumer reporting agency and request that the freeze be temporarily lifted, and provide the following:*
  - (a) *Clear and proper identification;*
  - (b) *The unique personal identification number or password provided by the consumer reporting agency pursuant to subsections (2) or (3) of this section; and*
  - (c) *The proper information regarding the time period for which the report shall be available to users of the consumer report.*
- (6) *A consumer reporting agency that receives a request from a consumer to temporarily lift a freeze on a consumer report pursuant to subsection (5) of this section shall comply with the request no later than three (3) business days after receiving the request. A consumer reporting agency may develop procedures involving the use of telephone, fax, the Internet, or other electronic media to receive and process a request from a consumer to temporarily lift a freeze on a consumer report or credit score pursuant to subsection (5) of this section in an expedited manner.*
- (7) *A consumer reporting agency shall remove or temporarily lift a freeze placed on a consumer's consumer report only in the following cases:*
  - (a) *Upon consumer request as provided in this section; or*
  - (b) *If the consumer's consumer report was frozen due to a material misrepresentation of fact by the consumer. If a consumer reporting agency intends to remove a freeze upon a consumer's consumer report pursuant to this paragraph, the consumer reporting agency shall notify the consumer in writing prior to removing the freeze on the consumer's consumer report.*

- (8) *A security freeze shall remain in place until the consumer requests that the security freeze be removed, but no longer than seven (7) years from the date the security freeze was put in place. A consumer reporting agency shall remove a security freeze within three (3) business days of receiving a request for removal from the consumer, who provides both of the following:*
- (a) *Clear and proper identification; and*
  - (b) *The unique personal identification number or password provided by the consumer reporting agency.*
- (9) *A security freeze does not apply to a consumer report provided to:*
- (a) *A federal, state, or local governmental entity, including a law enforcement agency, or court, or their agents or assigns;*
  - (b) *A private collection agency for the sole purpose of assisting in the collection of an existing debt of the consumer who is the subject of the consumer report requested;*
  - (c) *A person or entity, or a subsidiary, affiliate, or agent of that person or entity, or an assignee of a financial obligation owing by the consumer to that person or entity, or a prospective assignee of a financial obligation owing by the consumer to that person or entity in conjunction with the proposed purchase of the financial obligation, with which the consumer has or had prior to assignment an account or contract, including a demand deposit account, or to whom the consumer issued a negotiable instrument, for the purposes of reviewing the account or collecting the financial obligation owing for the account, contract, or negotiable instrument. For purposes of this paragraph, "reviewing the account" includes activities related to account maintenance, monitoring, credit line increases, and account upgrades and enhancements;*
  - (d) *A subsidiary, affiliate, agent, assignee, or prospective assignee of a person to whom access has been granted under subsection (5) of this section for the purposes of facilitating the extension of credit;*
  - (e) *A person, for the purposes of prescreening as provided by the federal Fair Credit Reporting Act;*
  - (f) *A consumer reporting agency for the purposes of providing a consumer with a copy of his own report on his request;*
  - (g) *A child support enforcement agency;*
  - (h) *A consumer reporting agency that acts only as a reseller of credit information by assembling and merging information contained in the database of another consumer reporting agency or multiple credit reporting agencies and does not maintain a permanent database of credit information from which new consumer reports are produced. However, a consumer reporting agency acting as a reseller shall honor any security freeze placed on a consumer report by another consumer reporting agency;*
  - (i) *A check services or fraud prevention services company, which issues reports on incidents of fraud or authorizations for the purpose of approving or processing negotiable instruments, electronic funds transfers, or similar methods of payments;*
  - (j) *A deposit account information service company, which issues reports regarding account closures due to fraud, substantial overdrafts, ATM abuse, or similar negative information regarding a consumer, to inquiring banks or other financial institutions for use only in reviewing a consumer request for a deposit account at the inquiring bank or financial institution;*
  - (k) *Any person or entity using a consumer report in preparation for a civil or criminal action, or an insurance company in investigation of a claim; or*
  - (l) *Any insurance company for setting or adjusting a rate or underwriting for property and casualty insurance purposes.*
- (10) *A consumer reporting agency may impose a reasonable charge on a consumer for initially placing, temporarily lifting, or removing a security freeze on a consumer file. The amount of the charge may not exceed ten dollars (\$10). On January first of each year, a consumer reporting agency may increase the charge for placing a security alert. The increase shall be based proportionally on changes to the Consumer Price Index of All Urban Consumers as determined by the United States Department of Labor with fractional changes rounded to the nearest twenty-five cents (\$0.25). An exception shall be allowed whereby the consumer will be charged zero dollars by the consumer reporting agency placing the security freeze if*

*the consumer is a victim of identity theft and, upon the request of the consumer reporting agency, provides the consumer reporting agency with a valid police report.*

- (11) *If a security freeze is in place, a consumer reporting agency shall not change any of the following official information in a consumer report without sending a written confirmation of the change to the consumer within thirty (30) days of the change being posted to the consumer's file:*

- (a) *Name;*
- (b) *Date of birth;*
- (c) *Social security number; and*
- (d) *Address.*

*Written confirmation is not required for technical modifications of a consumer's official information, including name and street abbreviations, complete spellings, or transposition of numbers or letters. In the case of an address change, the written confirmation shall be sent to both the new address and to the former address.*

- (12) *Any person who willfully fails to comply with any requirement imposed under this section with respect to any consumer is liable to that consumer in an amount equal to the sum of:*

- (a) *Any actual damages sustained by the consumer as a result of the failure;*
- (b) *Any liquidated damages of not less than one hundred dollars (\$100) and not more than one thousand dollars (\$1,000);*
- (c) *Any punitive damages as the court may allow; and*
- (d) *In the case of any successful action to enforce any liability under this section, the costs of the action together with reasonable attorney's fees as determined by the court.*

- (13) *Any person, other than the named individual or individuals in the report, who obtains a consumer report, requests a security freeze, requests the temporary lift of a freeze, or the removal of a security freeze from a consumer reporting agency under false pretenses or in an attempt to violate federal or state law shall be liable to the consumer reporting agency for actual damages sustained by the consumer reporting agency or one thousand dollars (\$1,000), whichever is greater.*

- (14) *Any person who is negligent in failing to comply with any requirement imposed under this section with respect to any consumer is liable to that consumer in an amount equal to the sum of:*

- (a) *Any actual damages sustained by the consumer as a result of the failure; and*
- (b) *In the case of any successful action to enforce any liability under this section, the costs of the action together with reasonable attorney's fees as determined by the court.*

- (15) *Nothing in Sections 1 to 3 of this Act shall be construed to limit or restrict the exercise of powers or the performance of the duties of the Attorney General authorized under any other provision of law to bring or seek redress for persons that violate Sections 1 to 3 of this Act.*

SECTION 4. A NEW SECTION OF KRS CHAPTER 365 IS CREATED TO READ AS FOLLOWS:

*As used in Sections 4 to 6 of this Act, unless the context requires otherwise:*

- (1) *"Business" means a sole proprietorship, partnership, corporation, limited liability company, association, or other entity, however organized and whether or not organized to operate at a profit. "Business" shall not mean a bank as defined in 12 U.S.C. sec. 1813(a) or KRS Chapter 287, a credit union as defined in 12 U.S.C. sec. 1752 or KRS Chapter 290, a savings association as defined in 12 U.S.C. sec. 1813(b), or an association as defined in KRS Chapter 289. The term includes an entity that destroys records;*
- (2) *"Customer" means an individual who provides personal information to a business for the purpose of purchasing or leasing a product or obtaining a service for business;*
- (3) *"Individual" means a natural person;*
- (4) *"Personally identifiable information" means data capable of being associated with a particular customer through one (1) or more identifiers, including but not limited to a customer's name, address, telephone*

*number, electronic mail address, fingerprints, photographs or computerized image, Social Security number, passport number, driver identification number, personal identification card number or code, date of birth, medical information, financial information, tax information, and disability information; and*

- (5) *"Records" means any material, regardless of the physical form, on which information is recorded or preserved by any means, including in written or spoken words, graphically depicted, printed, or electromagnetically transmitted.*

SECTION 5. A NEW SECTION OF KRS CHAPTER 365 IS CREATED TO READ AS FOLLOWS:

*When a business disposes of, other than by storage, any customer's records that are not required to be retained, the business shall take reasonable steps to destroy, or arrange for the destruction of, that portion of the records containing personally identifiable information by shredding, erasing, or otherwise modifying the personal information in those records to make it unreadable or indecipherable through any means.*

SECTION 6. A NEW SECTION OF KRS CHAPTER 365 IS CREATED TO READ AS FOLLOWS:

- (1) *Any customer injured by a violation of Section 5 of this Act may institute a civil action to recover damages.*
- (2) *Any business that violates, proposes to violate, or has violated any provision of Section 5 of this Act may be enjoined in a civil action.*
- (3) *The rights and remedies available under this section shall be cumulative to each other and to any other rights and remedies available under law.*

Section 7. KRS 434.870 is amended to read as follows:

As used in KRS 434.870 to 434.876, unless the context otherwise requires:

- (1) "Financial information" includes but is not limited to any of the following information identifiable to the individual that concerns the amount and conditions of an individual's assets, liabilities, or credit:
  - (a) Account numbers and balances;
  - (b) Transactional information concerning any account;
  - (c) Codes, passwords, Social Security numbers, tax identification numbers, and driver's license numbers; and
  - (d) Information held for the purpose of credit or loan acquisition, account access, or transaction initiation;
- (2) "Financial information repository" means any person engaged in the business of providing services to customers who have a credit, deposit, trust, stock, or other financial account or relationship with the person; and
- (3) "Person" means an individual, *sole proprietorship*, partnership, corporation, *limited liability company*, ~~or~~ association, *or any entity however organized and whether or not organized to operate for profit.*

**Approved March 24, 2006.**

## **CHAPTER 43**

### **(HB 450)**

AN ACT relating to forestry.

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

Section 1. KRS 149.344 is amended to read as follows:

- (1) Two (2) years from July 15, 1998, any logger or operator engaged in the conduct of any timber harvesting operations shall use appropriate best management practices.
- (2) No logger or operator shall conduct any timber harvesting operations in a manner that is causing or will likely cause water pollution.
- (3) If the cabinet determines that a logger or operator engaged in timber harvesting operations has failed to use the appropriate best management practices or is causing water pollution, the cabinet shall give the logger or

operator a written warning of the facts alleged to constitute the failure to use the best management practice or the water pollution, and a reasonable period for abatement and compliance.

- (4) If, after the time for abatement in the written warning, the cabinet determines that the logger or operator has failed to implement the appropriate best management practices or has failed to abate the water pollution, the logger or operator will be provided an opportunity for an informal conference with the district forester. After the opportunity for an informal conference, if the cabinet determines that the logger or operator has failed to implement the appropriate best management practices or has failed to abate the water pollution, the cabinet shall issue a notice of violation stating the best management practice that the logger or operator has failed to implement or the facts alleged to constitute the water pollution, and order the logger or operator to implement corrective measures within a specified period of time.
- (5) If, after the issuance of a notice of violation, the logger or operator fails to implement the best management practice or corrective measures, the cabinet shall issue a special order mandating the logger or operator to immediately implement the best management practice or the corrective measures. The cabinet may also order the logger or operator to cease all or a portion of the timber harvesting operation constituting the violation, and if the cabinet does so, the logger or operator shall cease all or a portion of the timber harvesting operation, until an inspection determines that the violation has been abated. At the time the special order is issued, the cabinet shall notify the logger or operator of the opportunity for an administrative hearing under KRS 149.346(2), to be held within five (5) working days of the receipt of a written request made by the logger or operator.
- (6) If the cabinet finds that any logger or operator is conducting any timber harvesting operations in violation of KRS 149.342(1) or in a manner that is causing or is likely to cause water pollution that is presenting or will likely present an imminent and substantial danger to the public health, safety, or welfare, or to the health of animals, fish, or aquatic life, or to a public water supply, or to recreational, commercial, agricultural, or industrial uses, the cabinet may issue an emergency order directing the logger or operator to immediately cease the activity and implement corrective measures within a reasonable time, and the logger or operator shall immediately cease the activity and implement corrective measures. At the time the order is issued, the cabinet shall also notify the logger or operator of the opportunity for an administrative hearing under KRS 149.346(2) to be held within five (5) working days of the receipt of a written request. The commencement of proceedings by the cabinet under subsection (3), (4), ~~(5)~~, **or (10)** of this section shall not preclude the cabinet from issuing an emergency order under this subsection.
- (7) Notification under this section shall be by certified mail, return receipt requested, sent to the last known address of the logger or operator, or by hand delivery by the cabinet.
- (8) If the logger or operator fails or refuses to cease activity or comply with and implement the best management practices or corrective measures in a special order issued under subsection (5) of this section or fails to cease activity and implement corrective measures in an emergency order under subsection (6) of this section, unless extended by the cabinet, the logger or operator shall be deemed a bad actor and shall be subject to civil penalties under KRS 149.348 after an opportunity for a hearing under KRS 149.346. The cabinet shall have the authority to remove or terminate bad actor designations from loggers or operators that demonstrate adherence to implementing best management practices, have paid all fines and penalties imposed by the cabinet, and have completed corrective action on sites with violations.
- (9) The cabinet may promulgate administrative regulations to establish rules and procedures to remove or terminate the bad actor designation from a logger or operator that was previously designated a bad actor under subsection (8) of this section.
- (10) ***If the cabinet determines that a logger or operator engaged in timber harvesting operations has failed to use the appropriate best management practices in violation of this section, and the logger or operator has been issued two (2) or more bad actors designations under KRS 149.346, the cabinet shall immediately issue a warning and, if the violations are not corrected after a period defined by the warning but no longer than one (1) week, shall issue an order directing the logger or operator to immediately cease the activity and implement corrective measures within a reasonable time, and the logger or operator shall immediately cease the activity and implement corrective measures. At the time the order is issued, the cabinet shall also notify the logger or operator of the opportunity for an administrative hearing under KRS 149.346(2) to be held within five (5) working days of the receipt of a written request.***

Approved March 24, 2006.

**CHAPTER 44****(HB 429)**

AN ACT relating to the acquisition of cemetery land.

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

Section 1. KRS 416.210 is amended to read as follows:

Any burial association or corporation may, ***with the approval of the appropriate city, county, urban-county, consolidated local government, or charter county legislative body***, condemn land by first recording, in the county clerk's office of the county where the land lies, a resolution that it needs the land to furnish a burial site for the public. It may condemn a sufficient roadway to have access to the land, not wider than one hundred (100) feet. It may also condemn enough land, not exceeding five (5) acres, adjacent to any land used for a cemetery for a chapel site. If the building of any state highway requires a change in the entrance to any cemetery, the burial association or corporation may condemn any adjacent land, not wider than one hundred (100) feet for the new entrance. The condemnation procedure shall be in the Circuit Court of the county pursuant to the Eminent Domain Act of Kentucky. This section shall not permit condemnation of more than forty (40) acres at any one time.

**Approved March 24, 2006.**

**CHAPTER 45****(HB 159)**

AN ACT relating to foster parents.

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

SECTION 1. A NEW SECTION OF KRS CHAPTER 620 IS CREATED TO READ AS FOLLOWS:

- (1) ***Persons who provide foster care services to children who have been committed to the custody of the state shall be considered a primary partner and member of a professional team caring for foster children. Foster parents who contract directly with the cabinet shall have the following rights:***
- (a) ***To be treated with respect, consideration, and dignity;***
  - (b) ***To fully understand the role of the cabinet and the role of other members of the child's professional team;***
  - (c) ***To receive information and training about foster parents' rights, responsibilities, and access to local and statewide support groups, including but not limited to the Kentucky Foster/Adoptive Care Association, the Kentucky Foster and Adoptive Parent Network, and Adoption Support of Kentucky;***
  - (d) ***To receive information and training to improve skills in the daily care and in meeting the special needs of foster children;***
  - (e) ***To receive timely and adequate financial reimbursement for knowledgeable and quality care of a child in foster care within budgetary limitations;***
  - (f) ***To maintain the foster family's own routines and values while respecting the rights and confidentiality of each foster child placed in their home;***
  - (g) ***To receive a period of respite from providing foster care, pursuant to cabinet policies;***
  - (h) ***To receive, upon an open records request, a copy of all information contained in the cabinet's records about the family's foster home and the foster care services provided by the family consistent with KRS 605.160;***
  - (i) ***To access cabinet support and assistance as necessary twenty-four (24) hours per day, seven (7) days per week;***
  - (j) ***To receive, prior to a child being placed in the foster home pursuant to KRS 605.090, information relating to the child's behavior, family background, or health history that may jeopardize the health or safety of any member of the foster family's household, including other foster children, and similar***

*information that may affect the manner in which foster care services are provided, consistent with KRS 605.160. In an emergency situation, the cabinet shall provide information as soon as it is available;*

- (k) To refuse placement of a child within the foster home and to request, with reasonable notice to the cabinet, the removal of a child from the foster home without fear of reprisal;*
  - (l) To communicate, with an appropriate release of information consistent with KRS 605.160, with other professionals who work directly with the foster child, including but not limited to teachers, therapists, and health care practitioners and to notify the cabinet within twenty-four (24) hours of the communication;*
  - (m) To assist the cabinet in the development of the child's plan of care;*
  - (n) To receive an explanatory notice from the cabinet, consistent with KRS 620.130 and when it is in the best interest of the child, when a foster child's case plan has changed and, except in an immediate response to a child protective services investigation involving the foster home, an explanatory notice of termination or change in placement affecting the foster home within fourteen (14) days of the change or termination in placement;*
  - (o) To have priority consideration for placement if a child who has previously been placed in the foster home reenters foster care, consistent with KRS 605.130 and 620.130 and to the extent it is in the best interest of the child;*
  - (p) To have priority consideration for adoption if a foster child who has been placed in the foster home for a period of at least twelve (12) consecutive months becomes eligible for adoption consistent with KRS 605.130 and 620.130 and to the extent it is in the best interest of the child; and*
  - (q) To maintain contact with the foster child after the child leaves the foster home, unless the child, a biological parent, the cabinet when the cabinet retains custody of the child, or other foster or adoptive parent refuses such contact.*
- (2) The responsibilities of foster parents that contract directly with the cabinet shall include, but not be limited to the following:*
- (a) To maintain an orderly and clean home;*
  - (b) To ensure that child has adequate resources for personal hygiene and clothing;*
  - (c) To provide recreational and spiritual opportunities for the child, in accordance with cabinet policies;*
  - (d) To attend all school and case planning meetings involving a foster child placed in their home whenever possible subject to KRS 620.130 and the confidentiality requirements of 42 U.S.C. sec. 671;*
  - (e) To abide by cabinet policies relating to discipline of a foster child; and*
  - (f) To support the involvement of a foster child's biological family whenever possible and in accordance with cabinet policies.*
- (3) The cabinet shall provide specific training on investigations of alleged child abuse or neglect in a foster home to a person appointed by the Kentucky Foster/Adoptive Care Association. The training shall include the rights of a foster parent during an investigation. Training shall be consistent with 42 U.S.C. sec. 5106(a).*
- (4) Nothing in this section shall be construed to establish monetary liability of or cause of action against the cabinet.*

**Approved March 24, 2006.**

## **CHAPTER 46**

**(HB 121)**

AN ACT relating to disclosure of information about sprinkler systems in long-term care facilities.

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

SECTION 1. A NEW SECTION OF KRS 216.537 TO 216.590 IS CREATED TO READ AS FOLLOWS:

- (1) *As used in this section, "long-term care facility" has the same meaning as provided in KRS 216.510, except the term shall not include family-care homes.*
- (2) *Prior to a person's admission, a long-term care facility that does not have a sprinkler system in each resident room shall explain to the person, or the responsible party for the person, details about the facility's sprinkler system and which resident rooms in the facility are not equipped with a sprinkler.*
- (3) *Each long-term care facility that does not have a sprinkler system shall obtain, prior to a person's admission, a written form signed by the person or the responsible party for the person that acknowledges the person's or responsible party's awareness that the facility does not have a sprinkler system. The form shall not contain any statement that releases or purports to release the long-term care facility from any liability arising from the absence of a sprinkler system.*

Approved March 24, 2006.

## CHAPTER 47

(HB 23)

AN ACT relating to management districts.

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

Section 1. KRS 91.756 is amended to read as follows:

- (1) An ordinance establishing a management district shall include, but not be limited to, the following provisions:
  - (a) An accurate description of the boundaries of the management district designated either by map or perimeter description;
  - (b) A description of the economic improvements that may be undertaken within the management district by its board of directors, including but not limited to:
    1. The planning, administration, and management of development or improvement activities;
    2. Landscaping, maintenance, and cleaning of public ways and spaces;
    3. The promotion of commercial activity or public events;
    4. The conduct of activities in support of business recruitment and development;
    5. The provision of security for public areas;
    6. The construction and maintenance of capital improvements to public ways and spaces; and
    7. Any other economic improvement activity that specially benefits property;
  - (c) A requirement that the legislative body approve the annual budget and **receive a copy of the** annual economic improvement plan for the district ~~and establish a procedure and schedule for such approval~~;
  - (d) The method of assessment of the properties that may include any fair basis authorized by KRS 91A.200 to 91A.290;
  - (e) The method for collection of the assessment;
  - (f) A method by which the annual increase in assessments caused by inflation, new growth, and other factors shall be limited;
  - (g) The **organizational structure**~~makeup~~ of the board of directors for the management district and its powers and duties; and
  - (h) Any other provisions deemed necessary by the legislative body to implement the provisions of KRS 91.750 to 91.762.
- (2) After the first reading of the ordinance to establish the management district, but prior to its second reading and passage, a public hearing on the question of the establishment of the management district shall be held by the legislative body.



- (3) A summary of the proposed plan for the management district shall be published in a newspaper in accordance with KRS Chapter 424 no less than twice, at least seven (7) but not earlier than twenty-one (21) days before the date of the public hearing. Notice shall also specify the date, time, and place of the hearing. In addition, a copy of the proposed ordinance and the notice of the hearing shall be mailed, by first class mail, to all property owners within the proposed management district.
- (4) After the public hearing, the legislative body may give second reading to the ordinance that shall become effective if passed and approved pursuant to KRS 83.500.
- (5) After the establishment of a management district, the legislative body shall not decrease the level of publicly funded services in the management district existing prior to the creation of the district or transfer the burden of providing the services, unless the services at the same time are decreased throughout the city, consolidated local government, or urban-county.

Section 2. KRS 91.758 is amended to read as follows:

- (1) Upon the effective date of the ordinance establishing the management district, a board of directors shall be appointed and shall proceed to implement the economic ***improvements contained in the ordinance***~~improvement plan~~ adopted by the legislative body.
- (2) As soon as practicable after its appointment, and each year thereafter as provided by ordinance, the board of directors shall develop a plan for economic improvements within the management district and shall prepare an annual detailed budget for the costs of providing economic improvements and shall submit the ~~plan and~~ budget to the legislative body for its approval.
- (3) Upon approval of the ~~economic improvement plan and~~ annual budget, the board of directors shall publish both ***the economic improvement plan and the annual budget*** pursuant to KRS Chapter 424 and shall mail by first class mail to each affected property owner a description of the plan, the fair basis of assessment to be utilized, the estimated cost to the property owner, and the ratio that the cost to each property owner bears to the total cost of the economic improvements.
- (4) The ordinance establishing the management district shall provide a procedure for the annual collection of the assessment for the economic improvements.
  - (a) The board of directors may be directed to annually prepare and mail by first class mail to an owner of each parcel of real property the annual assessment, and to establish due dates and penalties and interest, if any, for delinquent payment; or
  - (b) The annual assessment may be collected in the same manner, at the same times, and by the office authorized by law for the collection and enforcement of general city, consolidated local government, or urban-county taxes, in which case the collector of taxes shall make regular remittances of the amounts collected to the board of directors. The penalties and interest for delinquent taxes may be applied to delinquent assessments, or separate penalties and interest may be imposed; however, no discount shall be provided for early payment.
  - (c) Notwithstanding the method of collection for the assessment that is adopted, any affected property owner shall be afforded the right to contest the amount of assessment or the inclusion of his or her property. The contest shall be filed with the board of directors within thirty (30) days of the receipt of the assessment. The property owner shall have the right to appear before the board of directors and present evidence. A record shall be made of the proceedings and the board of directors shall render a written decision. The decision of the board of directors may be appealed to the Circuit Court of the county in which the city, consolidated local government, or urban-county is located.
- (5) The amount of any outstanding assessment on any property, and accrued interest and other charges, shall constitute a lien on the property. The lien shall take precedence over all other liens, whether created prior to or subsequent to the assessment, except a lien for state and county taxes, general municipal, consolidated local government, or urban-county taxes, and prior improvement assessments, and shall not be defeated or postponed by any private or judicial sale, by any mortgage, or by any error or mistake in the description of the property or in the names of the owners. No error in the proceedings of the city, consolidated local government, or urban-county legislative body or the board of directors of the management district shall exempt any property from the lien for the economic improvement assessment, or from payment thereof, or from the penalties or interest thereon, as herein provided.

Section 3. KRS 91.760 is amended to read as follows:

- (1) The management district shall constitute a body corporate with the power to sue and be sued, and to contract, and shall be controlled by a board of directors.
- (2) The number of members of the board of directors, their terms and qualifications, shall be established by the ordinance creating the district. *All members of the board shall be property owners, representatives of property owners, or tenants within the district, except for specified ex-officio members designated in the local ordinance. At least two-thirds (2/3) of the total number of board members, including ex-officio members, must be property owners or the representatives of property owners within the district.* ~~No fewer than a majority of the board shall be property owners or representatives of property owners within the district.~~ The board members shall be appointed by the executive authority of the city, consolidated local government, or urban-county, with the approval of the legislative body. A board member may be removed by the executive authority for violation of the rules, regulations, or operating procedures adopted by the board of directors if the removal is recommended by a majority of the members of the board of directors.
- (3) The powers of the board of directors shall include all powers set forth in KRS 91.750 to 91.762 and the ordinance establishing the management district. The board of directors may employ or contract with persons to assist it in its responsibilities.
- (4) The board of directors shall manage the fiscal affairs of the management district and shall adopt rules and regulations governing the investment and disbursement of funds. The board of directors may borrow money on a short-term or long-term basis as required. *The total aggregate amount of long-term and short-term debt which may be carried by a management district shall not exceed five hundred thousand dollars (\$500,000).* The board of directors may hold funds in the name of the management district or may designate the city, consolidated local government, or urban-county as the fiscal agent for the management district. Money derived from the assessments imposed pursuant to KRS 91.750 to 91.762 shall be used only for economic improvements and the cost of administration of the management district and shall be used for no other purposes. As soon as practicable after the close of the fiscal year, the board of directors shall cause an audit to be performed of all funds of the management district by a certified public accountant.
- (5) In addition to receiving funds from assessments, the board of directors shall be authorized to receive grants, donations, and gifts.

Section 4. KRS 91.762 is amended to read as follows:

- (1) The boundaries of the management district may be changed at any time by the legislative body in the same manner as provided in KRS 91.750 to 91.762 for the establishment of the management district.
- (2) The management district shall be dissolved by the legislative body upon the receipt of a petition requesting dissolution that is signed by a number of real property owners who together are the owners of real property within the management district equal to at least *fifty and one tenth* ~~seventy-five~~ percent *(50.1%)* ~~((75%))~~ of the assessed value of the property *and thirty-three percent (33%) of the number of property owners* within the management district, *except that a management district shall not be dissolved if the district has any outstanding indebtedness.*
- (3) If a management district is to be dissolved, and after the payment of all obligations and costs of administration incurred on behalf of the management district, there remain excess funds from assessments paid by property owners, then the city, consolidated local government, or urban-county, by ordinance, shall provide for:
  - (a) The return of the excess funds to the owners of properties in amounts proportionate to the amounts of the assessments they paid for the district;
  - (b) Use of the excess funds for continued provision of the economic improvements until the excess funds are fully spent; or
  - (c) Use of part of the excess funds for continued provision of economic improvements and return of the balance of the excess funds in proportionate amounts to affected property owners.

**Approved March 24, 2006.**

**CHAPTER 48****(HJR 110)**

A JOINT RESOLUTION designating the Aviation Museum of Kentucky, Inc., as the official Aviation Museum of the Commonwealth of Kentucky.

WHEREAS, the Aviation Museum of Kentucky opened at Blue Grass Airport, Lexington, on April 15, 1995, with a mission to serve as an educational and cultural resource of the Commonwealth; and

WHEREAS, the Aviation Museum of Kentucky's roots go back to 1978 and the Kentucky Aviation History Roundtable; and

WHEREAS, the Aviation Museum of Kentucky is a nonprofit corporation that collects and displays an extensive array of aircraft and aviation memorabilia for the public's enjoyment and education, and designs and offers educational programs for the youth of Kentucky; and

WHEREAS, the Aviation Museum of Kentucky has assembled a broad collection of vintage aircraft, modern aircraft, private aircraft, and military aircraft; and

WHEREAS, the Aviation Museum of Kentucky continues to add aircraft and exhibits that illustrate the principles and history of flight, and Kentucky's significant place in that history; and

WHEREAS, the Aviation Museum of Kentucky supports state-wide tourism by hosting thousands of visitors annually, including guests from every state and from sixty-seven foreign countries; and

WHEREAS, thousands of Kentucky's school children visit the Museum annually, supporting the Commonwealth's educational goals of improving students' grasp of math, history, and science; and

WHEREAS, every year the Aviation Museum of Kentucky takes its Aviation Summer Camp to communities throughout the Commonwealth, introducing hundreds of students to the wonders of flight, and to the possibilities an aviation career can offer; and

WHEREAS, the Aviation Museum of Kentucky founded, houses, and conducts the annual Kentucky Aviation Hall of Fame, which is the Commonwealth's Official Aviation Hall of Fame and the keeper of Kentucky's proud history of aviation achievement;

NOW, THEREFORE,

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

Section 1. The Aviation Museum of Kentucky, Inc., is designated as the official Aviation Museum of the Commonwealth of Kentucky.

**Approved March 24, 2006.**

**CHAPTER 49****(SB 81)**

AN ACT relating to the definition of limousine.

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

Section 1. KRS 281.014 is amended to read as follows:

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

- (1) (a) The term "city taxicab certificate" or "city limousine certificate" means a certificate granting authority only for the operation of a given number of motor vehicles transporting passengers for hire, the principal operation of which is confined to the corporate limits of a city of the first or second class or an urban-county area and the city's suburban area, or the corporate limits of any city and its suburban area located in a county which contains a city of the first or second class or an urban-county area, and not

- operating over any regular route, and the destination of which motor vehicles are designated by the passengers at the time of such transportation;
- (b) The term "county taxicab certificate" or "county limousine certificate" means a certificate granting authority only for the operation of a given number of motor vehicles transporting passengers for hire, the principal operation of which is confined to a specific county which does not contain a city of the first or second class and is not an urban-county area, and not operating over any regular route, and the destination of which motor vehicles are designated by the passengers at the time of the transportation;
  - (c) A "taxicab" means a motor vehicle operated under one (1) or more taxicab certificates, and is a vehicle designed or constructed to transport not more than fifteen (15) passengers exclusive of the driver;
  - (d) A "limousine" means a luxury motor vehicle passenger car which has either a standard or an extended wheelbase. The vehicle ~~may~~<sup>shall</sup> have additional rear seating capacity, area, and comforts, but shall be designed or constructed to transport not more than fifteen (15) passengers plus the driver;
  - (e) The term "taxicab license" means a license plate issued to a taxicab authorized to operate under a taxicab certificate;
  - (f) The term "limousine license" means a license plate issued to a limousine authorized to operate under a limousine certificate;
- (2)
    - (a) An "airport shuttle certificate" means a certificate granting authority only for the operation of motor vehicles exclusively transporting passengers or baggage for hire over regular routes between points within a city or its suburban area and an airport;
    - (b) An "airport shuttle vehicle" means a motor vehicle operated under one (1) or more airport shuttle certificates and which is designed or constructed to transport not more than fifteen (15) passengers plus the driver;
    - (c) The term "airport shuttle vehicle license" means a license plate issued for a motor vehicle authorizing its operation under one (1) or more airport shuttle certificates;
  - (3) The term "U-Drive-It" means any person who leases or rents a motor vehicle for a consideration to be used for the transportation of persons or property, but for which no driver is furnished, and the use of which motor vehicle is not for the transportation of persons or property for hire by the lessee or rentee;
  - (4) The term "driveaway" means the transporting and delivering of motor vehicles, except semitrailers, and trailers, whether destined to be used in either a private or for-hire capacity, under their own power or by means of a full mount method, saddle mount method, the tow bar method, or any combination of them over the highways of this state from any point of origin to any point of destination for-hire. The transportation of such vehicles by the full mount method on trailers or semitrailers shall not be included in the term;
  - (5)
    - (a) "Disabled persons vehicle" means a motor vehicle especially equipped and used for the transportation of persons with disabilities and which is in compliance with the accessibility specifications of 49 C.F.R. Part 38, but it shall be designed and constructed to transport not more than fifteen (15) passengers plus the driver. It shall not mean an ambulance as defined in KRS 311A.010. It shall not mean a motor vehicle equipped with a stretcher;
    - (b) "Disabled persons carrier" means an irregular route common carrier for hire, transporting the general public who require transportation in disabled persons vehicles;
    - (c) "Disabled persons certificate" means a certificate that grants authority only for the operation of a given number of disabled persons vehicles for hire, the principal operation of which is confined to a specific county;
  - (6) "Human service transportation delivery" means the provision of transportation services to any person that is an eligible recipient in one (1) of the following state programs:
    - (a) Nonemergency medical transportation under KRS Chapter 205;
    - (b) Mental health, mental retardation, or comprehensive care under KRS Chapter 202A, 202B, 210, or 645;
    - (c) Kentucky Works Program under KRS Chapter 194 or 205;
    - (d) Aging services under KRS Chapter 205, 209, 216, or 273;

- (e) Vocational rehabilitation under KRS 151B or 157; or
- (f) Blind industries or rehabilitation under KRS Chapter 151B or 163;
- (7) "Delivery area" means one (1) or more regions established by the cabinet in administrative regulations promulgated under KRS Chapter 13A for the purpose of providing human service transportation delivery in that region;
- (8) "Broker" means a person selected by the cabinet through a request for proposal process to coordinate human service transportation delivery within a specific delivery area. A broker may also provide transportation services within the specific delivery area for which the broker is under contract with the cabinet;
- (9) "Subcontractor" means a person who has signed a contract with a broker to provide human service transportation delivery within a specific delivery area and who meets human service transportation delivery requirements, including proper operating authority; and
- (10) "CTAC" means the Coordinated Transportation Advisory Committee created under KRS 281.870.

**Approved March 24, 2006.**

## CHAPTER 50

(SB 93)

AN ACT relating to crimes and punishments and declaring an emergency.

WHEREAS, certain despicable individuals have been disrupting the funerals of soldiers who died while serving in the United States Armed Forces; and

WHEREAS, these disruptions have taken such forms as shouting insults at the parents of the fallen; and

WHEREAS, the military dead and their families deserve respect and compassion; and

WHEREAS, all mourners should be left in peace;

NOW THEREFORE,

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

SECTION 1. A NEW SECTION OF KRS CHAPTER 525 IS CREATED TO READ AS FOLLOWS:

- (1) *A person is guilty of disorderly conduct in the first degree when he or she:*
  - (a) *In a public place and with intent to cause public inconvenience, annoyance, or alarm, or wantonly creating a risk thereof:*
    - 1. *Engages in fighting or in violent, tumultuous, or threatening behavior;*
    - 2. *Makes unreasonable noise; or*
    - 3. *Creates a hazardous or physically offensive condition by any act that serves no legitimate purpose; and*
  - (b) *Acts in a way described in paragraph (a) of this subsection within three hundred (300) feet of a:*
    - 1. *Cemetery during a funeral or burial;*
    - 2. *Funeral home during the viewing of a deceased person;*
    - 3. *Funeral procession; or*
    - 4. *Funeral or memorial service; and*
  - (c) *Knows that he or she is within three hundred (300) feet of an occasion described in paragraph (b) of this subsection.*
- (2) *Disorderly conduct in the first degree is a Class A misdemeanor.*

Section 2. KRS 525.060 is amended to read as follows:

- (1) A person is guilty of disorderly conduct *in the second degree* when in a public place and with intent to cause public inconvenience, annoyance, or alarm, or wantonly creating a risk thereof, he:
- (a) Engages in fighting or in violent, tumultuous, or threatening behavior;~~{or}~~
  - (b) Makes unreasonable noise;~~{or}~~
  - (c) Refuses to obey an official order to disperse issued to maintain public safety in dangerous proximity to a fire, hazard, or other emergency; or
  - (d) Creates a hazardous or physically offensive condition by any act that serves no legitimate purpose.
- (2) Disorderly conduct *in the second degree* is a Class B misdemeanor.

SECTION 3. A NEW SECTION OF KRS CHAPTER 525 IS CREATED TO READ AS FOLLOWS:

- (1) *A person is guilty of disrupting meetings and processions in the first degree when, with intent to prevent or disrupt a funeral or burial, funeral home viewing of a deceased person, funeral procession, or funeral or memorial service for a deceased person, he or she does any act tending to obstruct or interfere with it physically or makes any utterance, gesture, or display designed to outrage the sensibilities of the group attending the occasion.*
- (2) *Disrupting meetings and processions in the first degree is a Class A misdemeanor.*

Section 4. KRS 525.150 is amended to read as follows:

- (1) A person is guilty of disrupting meetings and processions *in the second degree* when, with intent to prevent or disrupt a lawful meeting, procession, or gathering, he *or she* does any act tending to obstruct or interfere with it physically or makes any utterance, gesture, or display designed to outrage the sensibilities of the group.
- (2) Disrupting meetings and processions *in the second degree* is a Class B misdemeanor.

SECTION 5. A NEW SECTION OF KRS CHAPTER 525 IS CREATED TO READ AS FOLLOWS:

- (1) *A person is guilty of interference with a funeral when he or she at any time on any day:*
- (a) *Blocks, impedes, inhibits, or in any other manner obstructs or interferes with access into or from any building or parking lot of a building in which a funeral, wake, memorial service, or burial is being conducted, or any burial plot or the parking lot of the cemetery in which a funeral, wake, memorial service, or burial is being conducted;*
  - (b) *Congregates, pickets, patrols, demonstrates, or enters on that portion of a public right-of-way or private property that is within three hundred (300) feet of an event specified in paragraph (a) of this subsection; or*
  - (c) *Without authorization from the family of the deceased or person conducting the service, during a funeral, wake, memorial service, or burial:*
    - 1. *Sings, chants, whistles, shouts, yells, or uses a bullhorn, auto horn, sound amplification equipment, or other sounds or images observable to or within earshot of participants in the funeral, wake, memorial service, or burial; or*
    - 2. *Distributes literature or any other item.*
- (2) *Interference with a funeral is a Class B misdemeanor.*

Section 6. Whereas there is a disgraceful nationwide campaign to disrupt military funerals, and whereas this campaign may enter Kentucky at any time, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming a law.

**Approved March 27, 2006.**

## CHAPTER 51

## (HB 333)

AN ACT relating to crimes and punishments and declaring an emergency.

WHEREAS, certain despicable individuals have been disrupting the funerals of soldiers who died while serving in the United States Armed Forces; and

WHEREAS, these disruptions have taken such forms as shouting insults at the parents of the fallen; and

WHEREAS, the military dead and their families deserve respect and compassion; and

WHEREAS, all mourners should be left in peace;

NOW THEREFORE,

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

SECTION 1. A NEW SECTION OF KRS CHAPTER 525 IS CREATED TO READ AS FOLLOWS:

(1) *A person is guilty of disorderly conduct in the first degree when he or she:*

(a) *In a public place and with intent to cause public inconvenience, annoyance, or alarm, or wantonly creating a risk thereof:*

1. *Engages in fighting or in violent, tumultuous, or threatening behavior;*

2. *Makes unreasonable noise; or*

3. *Creates a hazardous or physically offensive condition by any act that serves no legitimate purpose; and*

(b) *Acts in a way described in paragraph (a) of this subsection within three hundred (300) feet of a:*

1. *Cemetery during a funeral or burial;*

2. *Funeral home during the viewing of a deceased person;*

3. *Funeral procession; or*

4. *Building in which a funeral or memorial service is being conducted; and*

(c) *Knows that he or she is within three hundred (300) feet of an occasion described in paragraph (b) of this subsection.*

(2) *Disorderly conduct in the first degree is a Class A misdemeanor.*

Section 2. KRS 525.060 is amended to read as follows:

(1) A person is guilty of disorderly conduct *in the second degree* when in a public place and with intent to cause public inconvenience, annoyance, or alarm, or wantonly creating a risk thereof, he:

(a) Engages in fighting or in violent, tumultuous, or threatening behavior;~~{or}~~

(b) Makes unreasonable noise;~~{or}~~

(c) Refuses to obey an official order to disperse issued to maintain public safety in dangerous proximity to a fire, hazard, or other emergency; or

(d) Creates a hazardous or physically offensive condition by any act that serves no legitimate purpose.

(2) Disorderly conduct *in the second degree* is a Class B misdemeanor.

SECTION 3. A NEW SECTION OF KRS CHAPTER 525 IS CREATED TO READ AS FOLLOWS:

(1) *A person is guilty of disrupting meetings and processions in the first degree when, with intent to prevent or disrupt a funeral or burial, funeral home viewing of a deceased person, funeral procession, or funeral or memorial service for a deceased person, he or she does any act tending to obstruct or interfere with it*

*physically or makes any utterance, gesture, or display designed to outrage the sensibilities of the group attending the occasion.*

- (2) *Disrupting meetings and processions in the first degree is a Class A misdemeanor.*

Section 4. KRS 525.150 is amended to read as follows:

- (1) A person is guilty of disrupting meetings and processions *in the second degree* when, with intent to prevent or disrupt a lawful meeting, procession, or gathering, he *or she* does any act tending to obstruct or interfere with it physically or makes any utterance, gesture, or display designed to outrage the sensibilities of the group.
- (2) Disrupting meetings and processions *in the second degree* is a Class B misdemeanor.

SECTION 5. A NEW SECTION OF KRS CHAPTER 525 IS CREATED TO READ AS FOLLOWS:

- (1) *A person is guilty of interference with a funeral when he or she at any time on any day:*

- (a) *Blocks, impedes, inhibits, or in any other manner obstructs or interferes with access into or from any building or parking lot of a building in which a funeral, wake, memorial service, or burial is being conducted, or any burial plot or the parking lot of the cemetery in which a funeral, wake, memorial service, or burial is being conducted;*
- (b) *Congregates, pickets, patrols, demonstrates, or enters on that portion of a public right-of-way or private property that is within three hundred (300) feet of an event specified in paragraph (a) of this subsection; or*
- (c) *Without authorization from the family of the deceased or person conducting the service, during a funeral, wake, memorial service, or burial:*
1. *Sings, chants, whistles, shouts, yells, or uses a bullhorn, auto horn, sound amplification equipment, or other sounds or images observable to or within earshot of participants in the funeral, wake, memorial service, or burial; or*
  2. *Distributes literature or any other item.*

- (2) *Interference with a funeral is a Class B misdemeanor.*

Section 6. Whereas there is a disgraceful nationwide campaign to disrupt military funerals, and whereas this campaign may enter Kentucky at any time, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming a law.

**Approved March 27, 2006.**

## CHAPTER 52

### (SB 51)

AN ACT relating to public employees.

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

Section 1. KRS 156.026 is amended to read as follows:

- (1) For purposes of this section, full-time service in a local school for not less than one hundred forty (140) days during the school year entitles an employee who transfers to the Department of Education to a full year of experience credit on the Personnel Cabinet pay schedule and a full year for the purpose of accumulation of annual leave and sick leave in the Department of Education.
- (2) An employee of a local school district who transfers to become an employee of the Department of Education after June 30, 1983, shall be allowed to transfer accrued sick leave up to the maximum allowed for transfers for teachers between school districts as provided by KRS 161.155(4)~~[(3)]~~. The employee shall be allowed credit for each year of experience in the local school system for the purposes of determining salary in accordance with the current Personnel Cabinet pay schedule, and the rate of accumulation of annual and sick leave in the Department of Education.



- (3) For purposes of determining eligibility for additional leave or other benefits based on longevity of service, an employee transferring from a school district to the Department of Education after June 30, 1983, shall be given credit for each year of service in the school district, as determined under subsection (1) of this section.

Section 2. KRS 161.155 is amended to read as follows:

- (1) As used in this section:
- (a) "Teacher" shall mean any person for whom certification is required as a basis of employment in the common schools of the state;
  - (b) "Employee" shall mean any person, other than a teacher, employed in the public schools, whether on a full or part-time basis;
  - (c) "Immediate family" shall mean the teacher's or employee's spouse, children including stepchildren and foster children, grandchildren, daughters-in-law and sons-in law, brothers and sisters, parents and spouse's parents, and grandparents and spouse's grandparents, without reference to the location or residence of said relative, and any other blood relative who resides in the teacher's or employee's home;~~and~~
  - (d) "Sick leave bank" shall mean an aggregation of sick leave days contributed by teachers or employees for use by teachers or employees who have exhausted all sick leave and other available paid leave days;  
*and*
  - (e) *"Assault" shall mean an act that intentionally causes injury so significant that the victim is determined to be, by certification of a physician or surgeon duly qualified under KRS Chapter 342, incapable of performing the duties of his or her job.*
- (2) Each district board of education shall allow to each teacher and full-time employee in its common school system not less than ten (10) days of sick leave during each school year, without deduction of salary. Sick leave shall be granted to a teacher or employee if he or she presents a personal affidavit or a certificate of a physician stating that the teacher or employee was ill, that the teacher or employee was absent for the purpose of attending to a member of his or her immediate family who was ill, or for the purpose of mourning a member of his or her immediate family. The ten (10) days of sick leave granted in this subsection may be taken by a teacher or employee on any ten (10) days of the school year and shall be granted in addition to accumulated sick leave days that have been credited to the teacher or employee under the provisions of subsection ~~(4)~~~~(3)~~ of this section.
- (3) *A school district shall coordinate among the income and benefits from workers' compensation, temporary disability retirement, and district payroll and benefits so that there is no loss of income or benefits to a teacher or employee for work time lost because of an assault while performing the teacher's or employee's assigned duties for a period of up to one (1) year after the assault. In the event a teacher or employee suffers an assault while performing his or her assigned duties that results in injuries that qualify the teacher or employee for workers' compensation benefits, the district shall provide leave to the teacher or employee for up to one (1) year after the assault with no loss of income or benefits under the following conditions:*
- (a) *The district shall pay the salary of the teacher or employee between the time of the assault and the time the teacher's or employee's workers' compensation income benefits take effect, or the time the teacher or employee is certified to return to work by a physician or surgeon duly qualified under KRS Chapter 342, whichever is sooner;*
  - (b) *The district shall pay, for up to one (1) year from the time of the assault, the difference between the salary of the teacher or employee and any workers' compensation income benefits received by the teacher or employee resulting from the assault. Payments by the district shall include payments for intermittent work time missed as a result of the assault during the one (1) year period. If the teacher's or employee's workers' compensation income benefits cease during the one (1) year period after the assault, the district shall also cease to make payments under this paragraph;*
  - (c) *The Commonwealth, through the Kentucky Department of Education, shall make the employer's health insurance contribution during the period that the district makes payments under paragraphs (a) and (b) of this subsection;*

- (d) *The Commonwealth, through the Kentucky Department of Education, shall make the employer's contribution to the retirement system in which the teacher or employee is a member during the period that the district makes payments under paragraphs (a) and (b) of this subsection; and*
  - (e) *Payments to a teacher or employee under paragraphs (a) and (b) of this subsection shall be coordinated with workers' compensation benefits under KRS Chapter 342, disability retirement benefits for teachers under KRS 161.661 to 161.663, and disability retirement benefits for employees under KRS 61.600 to 61.621 and KRS 78.545 so that the teacher or employee receives income equivalent to his or her full contracted salary, but in no event shall the combined payments exceed one hundred percent (100%) of the teacher's or employee's full contracted salary.*
- (4) Days of sick leave not taken by an employee or a teacher during any school year shall accumulate without limitation and be credited to that employee or teacher. Accumulated sick leave may be taken in any school year. Any district board of education may, in its discretion, allow employees or teachers in its common school system sick leave in excess of the number of days prescribed in this section and may allow school district employees and teachers to use up to three (3) days' sick leave per school year for emergency leave pursuant to KRS 161.152(3). Any accumulated sick leave days credited to an employee or a teacher shall remain so credited in the event he or she transfers his or her place of employment from one (1) school district to another within the state or to the Kentucky Department of Education or transfers from the Department of Education to a school district.
- ~~(5)(4)~~ Accumulated days of sick leave shall be granted to a teacher or employee if, prior to the opening day of the school year, an affidavit or a certificate of a physician is presented to the district board of education, stating that the teacher or employee is unable to commence his or her duties on the opening day of the school year, but will be able to assume his or her duties within a period of time that the board determines to be reasonable.
- ~~(6)(5)~~ Any school teacher or employee may repurchase previously used sick leave days with the concurrence of the local school board by paying to the district an amount equal to the total of all costs associated with the used sick leave.
- ~~(7)(6)~~ A district board of education may adopt a plan for a sick leave bank. The plan may include limitations upon the number of days a teacher or employee may annually contribute to the bank and limitations upon the number of days a teacher or employee may annually draw from the bank. Only those teachers or employees who contribute to the bank may draw upon the bank. Days contributed will be deducted from the days available to the contributing teacher or employee. The sick leave bank shall be administered in accordance with a policy adopted by the board of education.
- ~~(8)(7)~~ (a) A district board of education shall establish a sick leave donation program to permit teachers or employees to voluntarily contribute sick leave to teachers or employees in the same school district who are in need of an extended absence from school. A teacher or employee who has accrued more than fifteen (15) days' sick leave may request the board of education to transfer a designated amount of sick leave to another teacher or employee who is authorized to receive the sick leave donated. A teacher or employee may not request an amount of sick leave be donated that reduces his or her sick leave balance to less than fifteen (15) days.
- (b) A teacher or employee may receive donations of sick leave if:
1. a. The teacher or employee or a member of his or her immediate family suffers from a medically certified illness, injury, impairment, or physical or mental condition that has caused or is likely to cause the teacher or employee to be absent for at least ten (10) days; or
  - b. The teacher or employee suffers from a catastrophic loss to his or her personal or real property, due to either a natural disaster or fire, that either has caused or will likely cause the employee to be absent for at least ten (10) consecutive working days;
  2. The teacher's or employee's need for the absence and use of leave are certified by a licensed physician for leave requested under subparagraph 1.a. of this subsection;
  3. The teacher or employee has exhausted his or her accumulated sick leave, personal leave, and any other leave granted by the school district; and
  4. The teacher or employee has complied with the school district's policies governing the use of sick leave.

- (c) While a teacher or employee is on sick leave provided by this section, he or she shall be considered a school district employee, and his or her salary, wages, and other employee benefits shall not be affected.
- (d) Any sick leave that remains unused, is not needed by a teacher or employee, and will not be needed in the future shall be returned to the teacher or employee donating the sick leave.
- (e) The board of education shall adopt policies and procedures necessary to implement the sick leave donation program.
- ~~(9)(8)~~ A teacher or employee may use up to thirty (30) days of sick leave following the birth or adoption of a child or children. Additional days may be used when the need is verified by a physician's statement.
- ~~(10)(9)~~ After July 1, 1982, a district board of education may compensate, at the time of retirement or upon the death of a member in active contributing status at the time of death who was eligible to retire by reason of service, an employee or a teacher, or the estate of an employee or teacher, for each unused sick leave day. The rate of compensation for each unused sick leave day shall be based on a percentage of the daily salary rate calculated from the employee's or teacher's last annual salary, not to exceed thirty percent (30%). Payment for unused sick leave days shall be incorporated into the annual salary of the final year of service; provided that the member makes the regular retirement contribution for members on the sick leave payment. The accumulation of these days includes unused sick leave days held by the employee or teacher at the time of implementation of the program.
- ~~(11)(10)~~ Any statute to the contrary notwithstanding, employees and teachers who transferred from the Department of Education to a school district, from a school district to the Department of Education, or from one (1) school district to another school district after July 15, 1981, shall receive credit for any unused sick leave to which the employee or teacher was entitled on the date of transfer. This credit shall be for the purposes set forth in subsection ~~(10)(9)~~ of this section.
- ~~(12)(11)~~ The death benefit provided in subsection ~~(10)(9)~~ of this section may be cited as the Baughn Benefit.

Section 3. KRS 161.157 is amended to read as follows:

An employee of the Department of Education or the Education Professional Standards Board who transfers to become an employee of the local school district shall be allowed credit for accrued sick leave up to the maximum allowed for transfers for teachers between school districts as provided by KRS 161.155~~(4)(3)~~ and shall be allowed credit for each full year of employment with the Department of Education or the Education Professional Standards Board for the determination of pay under the school districts' single salary schedule.

Section 4. KRS 161.623 is amended to read as follows:

- (1) Effective July 1, 1982, and thereafter, a district board of education or other employer of members of the Teachers' Retirement System may compensate, at the time of retirement for service, an active contributing member for unused sick-leave days in accordance with this section.
- (2) Upon the member's application for service retirement, the employer shall certify the retiring member's unused accumulated sick-leave balance to the board of trustees of the Kentucky Teachers' Retirement System. The member's sick-leave balance, expressed in days, shall be divided by one hundred eighty-five (185) days to determine the amount of service credit that may be considered for addition to the member's retirement account for the purpose of determining the retirement allowance under KRS 161.620. Such sick-leave credit shall not be used for the purpose of determining whether the member is eligible to receive a retirement allowance.
- (3) The board shall compute the cost to the retirement system of the sick-leave credit for each retiring member and shall bill the last employer of the retiring member for such cost. The employer shall pay the cost of such service credit to the retirement system within fifteen (15) days after receiving notification of the cost from the board.
- (4) Retiring members who receive service credit under this section shall not be eligible to receive compensation for accrued sick leave under KRS 161.155~~(10)(9)~~ or any other statutory provision.
- (5) Employer participation is optional and the employer may opt to purchase less service credit than the member is eligible to receive provided the same percentage of reduction is made applicable to all retiring members of the employer during a school fiscal year.

- (6) The board of trustees shall formulate and adopt necessary rules and regulations for the administration of the foregoing provisions.
- (7) Payments to the retirement system for service credit obtained under this section or for compensation credit obtained under KRS 161.155(10){(9)} shall be based on the full actuarial cost as defined in KRS 161.220(22).

Section 5. KRS 61.680 is amended to read as follows:

- (1) Prior to August 1, 1982, every employee shall be deemed to consent and agree to any deduction from his compensation required by KRS 6.500 to 6.535, 16.510 to 16.652, 61.510 to 61.692, 78.510 to 78.852, and to all other provisions thereof. Thereafter, employee contributions shall be picked up by the employer pursuant to KRS 61.560(4).
- (2)
  - (a) Notwithstanding any other provisions of KRS 6.500 to 6.535, 16.510 to 16.652, 61.510 to 61.692, 78.510 to 78.852 and 161.220 to 161.714, upon death, disability, or service retirement, a member's accounts under the Legislators' Retirement Plan, State Police Retirement System, Kentucky Employees Retirement System, County Employees Retirement System, and Teachers' Retirement System, except for service prohibited by KRS 161.623(2), shall be consolidated for the purpose of determining eligibility and amount of benefits. Vested service credit in a retirement system, other than the Teachers' Retirement System, sponsored by a Kentucky institution of higher education and accepted by the Kentucky Employees Retirement System or the County Employees Retirement System, may be used to determine eligibility for twenty-seven (27) year retirement but not the amount of benefits. The computation of benefits shall be based on the applicable formula in each system and service credit in each system, but the final compensation, excluding compensation earned under KRS 161.155(10){(9)}, shall be determined as if all service were in one (1) system. If the member has prior service in more than one (1) system, he shall obtain at least twelve (12) months' current service in each system in which he has prior service in order to validate the prior service in each system for purposes of determining consolidated benefits under this section. Upon the determination of benefits, each system shall pay the applicable percentage of total benefits.
  - (b) The provisions of paragraph (a) of this subsection shall be waived if the member notifies the system of his desire to maintain separate retirement accounts in the State Police Retirement System, Kentucky Employees Retirement System, or County Employees Retirement System.
  - (c) If the member has not contributed at least one (1) year in a system in which he has prior service, his current service in the system shall be valid for purposes of determining eligibility and in computation of benefits on a consolidated basis.
- (3) A member with service credit in the Kentucky Employees Retirement System, State Police Retirement System, or the County Employees Retirement System who becomes the holder of an office entitling him to membership in the Judicial Retirement Plan or the Legislators' Retirement Plan, but who does not elect within thirty (30) days after taking office in such service to participate in the plan, in accordance with KRS 6.505 or 21.360, shall be deemed to have elected to retain membership in the system in which he is a member, either the Kentucky Employees Retirement System, State Police Retirement System, or the County Employees Retirement System. In that event, the agency employing the member shall withhold employee contributions, or picked-up employee contributions after August 2, 1982, make employer contributions and remit these contributions to the system in which the member retained his membership. Any person entitled to membership in the Judicial Retirement Plan or the Legislators' Retirement Plan, who does not elect within thirty (30) days after taking office to participate in the plan, in accordance with KRS 6.505 or 21.360, and who at the time of taking office is not a contributing member of, or does not have service credit in, any of the retirement systems mentioned in this section, or the Teachers' Retirement System, shall participate in the Kentucky Employees Retirement System. A member of one (1) of the state-administered retirement plans who ceases to contribute to the plan as provided in KRS 21.360 and who is employed in a nonelected position by an agency participating in the Kentucky Retirement Systems shall be deemed to have elected membership in the system in which the employer of the nonelected position participates. A member of one (1) of the state-administered retirement plans who ceases to contribute to the plan as provided in KRS 21.360 and who is not employed in a nonelected position by an agency participating in the Kentucky Retirement Systems shall be deemed to have elected membership in the Kentucky Employees Retirement System.
- (4)
  - (a) Prior to July 1, 1976, a person entering the service of an employer participating in the Kentucky Employees Retirement System or the County Employees Retirement System with service credit in the Teachers' Retirement System and who desires to retain membership in the Teachers' Retirement System,

and who is permitted by that system to continue, shall be exempt from participating in the Kentucky Employees Retirement System or the County Employees Retirement System.

- (b) Any person who has elected to retain membership in the Teachers' Retirement System as provided in paragraph (a) of this subsection may cancel his election and participate in the system under which his position would normally participate, if he elects to cancel his option prior to January 1, 1977.
  - (c) Any member of the General Assembly who upon election is a contributing member of the Teachers' Retirement System and who does not elect within thirty (30) days after taking office to participate in the Legislators' Retirement Plan, in accordance with KRS 6.505, shall during his term of office participate in the Kentucky Employees Retirement System unless an election to retain membership in the Teachers' Retirement System is filed in writing within ninety (90) days after his term of office begins. No contributions may be made to the Teachers' Retirement System for the same period of service under the Legislators' Retirement Plan or the Kentucky Employees Retirement System as a member of the General Assembly, but contributions made to the Teachers' Retirement System while a member of the General Assembly shall be transferred to the Legislators' Retirement Plan, as provided for in KRS 6.535, when the member elects to join the Legislators' Retirement Plan, and service credit in the Legislators' Retirement Plan shall be granted as provided for in KRS 6.505(5).
- (5) Effective July 1, 1974, any member of the Kentucky Employees Retirement System or County Employees Retirement System who is working in a position covered by one (1) of these retirement systems and his employee contributions, service credit and employer contributions made on his behalf are being transferred to the other retirement system shall contribute to the system in which his employer participates, or after August 1, 1982, the employer shall pick up the employee contributions, and no further contributions or service credit shall be transferred to the system in which he elected to retain membership, as subsection (2) of this section eliminates the necessity of the transfers.
  - (6) Any member of the Kentucky Employees Retirement System or County Employees Retirement System who is working in more than one (1) position covered by the same retirement system, shall have his wages and contributions consolidated and his retirement account administered as a single account. If part-time positions are involved, an accumulation of all hours worked within the same retirement system shall be used to determine eligibility under KRS 61.510(21).
  - (7) Notwithstanding the provisions of subsection (2) of this section, a person who does not have the amount of service required for service retirement in the State Police Retirement System, Kentucky Employees Retirement System, County Employees Retirement System, Legislators' Retirement Plan, or Teachers' Retirement System, but who is a member of one (1) of the systems or is a former member of one (1) or more of the systems with valid service credit therein, shall become eligible for service retirement benefits attributable to the amount of his actual service credit in each system in which he has service credit when his combined service credit in all the systems, plus any service credit he has in the Judicial Retirement Plan, is equal to that required for service retirement in each respective system. The computation of benefits shall be based on the applicable formula in each system and service credit in each system, except that total service in all systems, unless prohibited by KRS 161.623(2), shall be used to determine the reduction for early retirement, if any. Except as provided in KRS 21.360, the final compensation shall be determined by using the creditable compensation reported to the State Police Retirement System, Kentucky Employees Retirement System, County Employees Retirement System, Legislators' Retirement Plan, or Teachers' Retirement System and only as much of the compensation earned in the Judicial Retirement Plan as is needed to satisfy the final compensation requirement applicable in the respective retirement systems.
  - (8) Each retirement system from which the member retires shall pay a retirement allowance upon receipt of required forms and documents, except that no retirement system shall pay a retirement allowance or annuity until all forms and documents are filed at all retirement systems in compliance with each system's requirements.

**Approved March 28, 2006.**

**CHAPTER 53****(SB 62)**

AN ACT relating to the Kentucky Board of Architects.

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

Section 1. KRS 323.031 is amended to read as follows:

- (1) If the drawings and specifications are signed by the author thereof with the true titles of their occupations as may be required by law, this chapter does not apply to:
  - (a) Any building which is to be used for farm purposes only;
  - (b) ***Any residential structure that does not require the services or seal of an architect or engineer either under the Uniform State Building Code pursuant to KRS 198B.050 or under KRS 323.033;***
  - (c) Any building classified by use group other than those listed under KRS 323.033 ***so long as the services or seal of an architect or engineer as applicable is not required for such other use group under the Uniform State Building Code pursuant to KRS 198B.050 or;***
  - ~~(d)(e)}~~ Any structure not classified as a building by KRS 323.010(4).
- (2) Provisions of this chapter shall not apply to:
  - (a) Any individual, partnership, or firm acting solely as a consultant to an architect licensed in the Commonwealth;
  - (b) An architect or other person acting solely as an officer or employee of the United States government.
- (3) A licensed professional engineer may prepare plans and specifications for and supervise the construction of structures as an incident to the practice of his own profession.

Section 2. KRS 323.080 is amended to read as follows:

- (1) The board shall promulgate administrative regulations that establish fees for the following services. These fees shall not exceed the following:
  - (a) For processing the application for the examination ..... ~~\$200~~~~[\$100]~~
  - (b) For a license certificate upon satisfactorily passing the examination ..... ~~50~~~~[25]~~
  - (c) For the restoration of a voluntarily surrendered license ..... ~~300~~~~[150]~~
  - (d) For a license to an architect satisfactorily licensed in  
another state or country ..... ~~250~~~~[200]~~
  - (e) For reinstatement of a license revoked for failure to pay the  
annual renewal fee or suspended by the board, in addition  
to application and arrears as determined by the board ..... ~~300~~~~[150]~~
  - (f) Renewal certificate ..... ~~250~~~~[150]~~
- (2) The proper fee as prescribed above shall be paid to the board, and shall not be refunded in whole or in part.
- (3) The cost of taking the examination shall be borne by the applicant.

Section 3. KRS 323.095 is amended to read as follows:

- (1) Each architect licensed for practice within the Commonwealth shall obtain a seal of the design prescribed in administrative regulations promulgated by the board.
- (2) ***Use of the seal in an electronic transaction shall be conducted in accordance with administrative regulations promulgated by the board under subsection (5) of Section 6 of this Act.***
- (3) All working drawings, specifications, and reports prepared by, or under the supervision of the individual, partnership, or firm, shall be imprinted with this seal.

- ~~(4)(3)~~ No architect shall sign, affix, or imprint his seal to any drawings, specifications, or reports which have not been prepared by him personally or under his immediate supervision.

Section 4. KRS 323.120 is amended to read as follows:

- (1) The board may refuse to issue, reissue, or renew a license, or may issue a private or public reprimand or may probate, suspend, or revoke the license of any architect to practice architecture in the Commonwealth of Kentucky, or may impose any combination of these sanctions for any of the following reasons:
  - (a) Gross incompetence or gross negligence in the planning or construction of buildings, as determined by the board;
  - (b) Unprofessional conduct, or conduct tending to bring the profession into disrepute, as determined by the board;
  - (c) Conviction of a felony;
  - (d) Fraudulent or dishonest architectural practice;
  - (e) Use of false evidence or misrepresentations in an application for licensing or an application for a renewal certificate;
  - (f) Signing or affixing his seal to any plans, prints, specifications of buildings, or reports, which have not been prepared by him personally or by his employees under his supervision;
  - (g) Violating any provision of this chapter or administrative regulations promulgated under the chapter;
  - (h) Failing to comply with an order issued by the board; or
  - (i) Aiding or abetting someone in the unlicensed practice of architecture.
- (2) The board shall revoke the license of an architect who practices architecture while his license is suspended.
- (3) The board may, in lieu of or in addition to other penalties, impose a civil penalty not to exceed ~~five (3)~~ thousand dollars ~~(\$5,000)(\$3,000)~~, which shall be paid to the benefit of the board's trust and agency account.

Section 5. KRS 323.200 is amended to read as follows:

A quorum of the board shall consist of at least five (5) members. ~~[The concurring votes of five (5) members shall be considered as the action of the board, except in the case of revoking a license, in which case, the unanimous vote of the board shall be required.]~~

Section 6. KRS 323.210 is amended to read as follows:

- (1) The board shall:
  - (a) Adopt and provide itself with a seal with a band inscribed, "Kentucky Board of Architects" with the coat of arms of the state in the center;
  - (b) Promulgate all necessary administrative regulations concerning the contents and conduct of examinations, the method and time for filing applications for examinations, and the time within which an applicant shall be examined after his application has been filed;
  - (c) Keep a complete record of its proceedings and an accurate list of all applications made, licenses issued, and licenses revoked; and
  - (d) Make a general report including finances to the governor annually.
- (2) The board may promulgate all reasonable administrative regulations not inconsistent with this chapter that are necessary to carry into effect the purposes of this chapter.
- (3) The board may promulgate appropriate administrative regulations requiring mandatory continuing education for architects licensed to practice within the Commonwealth as a condition for obtaining their annual renewal certificates. The board shall establish the minimal requirement for obtaining and reporting continuing education, the means by which any requirements shall be enforced, and the criteria for the accreditation of course sponsors, programs, and other activities.

- (4) The board may administer oaths, receive evidence, interview persons, issue subpoenas, and require the production of books, papers, documents, or other evidence for the purpose of enforcing this chapter and investigating complaints or suspected violations of this chapter.
- (5) *The board may promulgate administrative regulations in accordance with KRS Chapter 13A to establish rules for the use of seals and signatures in electronic transactions.*

Section 7. KRS 323.990 is amended to read as follows:

- (1) *Whoever violates KRS 323.020 or KRS 323.230 is guilty of a Class A misdemeanor.*
- (2) *Whoever violates KRS 323.050(2)(b) or KRS 323.120(1) by falsifying an application for certification or renewal as an architect is guilty of a Class A misdemeanor, and the architect's license shall be revoked for two (2) years.*~~[Any person who violates any provision of this chapter shall be fined not less than five hundred dollars (\$500) nor more than three thousand dollars (\$3,000), or imprisoned not more than three (3) months, or both].~~

**Approved March 28, 2006.**

## CHAPTER 54

(SB 107)

AN ACT relating to viatical settlement brokers.

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

Section 1. KRS 304.15-700 is amended to read as follows:

- (1) No person may act as a viatical settlement provider without first having obtained a license as a viatical settlement provider from the executive director.
- (2) Except as provided in paragraph (b) or (c) of this subsection, no person may broker, solicit, or negotiate viatical settlement contracts between a viator and one (1) or more viatical settlement providers or otherwise act on behalf of a viator without first having obtained a license as a viatical settlement broker from the executive director as follows:
  - (a) All applicants for a viatical settlement broker license shall attend the required viatical broker training and pass a viatical broker examination designated by the executive director through administrative regulation.~~;~~
  - (b) A person licensed as a resident or nonresident insurance agent with a life line of authority, as set forth in KRS 304.9-030(2)(a), *shall be deemed to meet the licensing requirements of a viatical settlement broker and shall be permitted to operate as a viatical settlement broker without*~~[may act on behalf of a viator or otherwise negotiate, as defined in KRS 304.9-020, viatical settlement contracts between a viator and one or more viatical settlement providers without first]~~ obtaining a license as a viatical settlement broker~~[and shall be permitted to operate as a viatical settlement broker]~~ as set forth in this subtitle if:
    1. That person has been licensed as a resident insurance agent with a life line of authority in his home state for at least one (1) year;
    2. Not later than thirty (30) days from the first day of operating as a viatical settlement broker, the agent notifies the executive director, on a *notification* form~~[or in a manner that may be]~~ prescribed by the executive director, that he is acting as a viatical settlement broker and pays any applicable fees to be determined by the executive director. The notification shall include an acknowledgment by the agent that he will operate as a viatical settlement broker in accordance with this subtitle; and
    3. Irrespective of the manner in which a viatical settlement broker or life insurance agent is compensated, the viatical settlement broker or life insurance agent is deemed to represent only the viator and owes a fiduciary duty to the viator to act according to the viator's instructions and in the best interests of the viator.



- (c) Notwithstanding subsection (2) of this section, a person licensed as an attorney, certified public accountant, or financial planner accredited by a nationally recognized accreditation agency, who is retained to represent the viator, whose compensation is not paid directly or indirectly by the viatical settlement provider, may negotiate viatical settlement contracts without having to obtain a license as a viatical settlement broker.
- (d) *A life insurance agent operating as a viatical settlement broker in accordance with paragraph (b) of this subsection, prior to the execution of the viatical settlement contract by all the parties for which such agent is operating as a viatical settlement broker, shall have in force and file with the executive director evidence of financial responsibility as follows:*
  - 1. *A policy of insurance covering the legal liability of the agent as the result of erroneous acts or failure to act in his or her capacity as a viatical settlement broker, and inuring to the benefit of any aggrieved party as the result of any single occurrence in the sum of not less than twenty thousand dollars (\$20,000) and one hundred thousand dollars (\$100,000) in the aggregate for all occurrences within one (1) year; or*
  - 2. *An agreement with a licensed viatical settlement provider whereby the agent is an additional insured on the policy of insurance covering the legal liability of both the viatical settlement provider and the agent as the result of erroneous acts or failure to act in his or her capacity as a viatical settlement broker on a viatical settlement contract to which the viatical settlement provider is a party, in the sum of twenty thousand dollars (\$20,000) for any single occurrence; or*
  - 3. *A deposit with the executive director of cash or a cash surety bond, executed by an insurer authorized to write business in this Commonwealth, in the sum of twenty thousand dollars (\$20,000), which shall be subject to lawful levy of execution by any party to whom the agent has been found to be legally liable as the result of erroneous acts or failure to act in his or her capacity as a viatical settlement broker.*
- (3) Application for a viatical settlement provider license or a viatical settlement broker license shall be made in accordance with KRS 304.9-150.
- (4) Licenses for viatical settlement providers and viatical settlement brokers shall be in accordance with Subtitle 9 of KRS Chapter 304. A business entity licensed as a viatical settlement broker or viatical settlement provider shall designate individuals to act under its license in accordance with KRS 304.9-133.
- (5) Prior to issuance of a license as a viatical settlement broker or viatical settlement provider, ***except as provided in subsection (2)(d) of this section***, the applicant shall file with the executive director, and thereafter for as long as the license remains in effect shall keep in force, evidence of financial responsibility in the sum of not less than ~~twenty-five hundred~~ thousand dollars ~~(\$20,000)(\$500,000)~~ per occurrence, and the sum of one ~~million five~~ hundred thousand dollars ~~(\$100,000)(\$1,500,000)~~ in the aggregate, for all occurrences within one (1) year. This evidence shall be in the form of an errors and omissions insurance policy issued by an authorized insurer, a bond issued by an authorized corporate surety, a deposit, or any combination of these evidences of financial responsibility. The policy, bond, deposit, or combination thereof shall not be terminated without thirty (30) days' prior written notice to the licensee and the executive director. ***This subsection shall not apply to a life insurance agent operating as a viatical settlement broker in accordance with subsection (2) of this section.***
- (6) No person shall use a viatical settlement contract form or provide to a viator a disclosure statement form in this Commonwealth unless it has been filed with and approved by the executive director in the following manner:
  - (a) At the expiration of sixty (60) days from the date the filing is complete, the form filed shall be deemed approved unless the executive director has by order given prior approval or disapproval. Approval of a form by the executive director shall constitute a waiver of any unexpired portion of the waiting period. The executive director may extend by not more than thirty (30) days the time period in which he or she may approve or disapprove the form. The executive director shall give notice to the licensee of the extension before expiration of the initial sixty (60) day period. At the expiration of the extended period, and in the absence of the prior approval or disapproval, the form shall be deemed approved. The executive director may at any time, after notice and for cause shown, withdraw any approval. The executive director shall disapprove a viatical settlement contract form or disclosure statement form if, in

the determination of the executive director, the contract or provisions contained therein are unreasonable, contrary to the interests of the public, or otherwise are misleading or unfair to the viator. Upon notice and hearing the executive director shall withdraw approval of any contract later determined to be unreasonable, misleading, unfair, or contrary to the interest of the public; and

- (b) Forms may be submitted simultaneously with an application or at any time during the process of approving an application for a license pursuant to this subtitle or at any other time.
- (7) A licensed viatical settlement provider shall not use any person to perform the functions of a viatical settlement broker as defined in KRS 304.15-020 unless the person holds a current and valid license or is a licensed insurance agent authorized pursuant to this subtitle to operate as a viatical settlement broker. A licensed viatical settlement broker shall not use any person to perform the functions of a viatical settlement provider as defined in KRS 304.15-020 unless the person holds a current and valid license as a viatical settlement provider.
- (8) If any employee of a licensee violates any provision of KRS 304.15-020, 304.15-700 to 304.15-720, 304.42-190, and 304.99-126, the office may take disciplinary action against the employer licensee.
- (9) When a viatical settlement provider elects to use a related provider trust in accordance with KRS 304.15-716, the viatical settlement provider shall file notice of its intention to use that trust with the office with a copy of the trust agreement. Any change in the trust agreement shall be filed with the executive director prior to its effect.
- (10) Any additional death benefit payment on a life insurance policy that is the subject of a viatical settlement contract with a double or additional indemnity for accidental death shall be payable to the following:
  - (a) The beneficiary last named by the policy owner prior to entering into the viatical settlement contract; or
  - (b) To the estate of the viator in the absence of a beneficiary.

**Approved March 28, 2006.**

## CHAPTER 55

### (SB 131)

AN ACT relating to gas distribution utilities.

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

SECTION 1. A NEW SECTION OF KRS CHAPTER 278 IS CREATED TO READ AS FOLLOWS:

***If a gas distribution utility as defined in KRS 278.010(3)(b) enters into a twenty (20) year supply contract with any person for pipeline quality synthetic natural gas produced from coal through a gasification process, the commission shall find the transaction reasonable and shall allow the utility to recover the cost of the synthetic natural gas if:***

- (1) ***The only coal used in the gasification process is coal subject to the tax imposed under KRS 143.020;***
- (2) ***The price per million British thermal units (Btu) is no greater than the long-term market price derived from the simple average of the Henry Hub monthly futures prices for natural gas as reported by the New York Mercantile Exchange (NYMEX) for the sixty (60) months immediately following the effective date of the contract, adjusted annually based upon the change in the Annual Consumer Price Index for All Urban Consumers for the Midwest Region as published in April by the United States Department of Labor, Bureau of Labor Statistics, or a suitable Consumer Price Index calculation if this Consumer Price Index is not available. The total price adjustment over the life of the contract shall not exceed one dollar and fifty cents (\$1.50) per million Btu; and***
- (3) ***The utility's aggregate long-term supply contracts for the purchase of synthetic natural gas produced from coal through the gasification process do not exceed twenty five-percent (25%) of the annual system supply requirements of the utility, by volume, as measured in million cubic foot units (Mcf) at the time the utility enters into the contract.***

**Approved March 28, 2006.**

**CHAPTER 56****(SB 147)**

AN ACT relating to forestry.

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

Section 1. KRS 149.350 is amended to read as follows:

- (1) There is hereby established a Forestry Best Management Practices Board consisting of thirteen (13) members for the purposes of updating Kentucky's forest practice guidelines for water quality management and the Division of Forestry's administrative regulations regarding timber harvesting operations, and supervising the implementation of forestry best management practices and timber harvesting operations regulations by the Division of Forestry. The offices of the board shall be maintained at a place designated by the board.
- (2) The initial appointments to the board shall be made within one (1) year of July 15, 1998, and the appointments shall be for staggered terms to assure continuity. The Governor shall appoint members to the board representing the following:
  - (a) Five (5) members who are farmers or woodland owners with at least fifty (50) acres of woodland and who are actively engaged in woodland management:
    1. One (1) of these members from a list of three (3) persons nominated by the Kentucky Woodland Owners Association;
    2. One (1) of these members from a list of three (3) persons nominated by the Kentucky Department of Agriculture;
    3. One (1) of these members from a list of three (3) persons nominated by the Kentucky Farm Bureau Federation; and
    4. Two (2) of these members shall be farmers at large;
  - (b) One (1) logger in good standing;
  - (c) One (1) member of the Department of Forestry of the University of Kentucky;
  - (d) One (1) member of the Kentucky Division of Forestry;
  - (e) Three (3) members of a Kentucky wood industry; and
  - (f) Two (2) members at large who are woodland owners.
- (3) Except for initial staggered appointments, board memberships shall be for a period of four (4) years, and members may be appointed to no more than two (2) full consecutive terms. Appointments to the board shall be made consistent with subsection (2) of this section.
- (4) The chair of the board shall be chosen from the members selected to meet the criteria in subsection (2) of this section.
- (5) The board shall review existing forestry best management practices within one (1) year after establishment of the board and shall conduct periodic reviews for rewriting the best management practices regulations no sooner than every five (5) years thereafter.
- (6) The board shall oversee implementation of best management practice education and enforcement by the Division of Forestry.
- (7) The board shall meet at least once a year for the purpose of conducting its oversight responsibilities.
- (8) ***The board shall be attached to the division for administrative purposes. The division shall provide funds necessary for board meetings, travel expenses, and other administrative support, including but not limited to, staff assistance at meetings, report preparation, and record keeping.***
- (9) ***The board shall present its findings and recommendations to the Office of the Governor and the Legislative Research Commission when the board deems appropriate or when the Office of the Governor specifically requests a report. The board shall provide a summary report of its findings and recommendations to the***

*Office of the Governor every five (5) years and to the Legislative Research Commission, if deemed appropriate.*

**Approved March 28, 2006.**

## **CHAPTER 57**

### **(SB 148)**

AN ACT relating to motor vehicle license fees.

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

Section 1. KRS 150.015 is amended to read as follows:

- (1) The declared purpose of Acts 1952, ch. 200, and the policy of the Commonwealth of Kentucky, is to protect and conserve the wildlife of this Commonwealth so as to insure a permanent and continued supply of the wildlife resources of this state for the purpose of furnishing sport and recreation for the present and for the future residents of this state; to promote the general welfare of the Commonwealth; to provide for the prudent taking and disposition of wildlife within reasonable limits, based upon the adequacy of the supply thereof; to protect the food supply of this state, and to insure the continuation of an important part of the commerce of this state which depends upon the existence of its wildlife resources. It is further the declared purpose of Acts 1952, ch. 200, and the policy of this Commonwealth, that an adequate and flexible system be installed to accomplish the aforesaid purposes. All of the provisions of Acts 1952, ch. 200, shall be liberally construed in such manner as most effectually to carry out its purposes and intent.
- (2) ***The commission shall establish a program to promote hunger relief through specific wildlife management and conservation efforts and shall utilize the funds derived from the sources outlined in subsection (3) of Section 2 of this Act.***

Section 2. KRS 150.150 is amended to read as follows:

- (1) Except as provided in this chapter, all moneys derived from the sale of licenses or from any other source connected with the administration of this chapter shall be promptly paid over to the State Treasurer, who shall deposit such moneys in a special fund, known as the game and fish fund. The game and fish fund shall be used to carry out the purposes of this chapter and any law or regulation for the protection of wildlife and for no other purpose.
- (2) All funds received under KRS 150.110 and 150.520 shall be used by the department for the purpose of enforcing those sections and for the protection and propagation of mussel beds. Any surplus remaining in the fund at the close of each calendar year shall be turned into the general fund of the department.
- (3) ***In addition to the funds derived pursuant to subsection (15) of Section 3 of this Act, the department shall, beginning August 1, 2006, and each fiscal year thereafter, set aside not less than twenty-five thousand dollars (\$25,000) from the game and fish fund for the purpose of promoting hunger relief through specific wildlife management and conservation efforts. The department shall provide for a separate accounting of these funds and shall, by October 1, 2007, and annually thereafter, report on the expenditures made pursuant to this subsection to the Governor and the Legislative Research Commission.***

Section 3. KRS 186.050 is amended to read as follows:

- (1) The annual registration fee for motor vehicles, including taxicabs, airport limousines, and U-Drive-Its, primarily designed for carrying passengers and having provisions for not more than nine (9) passengers, including the operator, and pickup trucks and passenger vans which are not being used on a for-hire basis shall be eleven dollars fifty cents (\$11.50).
- (2) Except as provided in KRS 186.041, the annual registration fee for each motorcycle shall be nine dollars (\$9), and for each sidecar attachment, seven dollars (\$7).
- (3) (a) All motor vehicles having a declared gross weight of vehicle and any towed unit of six thousand (6,000) pounds or less, except those mentioned in subsections (1) and (2) of this section and those engaged in hauling passengers for hire, operating under certificates of convenience and necessity, are classified as commercial vehicles and the annual registration fee, except as provided in subsections (4) to (14) of this section, shall be eleven dollars and fifty cents (\$11.50).

- (b) All motor vehicles except those mentioned in subsections (1) and (2) of this section, and those engaged in hauling passengers for hire, operating under certificates of convenience and necessity, are classified as commercial vehicles and the annual registration fee, except as provided in subsections (3)(a) and (4) to (14) of this section, shall be as follows:

Declared Gross Weight of Vehicle and Any Towed Unit	Registration Fee
6,001-10,000	\$24.00
10,001-14,000	30.00
14,001-18,000	50.00
18,001-22,000	132.00
22,001-26,000	160.00
26,001-32,000	216.00
32,001-38,000	300.00
38,001-44,000	474.00
44,001-55,000	669.00
55,001-62,000	1,007.00
62,001-73,280	1,250.00
73,281-80,000	1,410.00

- (4) (a) Any farmer owning a truck having a gross weight of thirty-eight thousand (38,000) pounds or less may have it registered as a farmer's truck and obtain a license for eleven dollars and fifty cents (\$11.50). The applicant's signature upon the certificate of registration and ownership shall constitute a certificate that he is a farmer engaged in the production of crops, livestock, or dairy products, that he owns a truck of the gross weight of thirty-eight thousand (38,000) pounds or less, and that during the next twelve (12) months the truck shall not be used in for-hire transportation and may be used in transporting persons, food, provender, feed, machinery, livestock, material, and supplies necessary for his farming operation, and the products grown on his farm.
- (b) Any farmer owning a truck having a declared gross weight in excess of thirty-eight thousand (38,000) pounds shall not be required to pay the fee set out in subsection (3) of this section and, in lieu thereof, shall pay forty percent (40%) of the fee set out in subsection (3) of this section and shall be exempt from any fee charged under the provisions of KRS 281.752. The applicant's signature upon the registration receipt shall be considered to be a certification that he is a farmer engaged solely in the production of crops, livestock or dairy products, and that during the current registration year the truck will be used only in transporting persons, food, provender, feed, and machinery used in operating his farm and the products grown on his farm.
- (5) Any person owning a truck or bus used solely in transporting school children and school employees may have the truck or bus registered as a school bus and obtain a license for eleven dollars fifty cents (\$11.50) by filing with the county clerk, in addition to other information required, an affidavit stating that the truck or bus is used solely in the transportation of school children and persons employed in the schools of the district, that he has caused to be printed on each side of the truck or bus and on the rear door the words "School Bus" in letters at least six (6) inches high, and of a conspicuous color, and the truck or bus will be used during the next twelve (12) months only for the purpose stated.
- (6) Any church or religious organization owning a truck or bus used solely in transporting persons to and from a place of worship or for other religious work may have the truck or bus registered as a church bus and obtain a license for eleven dollars and fifty cents (\$11.50) by filing with the county clerk, in addition to other information required, an affidavit stating that the truck or bus will be used only for the transporting of persons to and from a place of worship, or for other religious work, and that there has been printed on the truck or bus in large letters the words "Church Bus," with the name of the church or religious organization owning and

using the truck or bus, and that during the next twelve (12) months the truck or bus will be used only for the purpose stated.

- (7) Any person owning a motor vehicle with a gross weight of fourteen thousand (14,000) pounds or less on which a wrecker crane or other equipment suitable for wrecker service has been permanently mounted may register the vehicle and obtain a license for eleven dollars fifty cents (\$11.50) by filing with the county clerk, in addition to other information required, an affidavit that a wrecker crane or other equipment suitable for wrecker service has been permanently mounted on such vehicle and that during the next twelve (12) months the vehicle will be used only in wrecker service. If the gross weight of the vehicle exceeds fourteen thousand (14,000) pounds, the vehicle shall be registered in accordance with subsection (3) of this section. The gross weight of a vehicle used in wrecker service shall not include the weight of the vehicle being towed by the wrecker.
- (8) Motor vehicles having a declared gross weight in excess of eighteen thousand (18,000) pounds, which when operated in this state are used exclusively for the transportation of property within the limits of the city named in the affidavit hereinafter required to be filed, or within ten (10) miles of the city limits of the city if it is a city of the first, second, third, or fourth class, or within five (5) miles of its limits if it is a city of the fifth or sixth class, or anywhere within a county containing an urban-county government, shall not be required to pay the fee as set out in subsection (3) of this section, and in lieu thereof shall pay seventy-five percent (75%) of the fee set forth in subsection (3) of this section and shall be exempt from any fee charged under the provisions of KRS 281.752. Nothing in this section shall be construed to limit any right of nonresidents to exemption from registration under any other provisions of the laws granting reciprocity to nonresidents. Operations outside of this state shall not be considered in determining whether or not the foregoing mileage limitations have been observed. When claiming the right to the reduced fee, the applicant's signature on the certificate of registration and ownership shall constitute a certification or affidavit stating that the motor vehicle when used within this state is used only for the transportation of property within the city to be named in the affidavit and the area above set out and that the vehicle will not be used outside of a city and the area above set out during the current registration period.
- (9) Motor vehicles having a declared gross weight in excess of eighteen thousand (18,000) pounds, which are used exclusively for the transportation of primary forest products from the harvest area to a mill or other processing facility, where such mill or processing facility is located at a point not more than fifty (50) air miles from the harvest area or which are used exclusively for the transportation of concrete blocks or ready-mixed concrete from the point at which such concrete blocks or ready-mixed concrete is produced to a construction site where such concrete blocks or ready-mixed concrete is to be used, where such construction site is located at a point not more than thirty (30) air miles from the point at which such concrete blocks or ready-mixed concrete is produced shall not be required to pay the fee as set out in subsection (3) of this section, and in lieu thereof, shall pay seventy-five percent (75%) of the fee set out in subsection (3) of this section and shall be exempt from any fee charged under the provisions of KRS 281.752. The applicant's signature upon the certificate of registration and ownership shall constitute a certification that the motor vehicle will not be used during the current registration period in any manner other than that for which the reduced fee is provided in this section.
- (10) Any owner of a commercial vehicle registered for a declared gross weight in excess of eighteen thousand (18,000) pounds, intending to transfer same and desiring to take advantage of the refund provisions of KRS 186.056(2), may reregister such vehicle and obtain a "For Sale" certificate of registration and ownership for one dollar (\$1). Title to a vehicle so registered may be transferred, but such registration shall not authorize the operation or use of the vehicle on any public highway. No refund may be made under the provisions of KRS 186.056(2) until such time as the title to such vehicle has been transferred to the purchaser thereof. Provided, however, that nothing herein shall be so construed as to prevent the seller of a commercial vehicle from transferring the registration of such vehicle to any purchaser thereof.
- (11) The annual registration fee for self-propelled vehicles containing sleeping or eating facilities shall be twenty dollars (\$20) and the multiyear license plate issued shall be designated "Recreational vehicle." The foregoing shall not include any motor vehicle primarily designed for commercial or farm use having temporarily attached thereto any sleeping or eating facilities, or any commercial vehicle having sleeping facilities.
- (12) The registration fee on any vehicle registered under this section shall be increased fifty percent (50%) when the vehicle is not equipped wholly with pneumatic tires.
- (13) (a) The Department of Vehicle Regulation is authorized to negotiate and execute an agreement or agreements for the purpose of developing and instituting proportional registration of motor vehicles

engaged in interstate commerce, or in a combination of interstate and intrastate commerce, and operating into, through or within the Commonwealth of Kentucky. The agreement or agreements may be made on a basis commensurate with, and determined by, the miles traveled on, and use made of, the highways of this Commonwealth as compared with the miles traveled on and use made of highways of other states, or upon any other equitable basis of proportional registration. Notwithstanding the provisions of KRS 186.020, the cabinet shall promulgate administrative regulations concerning the registration of motor vehicles under any agreement or agreements made under this section and shall provide for direct issuance by it of evidence of payment of any registration fee required under such agreement or agreements. Any proportional registration fee required to be collected under any proportional registration agreement or agreements shall be in accordance with the taxes established in this section.

- (b) Any owner of a commercial vehicle who is required to title his motor vehicle under this section shall first title such vehicle with the county clerk pursuant to KRS 186.020 for a state fee of one dollar (\$1). Title to such vehicle may be transferred; however title without proper registration shall not authorize the operation or use of the vehicle on any public highway. Any commercial vehicle properly titled in Kentucky may also be registered in Kentucky, and, upon payment of the required fees, the department may issue an apportioned registration plate to such commercial vehicle.
  - (c) Any commercial vehicle that is properly titled in a foreign jurisdiction, which vehicle is subject to apportioned registration, as provided in paragraph (a) of this subsection, may be registered in Kentucky, and, upon proof of proper title, and payment of the required fees, the department may issue an apportioned registration plate to the commercial vehicle. The department shall promulgate administrative regulations in accordance with this section.
- (14) Any person seeking to obtain a special license plate for an automobile that has been provided to him pursuant to an occupation shall meet both of the following requirements:
- (a) The automobile shall be provided for the full-time exclusive use of the applicant; and
  - (b) The applicant shall obtain permission in writing from the vehicle owner or lessee on a form provided by the cabinet to use the vehicle and for the vehicle to bear the special license plate.
- (15) *An applicant for any motor vehicle registration issued pursuant to this section shall have the opportunity to make a donation of two dollars (\$2) to promote a hunger relief program through specific wildlife management and conservation efforts by the Department of Fish and Wildlife Resources in accordance with KRS 150.015. If an applicant elects to make a contribution under this subsection, the two dollar (\$2) donation shall be added to the regular fee for any motor vehicle registration issued pursuant to this section. One (1) donation may be made per issuance of each registration. The fee shall be paid to the county clerk and shall be transmitted by the State Treasurer to the Department of Fish and Wildlife Resources to be used exclusively for the purpose of wildlife management and conservation activities in support of hunger relief. The county clerk may retain up to five percent (5%) of the fees collected under this subsection for administrative costs associated with the collection of this donation. Any donation requested under this subsection shall be voluntary and may be refused by the applicant at the time of issuance or renewal of a license plate.*

Approved March 28, 2006.

## CHAPTER 58

(SB 219)

AN ACT relating to easements.

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

SECTION 1. A NEW SECTION OF KRS CHAPTER 350 IS CREATED TO READ AS FOLLOWS:

- (1) *An easement of necessity for the completion of reclamation activities, created by this subsection, requires satisfaction of these circumstances:*

- (a) *An entity has, by court order or approved plan of reorganization, become responsible for performance of reclamation under a surface coal mining and reclamation permit issued by the cabinet pursuant to KRS Chapter 350 prior to the effective date of this Act;*
  - (b) *The entity obtained those permit rights and obligations in connection with a bankruptcy proceeding;*
  - (c) *The permit holder's right to enter upon some portion or all of the property covered by such permit is derived from a leasehold interest in the property; and*
  - (d) *The lease authorizing the conducting of surface coal mining and reclamation operations was held by an entity other than the entity responsible for reclamation and has expired or was terminated prior to completion of reclamation operations for that leased property.*
- (2) *Upon satisfaction of paragraphs (a) through (d) of subsection (1) of this section and all other obligations provided for in this section, the entity responsible for the performance of reclamation shall be deemed by operation of law to have an "easement of necessity to conduct reclamation operations" for such property as was under the expired or terminated lease. The easement of necessity to conduct reclamation operations shall exist for a period of time that is reasonably necessary for the entity responsible for the reclamation to complete any reclamation operations required by the permit and by KRS Chapter 350, but in no case shall the easement of necessity to conduct reclamation operations exist longer than eight (8) years from the date the easement is created pursuant to this section.*
- (3) *In order to create the easement of necessity to conduct reclamation operations, the entity responsible for the performance of reclamation shall:*
  - (a) *Provide to the permitting agency, with a certified copy to the current surface owner, documentation to establish the satisfaction of the conditions imposed by this section and receive from the permitting agency a written determination that the permitted area for which the easement of necessity is requested falls within the conditions of this section; and*
  - (b) *Compensate the current surface owner with the fair rental value of the property for the reclamation period, including the extended liability period prior to the final bond release on the formerly-leased property, as follows:*
    - 1. *The entity responsible for the reclamation shall provide a written opinion by a qualified appraiser as to the fair rental value and the basis for the determination;*
    - 2. *The surface owner and the entity responsible for the reclamation shall attempt to reach agreement as to the amount of the appropriate compensation; and*
    - 3. *If no agreement is reached as to the amount of appropriate compensation within fifteen (15) days following receipt by the surface owner of the written offer of compensation from the entity responsible for reclamation and the appraisal report, the entity responsible for reclamation shall pay into an escrow account for the benefit of the current surface owner in a bank authorized to do business in the Commonwealth an amount equal to the written offer by the entity responsible for reclamation, which shall be not less than fifteen thousand dollars (\$15,000) for the first three (3) years of the reclamation and liability period. The entity responsible for the reclamation shall provide the current owner with the location of the escrow account.*
- (4) *After subparagraph 3. of paragraph (b) of subsection (3) of this section is satisfied, the entity responsible for reclamation shall have the immediate right of entry solely to perform reclamation as required by the permit and state law.*
- (5) *If the surface owner believes the amount placed in escrow is insufficient compensation, the owner may bring an action in the Circuit Court in the county in which the property in question is located for a determination of the fair rental value of the property.*
- (6) *Following the first payment, five thousand dollars (\$5,000) or the appraised fair rental value, whichever is greater, shall be paid to the current surface owner for each year of reclamation and extended liability period until the final bond release and shall be paid on the first day of each subsequent year beginning with the fourth year.*



- (7) *After July 15, 2008, no new easement of necessity to conduct reclamation operations created by this section shall be deemed to exist by operation of law, except for continuation of such easements that were created prior to July 15, 2008.*

**Approved March 28, 2006.**

## CHAPTER 59

### (HCR 32)

A CONCURRENT RESOLUTION confirming the nomination of Karen L. Engle to the Governor's Postsecondary Education Nominating Committee.

WHEREAS, by the authority granted by KRS 164.005, Governor Ernie Fletcher has issued Executive Order 2005-495 appointing Karen L. Engle to the Governor's Postsecondary Education Nominating Committee representing the 3rd Supreme Court District to replace Teresa J. Hill, Williamsburg, who has resigned, for the term ending April 14, 2010; and

WHEREAS, appointments to the Governor's Postsecondary Education Nominating Committee are subject to confirmation by the House of Representatives and the Senate; and

WHEREAS, by letter of May 31, 2005, the Governor has delivered Karen L. Engle's name for confirmation as a member of the Governor's Postsecondary Education Nominating Committee, as required by KRS 11.160; and

WHEREAS, the House of Representatives and the Senate find that Karen L. Engle meets the requirements established in KRS 164.005 for membership on the Governor's Postsecondary Education Nominating Committee;

NOW, THEREFORE,

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

Section 1. The House of Representatives and the Senate hereby confirm the appointment of Karen L. Engle to the Governor's Postsecondary Education Nominating Committee representing the 3rd Supreme Court District for the term ending April 14, 2010.

Section 2. The Clerk of the House of Representatives shall send notification of the General Assembly's action to Governor Ernie Fletcher, Room 100, State Capitol, Frankfort, Kentucky 40601, and Ms. Karen L. Engle, Post Office Box 1173, Corbin, Kentucky 40702.

**Approved March 28, 2006.**

## CHAPTER 60

### (HCR 38)

A CONCURRENT RESOLUTION confirming the nomination of Wesley V. Milliken to the Governor's Postsecondary Education Nominating Committee.

WHEREAS, by the authority granted by KRS 164.005, Governor Ernie Fletcher has issued Executive Order 2005-495 appointing Wesley V. Milliken to the Governor's Postsecondary Education Nominating Committee representing the 2nd Supreme Court District to replace William Thomas Adams, Jr., Bowling Green, who has resigned, for the term ending April 14, 2008; and

WHEREAS, appointments to the Governor's Postsecondary Education Nominating Committee are subject to confirmation by the House of Representatives and the Senate; and

WHEREAS, by letter of May 31, 2005, the Governor has delivered Wesley V. Milliken's name for confirmation as a member of the Governor's Postsecondary Education Nominating Committee, as required by KRS 11.160; and

WHEREAS, the House of Representatives and the Senate find that Wesley V. Milliken meets the requirements established in KRS 164.005 for membership on the Governor's Postsecondary Education Nominating Committee;

NOW, THEREFORE,

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

Section 1. The House of Representatives and the Senate hereby confirm the appointment of Wesley V. Milliken to the Governor's Postsecondary Education Nominating Committee representing the 2nd Supreme Court District for the term ending April 14, 2008.

Section 2. The Clerk of the House of Representatives shall send notification of the General Assembly's action to Governor Ernie Fletcher, Room 100, State Capitol, Frankfort, Kentucky 40601, and Mr. Wesley V. Milliken, 2219 Mount Victor Lane, Bowling Green, Kentucky 42103.

**Approved March 28, 2006.**

## **CHAPTER 61**

### **(HCR 39)**

A CONCURRENT RESOLUTION confirming the reappointment of James G. Cibulka to the Education Professional Standards Board.

WHEREAS, by the authority granted by KRS 161.028, Governor Ernie Fletcher has issued Executive Order 2005-1159 reappointing James G. Cibulka as a member of the Education Professional Standards Board, representing deans of the colleges of education, for a term expiring September 18, 2009; and

WHEREAS, appointments to the Education Professional Standards Board are subject to confirmation by the Senate and the House of Representatives; and

WHEREAS, the House of Representatives and the Senate find that James G. Cibulka meets the requirements of KRS 161.028 for service on the Education Professional Standards Board;

NOW, THEREFORE,

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

Section 1. The House of Representatives and the Senate, as required by KRS 161.028, hereby confirm the reappointment of James G. Cibulka to the Education Professional Standards Board for a term expiring September 18, 2009.

Section 2. The Clerk of the House of Representatives shall forward a copy of this Resolution, and written confirmation of its adoption, to Dr. James G. Cibulka, 4 Court of Champions, Nicholasville, Kentucky 40356 and to Governor Ernie Fletcher, State Capitol, Room 100, Frankfort, Kentucky 40601.

**Approved March 28, 2006.**

## **CHAPTER 62**

### **(HCR 115)**

A CONCURRENT RESOLUTION reauthorizing the Task Force on Funding for Wildlife Conservation.

WHEREAS, the Task Force on Funding for Wildlife Conservation was authorized by the 1996 General Assembly and reauthorized in 1998, 2000, 2002, and 2004; and

WHEREAS, wildlife-related tourism is a strong economic factor in the Commonwealth; and

WHEREAS, a stable funding source is needed for fish and wildlife work, which currently receives no general fund money; and

WHEREAS, important issues in this area will require the oversight and continued attention of this task force;

NOW, THEREFORE,

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

Section 1. The Task Force on Funding for Wildlife Conservation is reauthorized with 16 members to meet during the 2006 and 2007 interims. The task force shall convene not less than twice each year.

Section 2. The task force shall report its findings each year to the Interim Joint Committee on Agriculture and Natural Resources and the Interim Joint Committee on Appropriations and Revenue before December 1, 2006, and December 1, 2007.

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

**Approved March 28, 2006.**

## CHAPTER 63

### (HCR 120)

A CONCURRENT RESOLUTION creating a Land Stewardship and Conservation Taskforce.

WHEREAS, Kentucky is a land of scenic beauty and diverse topography; and

WHEREAS, Kentuckians value the unique qualities of their land and want to pass that legacy on to their children and grandchildren; and

WHEREAS, we are currently converting over 130 acres of forests, fields, agricultural land, wildlife habitat, and other natural areas per day to urban uses; and

WHEREAS, there is a need to address this issue while the opportunity for solutions still exists;

NOW, THEREFORE,

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

Section 1. The Legislative Research Commission is hereby directed to create a Land Stewardship and Conservation Taskforce, that shall study the Commonwealth's strategy for the protection of natural areas, farmlands, habitats, and forests, and produce recommendations for a comprehensive land stewardship and conservation program, to be called the "Conserve Kentucky" program. The study shall include, but not be limited to: a review of the state's existing land preservation programs and their missions, their interactions, funding sources, and methods for prioritizing projects; a review of other states' land conservation programs and funding sources; a statewide assessment of potential areas and acreage that may be secured from willing participants; and an assessment of the sources and levels of funding needed to sustain a long-range plan.

Section 2. The taskforce shall be composed of the following members: one member of the House of Representatives, appointed by the Speaker of the House of Representatives; one member of the Senate, appointed by the President of the Senate; the secretary of the Cabinet for Environmental and Public Protection or the secretary's designee; and one member from each of the following organizations and agencies, to be appointed by the Speaker of the House of Representatives: the Kentucky Heritage Land Conservation Fund, the Kentucky Conservation Committee, the League of Kentucky Sportsmen, the Kentucky Resources Council, the Sierra Club, the Kentuckians for the Commonwealth, the Kentucky League of Cities; and one member of each of the following organizations and agencies to be appointed by the President of the Senate: the Kentucky State Nature Preserves Commission, the Kentucky PACE program, the Kentucky Department of Fish and Wildlife Resources, the Kentucky Woodland Owners Association, the Kentucky Farm Bureau, the Kentucky Home Builders Association, the Kentucky Department of Parks, and the Kentucky Association of Counties.

Section 3. The taskforce shall meet at least three times between June 30, 2006, and the date of the completion of its final report.

Section 4. The taskforce shall submit its final report, along with recommendations and any proposed legislation, to the Legislative Research Commission for referral to the appropriate committee or committees by June 30, 2007.

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

**Approved March 28, 2006.**

## **CHAPTER 64**

### **(HB 68)**

AN ACT relating to the donation of food.

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

Section 1. KRS 217.127 is amended to read as follows:

- (1) The secretary shall adopt regulations for the effective administration and enforcement of KRS 217.005 to 217.215.
- (2) The secretary shall adopt a state retail food code which shall include, among other things, provisions for regulating the issuance, suspension, and revocation of permits to operate; submission of plans for construction and equipment layout including plumbing, lighting, ventilation, water supply, sewage disposal, and other facilities; food supply source and protection; health, disease control and cleanliness of personnel; design, construction, installation, and cleanliness of equipment and utensils; toilet and hand-washing facilities; solid waste disposal and vermin control; and any other matters deemed necessary to insure a safe and sanitary operation of a retail food establishment. Standards for construction, plumbing, lighting, and ventilation of fixed retail food establishments shall be effective only if they are approved by the Board of Housing, Buildings and Construction and are included in the Uniform State Building Code, or if they conform to the State Plumbing Code in the case of plumbing fixtures. Any review of plans for construction, plumbing, lighting, and ventilation required before construction of a fixed retail food establishment shall be conducted by the Office of Housing, Buildings and Construction or authorized local building official pursuant to KRS Chapter 198B.
- (3) ***The donation of safe and apparently wholesome food by a retail food establishment or any other entity regulated under subsections (1) and (2) of this section shall be exempt from any further inspection or regulation if the donated food has been inspected under subsections (1) and (2) of this section.***

SECTION 2. A NEW SECTION OF KRS CHAPTER 217 IS CREATED TO READ AS FOLLOWS:

***Nothing in this chapter shall be construed to prohibit or regulate the donation of safe and apparently wholesome food by a retail food establishment.***

Section 3. KRS 413.248 is amended to read as follows:

- (1) A person, ***including an individual, corporation, partnership, organization, association, or retail food establishment***, who donates apparently wholesome food to a nonprofit organization for distribution to the needy is not subject to civil or criminal liability that arises from the condition of the food, unless an injury or death results from an act or omission of the donor which constitutes gross negligence, recklessness, or intentional misconduct.
- (2) A nonprofit organization that distributes apparently wholesome food to the needy at no charge and that substantially complies with applicable local, county, state, and federal laws and regulations regarding the storage and handling of food for distribution to the public is not subject to civil or criminal liability that arises from the condition of the food, unless an injury or death results from an act or omission of the organization that constitutes gross negligence, recklessness, or intentional misconduct.
- (3) This section does not create any liability.

Section 4. KRS 139.480 is amended to read as follows:

Any other provision of this chapter to the contrary notwithstanding, the terms "sale at retail," "retail sale," "use," "storage," and "consumption," as used in this chapter, shall not include the sale, use, storage, or other consumption of:

- (1) Locomotives or rolling stock, including materials for the construction, repair, or modification thereof, or fuel or supplies for the direct operation of locomotives and trains, used or to be used in interstate commerce;
- (2) Coal for the manufacture of electricity;

- (3) All energy or energy-producing fuels used in the course of manufacturing, processing, mining, or refining and any related distribution, transmission, and transportation services for this energy that are billed to the user, to the extent that the cost of the energy or energy-producing fuels used, and related distribution, transmission, and transportation services for this energy that are billed to the user exceed three percent (3%) of the cost of production. Cost of production shall be computed on the basis of plant facilities which shall mean all permanent structures affixed to real property at one (1) location;
- (4) Livestock of a kind the products of which ordinarily constitute food for human consumption, provided the sales are made for breeding or dairy purposes and by or to a person regularly engaged in the business of farming;
- (5) Poultry for use in breeding or egg production;
- (6) Farm work stock for use in farming operations;
- (7) Seeds, the products of which ordinarily constitute food for human consumption or are to be sold in the regular course of business, and commercial fertilizer to be applied on land, the products from which are to be used for food for human consumption or are to be sold in the regular course of business; provided such sales are made to farmers who are regularly engaged in the occupation of tilling and cultivating the soil for the production of crops as a business, or who are regularly engaged in the occupation of raising and feeding livestock or poultry or producing milk for sale; and provided further that tangible personal property so sold is to be used only by those persons designated above who are so purchasing;
- (8) Insecticides, fungicides, herbicides, rodenticides, and other farm chemicals to be used in the production of crops as a business, or in the raising and feeding of livestock or poultry, the products of which ordinarily constitute food for human consumption;
- (9) Feed, including pre-mixes and feed additives, for livestock or poultry of a kind the products of which ordinarily constitute food for human consumption;
- (10) Machinery for new and expanded industry;
- (11) Farm machinery. As used in this section, the term "farm machinery" means machinery used exclusively and directly in the occupation of tilling the soil for the production of crops as a business, or in the occupation of raising and feeding livestock or poultry or of producing milk for sale. The term "farm machinery," as used in this section includes machinery, attachments, and replacements therefor, repair parts, and replacement parts which are used or manufactured for use on, or in the operation of farm machinery and which are necessary to the operation of the machinery, and are customarily so used; but this exemption shall not include automobiles, trucks, trailers, and truck-trailer combinations;
- (12) Property which has been certified as a pollution control facility as defined in KRS 224.01-300, and all materials, supplies, and repair and replacement parts purchased for use in the operation or maintenance of the facilities used specifically in the steel-making process. The exemption provided in this subsection for materials, supplies, and repair and replacement parts purchased for use in the operation of pollution control facilities shall be effective for sales made through June 30, 1994;
- (13) Tombstones and other memorial grave markers;
- (14) On-farm facilities used exclusively for grain or soybean storing, drying, processing, or handling. The exemption applies to the equipment, machinery, attachments, repair and replacement parts, and any materials incorporated into the construction, renovation, or repair of the facilities;
- (15) On-farm facilities used exclusively for raising poultry or livestock. The exemption shall apply to the equipment, machinery, attachments, repair and replacement parts, and any materials incorporated into the construction, renovation, or repair of the facilities. The exemption shall apply but not be limited to vent board equipment, waterer and feeding systems, brooding systems, ventilation systems, alarm systems, and curtain systems. In addition, the exemption shall apply whether or not the seller is under contract to deliver, assemble, and incorporate into real estate the equipment, machinery, attachments, repair and replacement parts, and any materials incorporated into the construction, renovation, or repair of the facilities;
- (16) Gasoline, special fuels, liquefied petroleum gas, and natural gas used exclusively and directly to:
  - (a) Operate farm machinery as defined in subsection (11) of this section;
  - (b) Operate on-farm grain or soybean drying facilities as defined in subsection (14) of this section;

- (c) Operate on-farm poultry or livestock facilities defined in subsection (15) of this section;
  - (d) Operate-on farm ratite facilities defined in subsection (24) of this section;
  - (e) Operate on-farm llama or alpaca facilities as defined in subsection (26) of this section; or
  - (f) Operate on-farm dairy facilities;
- (17) Textbooks, including related workbooks and other course materials, purchased for use in a course of study conducted by an institution which qualifies as a nonprofit educational institution under KRS 139.495. The term "course materials" means only those items specifically required of all students for a particular course but shall not include notebooks, paper, pencils, calculators, tape recorders, or similar student aids;
- (18) Any property which has been certified as an alcohol production facility as defined in KRS 247.910;
- (19) Aircraft, repair and replacement parts therefor, and supplies, except fuel, for the direct operation of aircraft in interstate commerce and used exclusively for the conveyance of property or passengers for hire. Nominal intrastate use shall not subject the property to the taxes imposed by this chapter;
- (20) Any property which has been certified as a fluidized bed energy production facility as defined in KRS 211.390;
- (21) Any property to be incorporated into the construction, rebuilding, modification, or expansion of a blast furnace or any of its components or appurtenant equipment or structures. The exemption provided in this subsection shall be effective for sales made through June 30, 1994;
- (22) Beginning on October 1, 1986, food or food products purchased for human consumption with food coupons issued by the United States Department of Agriculture pursuant to the Food Stamp Act of 1977, as amended, and required to be exempted by the Food Security Act of 1985 in order for the Commonwealth to continue participation in the federal food stamp program;
- (23) Machinery or equipment purchased or leased by a business, industry, or organization in order to collect, source separate, compress, bale, shred, or otherwise handle waste materials if the machinery or equipment is primarily used for recycling purposes;
- (24) Ratite birds and eggs to be used in an agricultural pursuit for the breeding and production of ratite birds, feathers, hides, breeding stock, eggs, meat, and ratite by-products, and the following items used in this agricultural pursuit:
- (a) Feed and feed additives;
  - (b) Insecticides, fungicides, herbicides, rodenticides, and other farm chemicals;
  - (c) On-farm facilities, including equipment, machinery, attachments, repair and replacement parts, and any materials incorporated into the construction, renovation, or repair of the facilities. The exemption shall apply to incubation systems, egg processing equipment, waterer and feeding systems, brooding systems, ventilation systems, alarm systems, and curtain systems. In addition, the exemption shall apply whether or not the seller is under contract to deliver, assemble, and incorporate into real estate the equipment, machinery, attachments, repair and replacement parts, and any materials incorporated into the construction, renovation, or repair of the facilities;
- (25) Embryos and semen that are used in the reproduction of livestock, if the products of these embryos and semen ordinarily constitute food for human consumption, and if the sale is made to a person engaged in the business of farming;
- (26) Llamas and alpacas to be used as beasts of burden or in an agricultural pursuit for the breeding and production of hides, breeding stock, fiber and wool products, meat, and llama and alpaca by-products, and the following items used in this pursuit:
- (a) Feed and feed additives;
  - (b) Insecticides, fungicides, herbicides, rodenticides, and other farm chemicals; and
  - (c) On-farm facilities, including equipment, machinery, attachments, repair and replacement parts, and any materials incorporated into the construction, renovation, or repair of the facilities. The exemption shall apply to waterer and feeding systems, ventilation systems, and alarm systems. In addition, the exemption shall apply whether or not the seller is under contract to deliver, assemble, and incorporate into real

estate the equipment, machinery, attachments, repair and replacement parts, and any materials incorporated into the construction, renovation, or repair of the facilities;

- (27) Baling twine and baling wire for the baling of hay and straw;
- (28) Water sold to a person regularly engaged in the business of farming and used in the:
  - (a) Production of crops;
  - (b) Production of milk for sale; or
  - (c) Raising and feeding of:
    - 1. Livestock or poultry, the products of which ordinarily constitute food for human consumption; or
    - 2. Ratites, llamas, alpacas, buffalo, cervids or aquatic organisms;
- (29) Buffalos to be used as beasts of burden or in an agricultural pursuit for the production of hides, breeding stock, meat, and buffalo by-products, and the following items used in this pursuit:
  - (a) Feed and feed additives;
  - (b) Insecticides, fungicides, herbicides, rodenticides, and other farm chemicals;
  - (c) On-farm facilities, including equipment, machinery, attachments, repair and replacement parts, and any materials incorporated into the construction, renovation, or repair of the facilities. The exemption shall apply to waterer and feeding systems, ventilation systems, and alarm systems. In addition, the exemption shall apply whether or not the seller is under contract to deliver, assemble, and incorporate into real estate the equipment, machinery, attachments, repair and replacement parts, and any materials incorporated into the construction, renovation, or repair of the facilities;
- (30) Aquatic organisms sold directly to or raised by a person regularly engaged in the business of producing products of aquaculture, as defined in KRS 260.960, for sale, and the following items used in this pursuit:
  - (a) Feed and feed additives;
  - (b) Water;
  - (c) Insecticides, fungicides, herbicides, rodenticides, and other farm chemicals; and
  - (d) On-farm facilities, including equipment, machinery, attachments, repair and replacement parts, and any materials incorporated into the construction, renovation, or repair of the facilities and, any gasoline, special fuels, liquefied petroleum gas, or natural gas used to operate the facilities. The exemption shall apply, but not be limited to: waterer and feeding systems; ventilation, aeration, and heating systems; processing and storage systems; production systems such as ponds, tanks, and raceways; harvest and transport equipment and systems; and alarm systems. In addition, the exemption shall apply whether or not the seller is under contract to deliver, assemble, and incorporate into real estate the equipment, machinery, attachments, repair and replacement parts, and any materials incorporated into the construction, renovation, or repair of the facilities;
- (31) Members of the genus cervidae permitted by KRS Chapter 150 that are used for the production of hides, breeding stock, meat, and cervid by-products, and the following items used in this pursuit:
  - (a) Feed and feed additives;
  - (b) Insecticides, fungicides, herbicides, rodenticides, and other chemicals; and
  - (c) On-site facilities, including equipment, machinery, attachments, repair and replacement parts, and any materials incorporated into the construction, renovation, or repair of the facilities. In addition, the exemption shall apply whether or not the seller is under contract to deliver, assemble, and incorporate into real estate the equipment, machinery, attachments, repair and replacement parts, and any materials incorporated into the construction, renovation, or repair of the facilities;
- (32) (a) Repair or replacement parts for the direct operation or maintenance of a motor vehicle, including any towed unit, used exclusively in interstate commerce for the conveyance of property or passengers for hire, provided the motor vehicle is licensed for use on the highway and its declared gross vehicle weight

with any towed unit is forty-four thousand and one (44,001) pounds or greater. Nominal intrastate use shall not subject the property to the taxes imposed by this chapter;~~and~~

- (b) Repair or replacement parts for the direct operation and maintenance of a motor vehicle operating under a charter bus certificate issued by the Transportation Cabinet under KRS Chapter 281, or under similar authority granted by the United States Department of Transportation.
- (c) For the purposes of this subsection, "repair and replacement parts" means tires, brakes, engines, transmissions, drive trains, chassis, body parts, and their components. "Repair and replacement parts" shall not include fuel, machine oils, hydraulic fluid, brake fluid, grease, supplies, or accessories not essential to the operation of the motor vehicle itself, except when sold as part of the assembled unit, such as cigarette lighters, radios, lighting fixtures not otherwise required by the manufacturer for operation of the vehicle, or tool or utility boxes; *and*
- (33) ***Food donated by a retail food establishment or any other entity regulated under Section 1 of this Act to a nonprofit organization for distribution to the needy.***

Approved March 28, 2006.

## CHAPTER 65

### (HB 90)

AN ACT relating to graduated driver's licenses for teenagers.

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

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

- (1) A person who is at least sixteen (16) years of age may apply for an instruction permit to operate a motor vehicle. A person who possesses a valid motor vehicle operators' license or a person who is at least eighteen (18) years of age may apply for an instruction permit to operate a motorcycle. A holder of either a motor vehicle or motorcycle instruction permit may also operate a moped under that permit. A person applying for an instruction permit under this section shall make application in the office of the circuit clerk in the county where the person lives. A person applying for an instruction permit shall be required to comply with the following:
  - (a) If the person is under the age of eighteen (18), the instruction permit application shall be signed by the applicant's parent or legal guardian. If the person does not have a living parent or does not have a legal guardian, the instruction permit application shall be signed by a person willing to assume responsibility for the applicant pursuant to KRS 186.590; and
  - (b) All applicants for an instruction permit shall comply with the examinations required by KRS 186.480.
- (2) If an applicant successfully passes the examinations required by KRS 186.480, the applicant shall be issued an instruction permit upon payment of a six dollar (\$6) fee pursuant to KRS 186.531.
- (3) An instruction permit shall be valid for ***three (3) years***~~one (1) year~~ and may be renewed. A person ***who has attained the age of sixteen (16) years and is under the age of eighteen (18) years at the time of application for an instruction permit shall have the instruction permit a minimum of one hundred eighty (180) days before applying for an intermediate license and shall have an intermediate license for a minimum of one hundred eighty (180) days before applying for an operator's license. A person who is at least eighteen (18) years of age and is*** under the age of twenty-one (21) years at the time of application for an instruction permit shall have the instruction permit a minimum of one hundred eighty (180) days before applying for an operator's license. A person who is at least twenty-one (21) years of age at the time of application for an instruction permit shall have the instruction permit a minimum of thirty (30) days before applying for an operator's license.
- (4) A person shall have the instruction permit in his possession at all times when operating a motor vehicle, motorcycle, or moped upon the highway. When operating a motor vehicle, a motor vehicle instruction permit holder shall be accompanied by a person with a valid operator's license who is at least twenty-one (21) years of age occupying the seat beside the operator at all times.
- (5) A person with an instruction permit who is under the age of eighteen (18) shall not operate a motor vehicle, motorcycle, or moped between the hours of 12 midnight and 6 a.m. unless the person can demonstrate good



cause for driving including, but not limited to, emergencies, involvement in school related activities, or involvement in work related activities.

- (6) *Except when accompanied by a driver training instructor affiliated with a driver training school licensed under KRS Chapter 332 or a public or non-public secondary school, a person with an instruction permit who is under the age of eighteen (18) years shall not operate a motor vehicle at any time when accompanied by more than one (1) unrelated person who is under the age of twenty (20) years. A peace officer shall not stop or seize a person nor issue a uniform citation for a violation of this subsection if the officer has no other cause to stop or seize the person other than a violation of this subsection. This subsection shall not apply to any operator of a vehicle registered under the provisions of KRS 186.050(4) who is engaged in agricultural activities.*
- (7) *A violation under subsection (4), (5), or (6) of this section, a conviction for a moving violation under KRS Chapter 189 for which points are assessed by the cabinet, or a conviction for a violation of KRS 189A.010(1) shall add an additional minimum of one hundred eighty (180) days from the date of the violation before a person who is under the age of eighteen (18) years may apply for an intermediate license to operate a motor vehicle, motorcycle, or moped.*
- ~~(8)(6)~~ A person under the age of eighteen (18) who accumulates more than six (6) points against his driving privilege may have the driving privilege suspended pursuant to KRS Chapter 186 or probated by the court.
- ~~(9)(7)~~ An applicant for relicensing after revocation shall pay the clerk a fee of twenty-five dollars (\$25). The twenty-five dollar (\$25) fee shall not apply to any person whose license was suspended for failure to meet the conditions described in KRS 186.411 when, within one (1) year of suspension, the driving privileges of such individuals are reinstated and persons reinstated pursuant to KRS 159.051.

SECTION 2. A NEW SECTION OF KRS CHAPTER 186 IS CREATED TO READ AS FOLLOWS:

- (1) *Beginning April 1, 2007, a person who is at least sixteen and a half (16 1/2) years of age may apply for an intermediate license to operate a motor vehicle if the person has:*
  - (a) *Held an instruction permit a minimum of one hundred eighty (180) days without a violation under subsection (4), (5), or (6) of Section 1 of this Act, a conviction for a moving violation under KRS Chapter 189 for which points are assessed by the cabinet, or a conviction for a violation of KRS 189A.010(1); and*
  - (b) *Presented a statement to the state police signed by a parent or guardian of the applicant attesting that the applicant has completed at least sixty (60) hours of supervised driving experience, including at least ten (10) hours at night, while accompanied by a person who has attained the age of twenty-one (21) years and holds a valid operator's license occupying the seat beside the applicant.*
- (2) *If an applicant for an intermediate license successfully completes the examinations required under KRS 186.480, the state police shall affix an intermediate license sticker to the instruction permit and report the applicant's new status to the Transportation Cabinet. The Transportation Cabinet shall update the information in its computer system to reflect that the applicant has been granted an intermediate license. An intermediate license shall be valid for two (2) years and may be renewed.*
- (3) *A person shall have the intermediate license in his or her possession at all times when operating a motor vehicle.*
- (4) *A person with an intermediate license who is under the age of eighteen (18) years shall not operate a motor vehicle, motorcycle, or moped between the hours of 12 midnight and 6 a.m. unless the person can demonstrate good cause for driving, including emergencies, involvement in school-related activities, or involvement in work-related activities.*
- (5) *Except when accompanied by a driver training instructor affiliated with a driver training school licensed under KRS Chapter 332 or a public or non-public secondary school, a person with an intermediate license who is under the age of eighteen (18) years shall not operate motor vehicle at any time when accompanied by more than one (1) unrelated person who is under the age of twenty (20) years. A peace officer shall not stop or seize a person nor issue a uniform citation for a violation of this subsection if the officer has no other cause to stop or seize the person other than a violation of this subsection. This subsection shall not apply to any operator of a vehicle registered under the provisions of KRS 186.050(4) who is engaged in agricultural activities.*

- (6) *A violation under subsection (3), (4), or (5) of this section, a conviction for a moving violation under KRS Chapter 189 for which points are assessed by the cabinet, or a conviction for a violation of KRS 189A.010(1) shall add an additional minimum of one hundred eighty (180) days from the date of the violation before a person who is under the age of eighteen (18) years may apply for an operator's license.*

SECTION 3. A NEW SECTION OF KRS CHAPTER 186 IS CREATED TO READ AS FOLLOWS:

*Beginning October 1, 2007, a person with an intermediate license who is under the age of eighteen (18) years may apply for an operator's license to operate a motor vehicle if the person has:*

- (1) *Held an intermediate license for a minimum of one hundred eighty (180) days without a conviction for a moving violation under KRS Chapter 189 for which points are assessed by the cabinet, a conviction for a violation of KRS 189A.010(1), or a conviction under subsection (3), (4), or (5) of Section 2 of this Act; and*
- (2) *Completed a driver training program under KRS 186.410(4).*

Section 4. KRS 186.412 is amended to read as follows:

- (1) A person *who has attained the age of eighteen (18) years and is* under the age of twenty-one (21) at the time of application for an instruction permit may apply for an operator's license to operate a motor vehicle, motorcycle, or moped if the person has possessed the valid instruction permit for at least one hundred eighty (180) days. A person who is at least twenty-one (21) years of age at the time of application for an instruction permit may apply for an operator's license to operate a motor vehicle, motorcycle, or moped if the person has possessed the valid instruction permit for at least thirty (30) days.
- (2) Except as provided in subsection (4) of this section, a person shall apply for an operator's license in the office of the circuit clerk of the county where the person lives. The application form shall require the person's:
  - (a) Full legal name and signature;
  - (b) Date of birth;
  - (c) Social Security number, federal tax identification number, a letter from the Social Security Administration declining to issue a Social Security number, or a notarized affidavit from the applicant to the Transportation Cabinet swearing that the person either does not have a Social Security number, or refuses to divulge his or her Social Security number, based upon religious convictions;
  - (d) Sex;
  - (e) Present Kentucky resident address, exclusive of a post office box address alone;
  - (f) Other information necessary to permit the application of United States citizens to also serve as an application for voter registration;
  - (g) A brief physical description of the applicant;
  - (h) A statement if the person has previously been licensed as an operator in another state;
  - (i) Proof of the person's Kentucky residency including, but not limited to, a deed or property tax bill, utility agreement or utility bill, or rental housing agreement; and
  - (j) Other information the cabinet may require by administrative regulation promulgated under KRS Chapter 13A.
- (3) A permanent resident shall present one (1) of the following documents issued by the United States Department of Justice, Immigration and Naturalization Service:
  - (a) An I-551 card with a photograph of the applicant; or
  - (b) A form with the photograph of the applicant or a passport with a photograph of the applicant on which the United States Department of Justice, Immigration and Naturalization Service has stamped the following: "Processed for I-551. Temporary evidence of lawful admission for permanent residence. Valid until -----. Employment authorized."
- (4) If the person is not a United States citizen and has not been granted status as a permanent resident of the United States, the person's application for an original operator's license shall be submitted to either the Transportation Cabinet in Frankfort or a Transportation Cabinet field office.

- (a) The application form shall be accompanied by the person's documentation issued by the United States Department of Justice, Immigration and Naturalization Service, authorizing the person to be in the United States and, if applicable, the person's international driving permit. The application form of a special status individual with a K-1 status shall be accompanied by an original or certified copy of the person's completed marriage license signed by the official who presided over the marriage ceremony and two (2) witnesses. The application form of a special status individual with a K-1 status shall also include the person's petition to enter the United States for the purpose of marriage that contains the name of the prospective spouse. If the name of the prospective spouse on the petition does not match the name of the spouse on the marriage license, the Transportation Cabinet shall not be required to issue an operator's license.
  - (b) The Transportation Cabinet shall, within fifteen (15) days of receipt of the application, review the person's documentation and determine if the person will be issued a Kentucky operator's license. If the review of an application will take longer than fifteen (15) days, the cabinet shall continue the review, but the cabinet shall be required to make a determination in all cases within thirty (30) days of receipt of the application.
  - (c) If the cabinet determines the person may be issued an operator's license, the cabinet shall issue the person an official form that the person shall take to the office of the circuit clerk of the county where the person resides. The circuit clerk shall review the person's documentation and the official form issued by the Transportation Cabinet. If the documentation is verified as accurate, and if the person successfully completes the examinations required under KRS 186.480, the circuit clerk shall issue the person a Kentucky operator's license.
  - (d) Except as provided in paragraphs (e) and (f) of this subsection, a person who is not a United States citizen and who has not been granted status as a permanent resident of the United States shall apply to renew an operator's license, or obtain a duplicate operator's license, in the office of the circuit clerk in the county in which the person resides.
  - (e) If a person is renewing an operator's license or is applying for a duplicate license after July 15, 2002, and the person's documentation issued by the United States Department of Justice, Immigration and Naturalization Service, has not been reviewed by either the Transportation Cabinet in Frankfort or a Transportation Cabinet field office under the provisions of this subsection, the person shall be required to apply for the renewal or duplicate with either the Transportation Cabinet in Frankfort or a Transportation Cabinet field office.
  - (f) If a person has any type of change in the person's immigration status, the person shall apply to renew an operator's license with either the Transportation Cabinet in Frankfort or a Transportation Cabinet field office.
- (5) The circuit clerk shall issue an operator's license bearing a color photograph of the applicant and other information the cabinet may deem appropriate. The photograph shall be taken by the circuit clerk so that one (1) exposure will photograph the applicant and the application simultaneously. When taking the photograph, the applicant shall be prohibited from wearing sunglasses or any other attire that obscures any features of the applicant's face as determined by the clerk. The clerk shall require an applicant to remove sunglasses or other obscuring attire before taking the photograph required by this subsection. Any person who refuses to remove sunglasses or other attire prohibited by this section as directed by the clerk shall be prohibited from receiving an operator's license. The operator's license issued by the cabinet shall not contain the applicant's Social Security number. The cabinet shall promulgate administrative regulations pursuant to KRS Chapter 13A that develop a numbering system that uses an identification system other than Social Security numbers. If an applicant does not have a Social Security number, or the applicant has submitted a notarized affidavit refusing to divulge his or her Social Security number based upon religious convictions, the Transportation Cabinet shall assign the applicant a unique identifying number. The license shall also designate by color coding and use the phrase "under 21" if the licensee is under the age of twenty-one (21); "CDL" if the license is issued pursuant to KRS Chapter 281A; or "under 21 CDL" if the licensee holds a commercial driver's license issued pursuant to KRS Chapter 281A and is under the age of twenty-one (21).
- (6) Every applicant shall make oath to the circuit clerk as to the truthfulness of the statements contained in the form.

- (7)
  - (a) Except as provided in subsection (8) of this section, the circuit clerk shall issue a color photo personal identification card to any person who is a Kentucky resident and who resides in the county who complies with the provisions of this section and who applies in person in the office of the circuit clerk. An application for a personal identification card shall be accompanied by the same information as is required for an operator's license under subsection (2) of this section, except if a person does not have a fixed, permanent address, the person may use as proof of residency a signed letter from a homeless shelter, health care facility, or social service agency currently providing the person treatment or services and attesting that the person is a resident of Kentucky.
  - (b) It shall be permissible for the application form for a personal identification card to include as a person's most current resident address a mailing address, post office box, or an address provided on a voter registration card.
  - (c) Every applicant for a personal identification card shall make an oath to the circuit clerk as to the truthfulness of the statements contained on the application form. If the applicant is not the legal owner or possessor of the address provided on the application form, the applicant shall swear that he or she has permission from the legal owner, authorized agent for the legal owner or possessor to use the address for purposes of obtaining the personal identification card. The personal identification card shall designate by color coding and by use of the phrase "under 21" if the applicant is under the age of twenty-one (21).
  - (d) A personal identification card shall be valid for a period of four (4) years from the date of issuance. Except as provided in this subsection, an initial or renewal personal identification card issued to a person who is not a United States citizen and who has not been granted status as a permanent resident of the United States and who is not a special status individual, but who is a Kentucky resident, shall be valid for a period equal to the length of time the person's documentation from the United States Department of Justice, Immigration and Naturalization Service is issued, or four (4) years, whichever time period is shorter. An initial or renewal personal identification card shall be valid for a period of two (2) years if the person is not a special status individual and the person's documentation issued by the United States Department of Justice, Immigration and Naturalization Service, is issued for an indefinite period of time and does not have an expiration date. The fee shall be the same as for a regular personal identification card.
  - (e) A personal identification card may be suspended or revoked if the person who was issued the card presents false or misleading information to the cabinet when applying for the card.
- (8) A person may be issued a personal identification card if the person currently holds a valid Kentucky instruction permit or operator's license. If a person's instruction permit or operator's license has been suspended or revoked, the person may be issued a temporary personal identification card. A temporary personal identification shall be renewed annually and may be surrendered when the person applies to have his or her instruction permit or operator's license reinstated.
- (9) The Transportation Cabinet shall implement a voluntary statewide child identification program. The program shall issue a color photo personal identification card to a child two (2) to fifteen (15) years of age. Application for a child identification card shall be accompanied by a Social Security card and a birth certificate for the child, or other proof of the child's date of birth as provided under subsection (2) of this section. The card shall contain the child's name and the toll-free number of the Kentucky Missing Persons Clearinghouse, Kentucky State Police. The card shall not contain the child's Social Security number. The cabinet shall set a four dollar (\$4) fee for the child identification card. Two dollars (\$2) of the fee shall be used to cover the cabinet's cost for equipment and supplies. Two dollars (\$2) of the fee shall be an administrative fee of the circuit clerk for issuing the card which shall be deposited by the Administrative Office of the Courts into a trust and agency account for the circuit clerks and used for the purposes of hiring additional deputy clerks and providing salary adjustments to deputy clerks. The card shall expire every four (4) years on the child's birthday. Within the time period that the child identification card is valid, the card may be updated with a new photograph and information. The fee for an updated card shall be four dollars (\$4), with two dollars (\$2) of the fee going to the cabinet and two dollars (\$2) going to the Administrative Office of the Courts in the same manner as the fee for an initial card as described in this subsection. The descriptive data and a photo image of the child shall be stored in the Kentucky Driver's License Information System and may be retrieved and used by public agencies subject to the provisions of the Driver Privacy Protection Act, 18 U.S.C. sec. 2721, and may also be used by the Kentucky Missing Persons Clearinghouse.

- (10) If a citizen of the Commonwealth currently serving in the United States military is stationed or assigned to a base or other location outside the boundaries of the Commonwealth, the citizen may renew a Class D operator's license issued under this section by mail. If the citizen was issued an "under 21" operator's license, upon the date of his or her twenty-first birthday, the "under 21" operator's license may be renewed for an operator's license that no longer contains the outdated reference to being "under 21."
- (11) A citizen of the Commonwealth renewing an operator's license by mail under subsection (10) of this section may have a personal designee apply to the circuit clerk on behalf of the citizen to renew the citizen's operator's license. An operator's license being renewed by mail under subsection (10) of this section shall be issued a license without a photograph. The license shall show in the space provided for the photograph the legend "valid without photo and signature."
- (12) If a citizen of the Commonwealth has been serving in the United States military and has allowed his operator's license to expire, he shall, within ninety (90) days of returning to the Commonwealth, be permitted to renew his license without having to take a written test or road test. A citizen who does not renew his license within ninety (90) days of returning to the Commonwealth shall be required to comply with the provisions of this chapter governing renewal of a license that has expired. If a citizen of the Commonwealth has been issued an "under 21" or "under 21 CDL" operator's license and the person is unable to renew the license on the date of his twenty-first birthday, the "under 21" or "under 21 CDL" operator's license shall be valid for ninety (90) days beyond the date of the person's twenty-first birthday.
- (13) The cabinet shall provide on each license to operate motor vehicles, motorcycles, and mopeds a space for the licensed driver's:
  - (a) Blood type;
  - (b) Medical insignia if the person provides evidence that a medical identification bracelet noting specific physical ailments or a drug allergy is being worn or other proof as may be required by the cabinet; and
  - (c) A statement whereby the owner of the license may certify in the presence of two (2) witnesses his willingness to make an anatomical gift under KRS 311.195.
- (14) If the motor vehicle operator denotes a physical ailment or drug allergy on the operator's license, he may apply for and shall receive, for a fee of one dollar (\$1) paid to the circuit clerk, a medical insignia decal that may be affixed to the lower left side of the front windshield of a motor vehicle.
- (15) An operator's license pursuant to this section shall be designated a Class D license.
- (16) A person shall not have more than one (1) license.
- (17) Upon marriage, a woman applying for an operator's license or a color photo personal identification card shall provide the circuit clerk with her marriage license and complete an affidavit form provided by the circuit court clerk. She shall have the following choices in regard to her full legal name as required in subsections (2) and (7) of this section:
  - (a) Use her husband's last name;
  - (b) Retain her maiden name;
  - (c) Use her maiden name hyphenated with her husband's last name;
  - (d) Use her maiden name as a middle name and her husband's last name as her last name; or
  - (e) In the case of a previous marriage, retain that husband's last name.
- (18) Upon issuing an operator's license or personal identification card, the clerk shall draw the recipient's attention to the location on the license relating to anatomical gifts under subsection (13)(c) of this section and offer to allow personnel in the clerk's office to serve as the witnesses to the recipient's certification of willingness to make an anatomical gift if the recipient is the person to whom the license is issued.

Section 5. KRS 186.470 is amended to read as follows:

- (1) The application of any minor under the age of eighteen (18) for an operator's license, motorcycle operator's license, *intermediate license*, or any instruction permit shall not be granted unless the application is signed by a parent or legal guardian of the applicant. Regardless of which parent signs the application, both parents shall

be responsible as provided in KRS 186.590. If the minor does not have a father, mother, or guardian, an operator's license, *intermediate license*, or instruction permit shall not be granted to the minor unless his application is signed by a person willing to assume the obligation imposed by KRS 186.590 upon a person signing the application of a minor. A signature shall not be required in the case of the renewal of a minor's license but the signature on the original application shall continue to make the parent, guardian, or other person liable under the provisions of KRS 186.590 on all renewals of the minor's license until he reaches the age of eighteen (18) unless the license, or any renewal thereof, is canceled as provided in subsection (2) of this section.

- (2) A parent or a guardian of a minor applicant may file with the cabinet a verified written request that the license of the minor be canceled. Thereupon the license of the minor shall be canceled and the person who signed the application shall be relieved as to subsequent acts of the minor from the liability imposed by subsection (1) of KRS 186.590.
- (3) The cabinet upon receipt of satisfactory evidence of the death of the person who signed the application of a minor for a license shall have the license canceled and no new license shall be issued to the minor until a new application, signed and verified, is made as required by this section.

Section 6. KRS 186.480 is amended to read as follows:

- (1) The State Police shall examine every applicant for an operator's license as identified in KRS 186.6401, except as otherwise provided in this section. The examination shall be held in the county where the applicant resides unless:
  - (a) The applicant is granted written permission by the circuit clerk of the county in which he resides to take the examination in another county, and the State Police agree to arrange for the examination in the other county; or
  - (b) The applicant is tested using a bioptic telescopic device.
- (2) The examination shall include a test of the applicant's eyesight to ensure compliance with the visual acuity standards set forth in KRS 186.577. The examination shall also include a test of the applicant's ability to read and understand highway signs regulating, warning and directing traffic, the applicant's knowledge of traffic laws and an actual demonstration of the applicant's ability to exercise ordinary and reasonable control in the operation of a motor vehicle. An applicant for a motorcycle operator's license shall be required to show his ability to operate a motorcycle, in addition to other requirements of this section. The provisions of this subsection shall not apply to an applicant who:
  - (a) At the time of application, holds a valid operator's license from another state, provided that state affords a reciprocal exemption to a Kentucky resident; or
  - (b) Is a citizen of the Commonwealth who has been serving in the United States military and has allowed his operator's license to expire.
- (3) Any person whose *intermediate license or* operator's license is denied, suspended, or revoked for cause shall apply for reinstatement at the termination of the period for which the license was denied, suspended, or revoked by submitting to the examination. The provisions of this subsection shall not apply to any person whose license was suspended for failure to meet the conditions described in KRS 186.411 when, within one (1) year of suspension, the driving privileges of such individuals are reinstated.

Section 7. KRS 186.6401 is amended to read as follows:

The following persons shall be required to successfully complete the examinations required under KRS 186.480 prior to being issued a Kentucky operator's license:

- (1) A person who has been issued a Kentucky instruction permit *or intermediate license*;
- (2) A person who has applied for a Kentucky operator's license under KRS 186.412(4); and
- (3) Other persons as identified in an administrative regulation promulgated by the Kentucky State Police under KRS Chapter 13A.

Section 8. KRS 186.990 is amended to read as follows:

- (1) Any person who violates any of the provisions of KRS 186.020, 186.030, 186.040, 186.045(4), 186.050, 186.056, 186.060, 186.110, 186.130, 186.140, 186.160, 186.170, 186.180(1) to (4)(a), 186.210, 186.230, or KRS 186.655 to 186.680 shall be guilty of a violation.
- (2) Any person who violates any of the provisions of KRS 138.465, 186.190, or 186.200 shall be guilty of a Class A misdemeanor.
- (3) A person who violates the provisions of KRS 186.450(4), **(5), or (6) or subsection (3), (4), or (5) of Section 2 of this Act**~~or (5)~~ shall be guilty of a violation. A person who violates any of the other provisions of KRS 186.400 to 186.640 shall be guilty of a Class B misdemeanor.
- (4) Any clerk or judge failing to comply with KRS 186.550(1) shall be guilty of a violation.
- (5) If it appears to the satisfaction of the trial court that any offender under KRS 186.400 to 186.640 has a driver's license but in good faith failed to have it on his or her person or misplaced or lost it, the court may, in its discretion, dismiss the charges against the defendant without fine, imprisonment, or cost.
- (6) Any person who steals a motor vehicle registration plate or renewal decal shall be guilty of a Class D felony. Displaying a canceled registration plate on a motor vehicle shall be prima facie evidence of guilt under this section.
- (7) Any person who violates the provisions of KRS 186.1911 shall be guilty of a Class A misdemeanor.
- (8) Any person who makes a false affidavit to secure a license plate under KRS 186.172 shall be guilty of a Class A misdemeanor.
- (9) Any person who violates any provision of KRS 186.070 or 186.150 shall be guilty of a Class A misdemeanor.
- (10) Any person who operates a vehicle bearing a dealer's plate upon the highways of this Commonwealth with intent to evade the motor vehicle usage tax or registration fee shall be guilty of a Class A misdemeanor for the first offense and a Class D felony for each subsequent offense.
- (11) Any person, other than a licensed dealer or manufacturer, who procures a dealer's plate with intent to evade the motor vehicle usage tax or registration fee shall be guilty of a Class D felony.
- (12) Any resident who unlawfully registers, titles, or licenses a motor vehicle in any state other than Kentucky with intent to evade the motor vehicle usage tax or the registration fee shall be guilty of a Class A misdemeanor if the amount of tax due is less than one hundred dollars (\$100), or of a Class D felony if the amount of tax due is more than one hundred dollars (\$100), and in addition shall be liable for all taxes so evaded with applicable interest and penalties.

Section 9. The amendments to Section 1 of this Act shall apply to any person who obtains an original or renewal instruction permit issued pursuant to KRS 186.450 on or after October 1, 2006.

**Approved March 28, 2006.**

## CHAPTER 66

### (HB 110)

AN ACT relating to agritourism.

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

Section 1. KRS 247.804 is amended to read as follows:

An Agritourism Advisory Council shall be established within the Department of Agriculture to advise and assist the Office of Agritourism. The Agritourism Advisory Council shall be composed of:

- (1) One (1) representative from each of the following entities:
  - (a) Department of Agriculture, appointed by the Commissioner of Agriculture;
  - (b) Commerce Cabinet, appointed by the secretary of the cabinet;
  - (c) Education, Arts, and Humanities Cabinet, appointed by the secretary of the cabinet;

- (d) Department of Fish and Wildlife Resources Commission, appointed by the commissioner of the department;
- (e) University of Kentucky Cooperative Extension Service;
- (f) ~~West Kentucky Corporation;~~
- ~~(g)~~ Kentucky Tourism Council;
- ~~(g)~~~~(h)~~ Kentucky Farm Bureau;
- ~~(h)~~~~(i)~~ Kentucky Association of Fairs and Horse Shows;
- ~~(i)~~~~(j)~~ East Kentucky Corporation;
- ~~(k)~~ Southern and Eastern Kentucky Tourism Development Association;
- ~~(j)~~~~(l)~~ Licking River Valley Resource Conservation and Development Council;
- ~~(k)~~~~(m)~~ Buffalo Trace Covered Bridge Authority;
- ~~(l)~~~~(n)~~ Kentucky Chamber of Commerce; ~~and~~
- ~~(m)~~~~(o)~~ Kentucky Council of Area Development Districts; *and*
- (n) Jackson Purchase Resource Conservation and Development Foundation, Inc.;*
- (2) The Governor, or a designee;
- (3) Two (2) members of the General Assembly who hold an interest in agriculture, one (1) appointed by the President of the Senate and one (1) appointed by the Speaker of the House of Representatives; and
- (4) Nine (9) representatives of agriculture or the agritourism industry, appointed by the Commissioner of Agriculture from a list of candidates compiled by the tourism regions as set forth in KRS 247.802(4). Each tourism region shall submit three (3) candidates with a business interest in agritourism who reside within that region, and the Commissioner shall appoint one (1) candidate from each region from those names submitted.

**Approved March 28, 2006.**

## CHAPTER 67

**(HB 158)**

AN ACT relating to engineers and land surveyors.

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

Section 1. KRS 322.090 is amended to read as follows:

- (1) An applicant failing an examination **up to two (2) times** may apply for reexamination ~~after six (6) months~~.
- (2) ***After the effective date of this Act, an applicant failing an examination three (3) or more times, regardless of the jurisdiction where each examination is administered, may be approved for reexamination upon submitting a new application. The new application shall include evidence that the applicant has acquired additional knowledge. The board shall promulgate administrative regulations specifying the type and extent of additional knowledge and qualifications required to apply for reexamination under this subsection.***
- (3) Reexaminations ***under this section*** shall be granted upon payment of a fee to be determined by administrative regulations promulgated by the board.

**Approved March 28, 2006.**

## CHAPTER 68

**(HB 195)**

AN ACT relating to state employee conflict of interest.

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



Section 1. KRS 11A.040 is amended to read as follows:

- (1) A public servant, in order to further his own economic interests, or those of any other person, shall not knowingly disclose or use confidential information acquired in the course of his official duties.
- (2) A public servant shall not knowingly receive, directly or indirectly, any interest or profit arising from the use or loan of public funds in his hands or to be raised through any state agency.
- (3) A public servant shall not knowingly act as a representative or agent for the Commonwealth or any agency in the transaction of any business or regulatory action with himself, or with any business in which he or a member of his family has any interest greater than five percent (5%) of the total value thereof.
- (4) A public servant shall not knowingly himself or through any business in which he owns or controls an interest of more than five percent (5%), or by any other person for his use or benefit or on his account, undertake, execute, hold, bid on, negotiate, or enjoy, in whole or in part, any contract, agreement, lease, sale, or purchase made, entered into, awarded, or granted by the agency by which he is employed or which he supervises, subject to the provisions of KRS 45A.340. This provision shall not apply to:
  - (a) A contract, purchase, or good faith negotiation made pursuant to KRS Chapter 416 relating to eminent domain; or
  - (b) Agreements which may directly or indirectly involve public funds disbursed through entitlement programs; or
  - (c) A public servant's spouse or child doing business with any state agency other than the agency by which the public servant is employed or which he supervises; or
  - (d) Purchases from a state agency that are available on the same terms to the general public or that are made at public auction; *or*
  - (e) *Sale of craft items to a state park by interim state employees designated as craftspeople under Section 3 of this Act.*
- (5) A public servant shall not knowingly accept compensation, other than that provided by law for public servants, for performance of his official duties without the prior approval of the commission.
- (6) A former officer or public servant listed in KRS 11A.010(9)(a) to (g) shall not, within six (6) months of termination of his employment, knowingly by himself or through any business in which he owns or controls an interest of at least five percent (5%), or by any other person for his use or benefit or on his account, undertake, execute, hold, bid on, negotiate, or enjoy, in whole or in part, any contract, agreement, lease, sale, or purchase made, entered into, awarded, or granted by the agency by which he was employed. This provision shall not apply to a contract, purchase, or good faith negotiation made under KRS Chapter 416 relating to eminent domain or to agreements that may directly or indirectly involve public funds disbursed through entitlement programs. This provision shall not apply to purchases from a state agency that are available on the same terms to the general public or that are made at public auction. This provision shall not apply to former officers of the Department of Public Advocacy whose continued representation of clients is necessary in order to prevent an adverse effect on the client.
- (7) A present or former officer or public servant listed in KRS 11A.010(9)(a) to (g) shall not, within six (6) months following termination of his office or employment, accept employment, compensation, or other economic benefit from any person or business that contracts or does business with, or is regulated by, the state in matters in which he was directly involved during the last thirty-six (36) months of his tenure. This provision shall not prohibit an individual from returning to the same business, firm, occupation, or profession in which he was involved prior to taking office or beginning his term of employment, or for which he received, prior to his state employment, a professional degree or license, provided that, for a period of six (6) months, he personally refrains from working on any matter in which he was directly involved during the last thirty-six (36) months of his tenure in state government. This subsection shall not prohibit the performance of ministerial functions including, but not limited to, filing tax returns, filing applications for permits or licenses, or filing incorporation papers, nor shall it prohibit the former officer or public servant from receiving public funds disbursed through entitlement programs.
- (8) A former public servant shall not act as a lobbyist or lobbyist's principal in matters in which he was directly involved during the last thirty-six (36) months of his tenure for a period of one (1) year after the latter of:

- (a) The date of leaving office or termination of employment; or
  - (b) The date the term of office expires to which the public servant was elected.
- (9) A former public servant shall not represent a person or business before a state agency in a matter in which the former public servant was directly involved during the last thirty-six (36) months of his tenure, for a period of one (1) year after the latter of:
- (a) The date of leaving office or termination of employment; or
  - (b) The date the term of office expires to which the public servant was elected.
- (10) Without the approval of his appointing authority, a public servant shall not accept outside employment from any person or business that does business with or is regulated by the state agency for which the public servant works or which he supervises, unless the outside employer's relationship with the state agency is limited to the receipt of entitlement funds.
- (a) The appointing authority shall review administrative regulations established under KRS Chapter 11A when deciding whether to approve outside employment for a public servant.
  - (b) The appointing authority shall not approve outside employment for a public servant if the public servant is involved in decision-making or recommendations concerning the person or business from which the public servant seeks outside employment or compensation.
  - (c) The appointing authority, if applicable, shall file quarterly with the Executive Branch Ethics Commission a list of all employees who have been approved for outside employment along with the name of the outside employer of each.
- (11) The prohibitions imposed by subsection (5) or (10) of this section shall not apply to Professional Golfers' Association class A members who teach golf lessons and receive a fee or lesson charge at golf courses owned and operated by the Kentucky Department of Parks. Instruction provided by an employee of the Commonwealth shall only be given while the employee is on his or her own personal time. The commissioner of the Department of Parks shall promulgate administrative regulations to establish guidelines for the process by which Professional Golfers' Association class A members are approved to teach golf lessons at Kentucky Department of Parks-owned golf courses. The exception granted by this subsection is in recognition of the benefits that will accrue to the Kentucky Department of Parks due to increased participation at state-owned golf courses.

Section 2. KRS 45A.340 is amended to read as follows:

- (1) No officer or employee of the General Assembly, or officer or employee of an agency as defined in KRS 45A.335, shall knowingly receive or agree to receive, directly or indirectly, compensation for any services to be rendered, either by himself or another, in negotiations with the state or an agency for the purchase by the state or an agency of an interest in real property. This section shall not apply to appearances before any court, except that negotiations shall be prohibited as aforesaid at any time.
- (2) No officer or employee of an agency or member of a state board or commission, may be in any manner interested, either directly or indirectly, in his own name or in the name of any other person, association, trust, or corporation, in any contract for the performance of any work in the making or letting or administration of which such officer or employee may be called upon to act or vote. No such officer or employee may represent, either as agent or otherwise, any person, association, trust, or corporation, with respect to any application or bid for any contract or work in regard to which such officer or employee may be called upon to act or vote. Nor may any such officer or employee take, solicit, or receive, either directly or indirectly, any money or other thing of value as a gift or bribe or means of influencing his vote or action in his official character. Any contract made and procured in violation hereof is void. For the purposes of this section the holding of less than five percent (5%) of the stock of a corporation is not considered an interest.
- (3) No officer or employee of the General Assembly or officer or employee of any agency shall, for compensation, appear before an agency as an expert witness.
- (4) No officer or employee of the General Assembly, or officer or employee of any agency, shall act as officer or agent for the Commonwealth or any agency in the transaction of any business with himself, or with any corporation, company, association, or firm in which he or his spouse has any interest greater than five percent (5%) of the total value thereof.

- (5) No officer or employee of an agency or appointee shall knowingly himself or by his partners or through any corporation which he controls or in which he owns or controls more than ten percent (10%) of the stock, or by any other person for his use or benefit or on his account, undertake, execute, hold, or enjoy, in whole or in part, any contract, agreement, sale, or purchase of the value of twenty-five dollars (\$25) or more, made, entered into, awarded or granted by any agency, unless said contract, agreement, sale or purchase:
- (a) Was made or let after public notice and competitive bidding; *or*
  - (b) *Results from the sale of a craft item to a state park if the employee is an interim state park employee designated as a craftsperson under Section 3 of this Act.*
- (6) No officer, employee, or appointee of an agency, including persons who serve without salary or other payment for their services, shall knowingly receive or agree to receive, directly or indirectly, compensation for any services rendered or to be rendered, either by himself or another, in any cause, proceeding, application, or other matter which is before said agency or before the department of state government in which said agency functions.
- (7) No member of a board of trustees or regents shall have an interest in any contract with a state university unless such contract shall have been subjected to competitive bidding in compliance with KRS Chapter 45A, unless such trustee or regent shall have been the lowest bidder and unless such trustee or regent shall have first notified in writing the remaining members of the board, and to the newspaper having the largest circulation in the county in which the state university is located, of his intention to bid on such contract.

SECTION 3. A NEW SECTION OF KRS CHAPTER 148 IS CREATED TO READ AS FOLLOWS:

- (1) *Notwithstanding KRS 11A.020, Sections 1 and 2 of this Act, or any other law to the contrary, the commissioner may designate as a craftsperson any interim state employee whose duties consist primarily of craft-making demonstrations and who has been juried by a craft jury.*
- (2) *Persons designated as craftspersons under subsection (1) of this section may sell craft products to gift shops operated by the Department of Parks, provided that the products are made from materials that have not been purchased with state funds.*

Approved March 28, 2006.

## CHAPTER 69

(HB 258)

AN ACT relating to the evacuation and relocation of prisoners in jails and regional jails.

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

SECTION 1. A NEW SECTION OF KRS CHAPTER 441 IS CREATED TO READ AS FOLLOWS:

- (1) (a) *The Department of Corrections shall, through the promulgation of administrative regulations under KRS Chapter 13A, develop evacuation and relocation protocol for jailers of local and regional jails to follow in the development of individual evacuation and relocation plans for prisoners housed within the jails or regional jails to other facilities in the event that an emergency renders the jail or regional jail temporarily or permanently uninhabitable. The protocol shall take into account evacuation and relocation procedures for full-service jails, life-safety jails, and holding facilities for jailers who are transportation officers.*
- (b) *Each jailer who exercises control over one (1) or more prisoners shall develop an evacuation and relocation plan based upon the department's evacuation and relocation protocol. The Department of Corrections shall assist jailers in the development of their individual evacuation and relocation plans, and the jailers shall submit their plans to the county legislative body, which shall provide commentary to ensure that the jail evacuation plan is compatible with the relevant annexes of the local emergency operations plans.*
- (c) *The department, in consultation with the jailers in assisting drafting the local evacuation plans, shall ensure that each individual jail evacuation and relocation plan is also compatible with the relevant annexes of the state emergency operations plans.*

- (2) *In developing the plan for the evacuation and relocation of prisoners, the jailer shall contact other jails, regional jails, correctional facilities, and penitentiaries, and shall enter into a written agreement for the relocation of the jail's prisoners.*
- (3) *The jailer shall review the evacuation and relocation plan every year, and shall update it when necessary.*
- (4) *Each jail's and regional jail's evacuation and relocation plan shall be filed with the department in a manner that the department determines through administrative regulations promulgated under KRS Chapter 13A.*
- (5) *The department may provide for procedures for jailers to follow in the drafting and updating of the jail's and regional jail's individual evacuation and relocation plan, as well as any administrative procedures necessary to effect the requirements of this section through the promulgation of administrative regulations under KRS Chapter 13A.*
- (6) *If the department determines that the jail's or regional jail's plan does not meet its standards or the jailer has not followed certain procedures set out by administrative regulation, it shall submit written notification of the fact to each county judge/executive and each jailer of each county housing prisoners in the jail or regional jail. The department may establish sanctions for noncompliance. Any sanctions shall be set out by administrative regulation promulgated under KRS Chapter 13A.*
- (7) *The department shall promulgate the regulations permitted and required under this section no later than one hundred eighty (180) days after the effective date of this Act.*
- (8) *The jailers shall complete their evacuation and relocation plans and transmit them to the department no later than January 31, 2008. If a jailer does not complete and transmit the copy of his or her evacuation and relocation plans, the jailer shall be notified by the department of the failure and shall be subject to orders and sanctions of the department under subsection (6) of this section.*
- (9) *The Department of Corrections may delegate the responsibility of developing the evacuation and relocation protocol to the Jail Standards Commission. If the department delegates this responsibility, it shall adopt the recommendations of the Jail Standards Commission through administrative regulations promulgated under KRS Chapter 13A. The Department of Corrections may consult and collaborate with the Jail Standards Commission on any aspect of the requirements set out in this section.*

Approved March 28, 2006.

## CHAPTER 70

### (HB 446)

AN ACT relating to the sales of horses.

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

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

- (1) *Any sale, purchase, or transfer of an equine used for racing, or showing, including prospective racehorses, breeding prospects, stallions, stallion seasons, broodmares, or weanlings, or any interest therein, shall be:*
  - (a) *Accompanied by a written bill of sale or acknowledgment of purchase and security agreement setting forth the purchase price; and*
  - (b) *Signed by both the purchaser and the seller or their duly authorized agent, or in a transaction solely relating to a season or fractional interest in the stallion, signed by the syndicate manager or stallion manager.*
- (2) *In circumstances where a transaction described in subsection (1) is accomplished through a public auction the bill of sale requirement described in subsection (1) may be satisfied by the issuance of an auction receipt, generated by the auction house, and signed by the purchaser or the purchaser's duly authorized agent. An agent who signs an auction receipt on behalf of his or her principal shall do so only if authorized in writing. When presented with such authorization, all other parties to the transaction may presume that an agent signing on behalf of his or her principal is duly authorized to act for the principal.*
- (3) *It shall be unlawful for any person to act as an agent for both the purchaser and the seller, which is hereby defined as a dual agent, in a transaction involving the sale, purchase, or transfer of an interest in an equine*

*used for racing or showing, including prospective racehorses, breeding prospects, stallions, stallion seasons, broodmares, or weanlings, or any interest therein, without:*

- (a) The prior knowledge of both the purchaser and the seller; and*
  - (b) Written consent of both the purchaser and the seller.*
- (4) It shall be unlawful for a person acting as an agent for either a purchaser or a seller or acting as a dual agent in a transaction involving the sale, purchase, or transfer of an equine used for racing or showing, including prospective racehorses, breeding prospects, stallions, stallion seasons, broodmares, or weanlings, or any interest therein, to receive compensation, fees, a gratuity, or any other item of value in excess of five hundred dollars (\$500), and related directly or indirectly to such transaction, from an individual or entity including any consigner involved in the transaction, other than an agent's principal, unless:*
- (a) The agent receiving and the person or entity making the payment disclose in writing the payment to both the purchaser and seller; and*
  - (b) Each principal for whom the agent is acting consents in writing to the payment.*
- (5) Any person acting as an agent for a purchaser or seller or acting as a dual agent in a transaction involving the sale, purchase, or transfer of an equine used for racing or showing, including prospective racehorses, breeding prospects, stallions, stallion seasons, broodmares, or weanlings, or any interest therein, shall, upon request by his or her principal or principals, furnish copies of all financial records and financial documents in the possession or control of the agent pertaining to the transaction to the principal or principals. However, disclosure of compensation arrangements described in subsection (7) of this section shall not be required. For purposes of this subsection, financial records shall not include the agent's or owner's work product used to internally evaluate the equine.*
- (6) Any person injured by a violation of this section shall recover treble damages, from persons or entities violating this section, and the prevailing party in any litigation under this section shall be entitled to an award of costs of the suit, reasonable litigation expenses, and attorney's fees. As used in this section, treble damages shall equal three (3) times the sum of:*
- (a) The difference, if any, between the price paid for the equine and the actual value of the equine at the time of sale; and*
  - (b) Any payment made in violation of subsection (4) of this section.*
- (7) Nothing in this section shall require disclosure of compensation arrangements between a principal and an agent where no dual agency exists, where the agent is acting solely for the benefit of his or her principal, and where the agent is being compensated solely by his or her principal.*
- (8) Notwithstanding any provision of the Kentucky Revised Statutes to the contrary, for transactions contemplated by this section that are accomplished through a public auction, this section shall not require disclosure of the reserves, the identity of the principals, or the auctioneer's commissions. Auction companies shall not be deemed to be dual agents for all purposes under this section.*
- (9) The provisions of this section shall not apply to the sale, purchase, or transfer of an equine used for showing if the sale, purchase, or transfer does not exceed ten thousand dollars (\$10,000).*
- (10) No person shall be held liable under this section unless that person has actual knowledge of the conduct constituting a violation of this section.*

**Approved March 28, 2006.**

## **CHAPTER 71**

**(HB 458)**

AN ACT relating to the examination of mines.

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

Section 1. KRS 352.340 is amended to read as follows:

- (1) The mine foreman or his assistants shall visit and carefully examine each working place in the mine at least every four (4) hours while the mine employees are at work. He shall examine as live workings, on regular inspections, all places in live sections that are temporarily abandoned. If the mine foreman finds any place to be in a dangerous condition, he shall not leave the place until it is made safe, or until the employees working therein are removed until the place is made safe. He shall see that every mine liberating explosive gas is kept free of standing gas in all working places and roadways, and that all accumulations of explosive or noxious gases in the worked-out or abandoned portions of any mine are removed as soon as possible after discovery. He shall ensure that all preshift examinations are conducted by a certified person and that examinations of conveyor belts have been conducted. He shall not allow any person who may be endangered by the presence of explosive or noxious gases to enter that portion of the mine until the gases have been removed. He shall direct and see that all dangerous places and the entrances to worked-out and abandoned places in all mines are properly barricaded across the openings, so that no person will enter, and that danger signs are posted upon the barricade to warn persons of existing danger. He shall give prompt attention to the removal of all dangers reported to him by his assistants, the fire boss or any person working in the mine, and if it is impracticable to remove the danger at once he shall notify every person whose safety is menaced thereby to remain away from the portion where the dangerous condition exists.
- (2) ~~The mine foreman~~~~He~~ or his assistants, fire bosses, or other certified persons shall, at least once every week, travel and examine all air courses, escapeways, seals on the return, roads, and openings that give access to old workings or pillar falls, and make a record of the condition of all places where danger has been found. The record shall be made with ink pencil in the record book provided for that purpose.
- (3) *Examinations of conveyor belts shall be conducted by a certified foreman or a certified belt examiner. A certified belt examiner shall have a total of three (3) years of practical underground mining experience and successfully complete a certification examination administered by the Office of Mine Safety and Licensing. The certification examination shall cover the topics of belt conveyor legal requirements; roof control practices; mine ventilation; mine gases and instruments; fire hazards; and inspection and reporting procedures. The belt examiner also shall demonstrate proficiency in the use of an anemometer, methane detector, and oxygen devices.*

Approved March 28, 2006.

## CHAPTER 72

(HB 499)

AN ACT relating to motor vehicle trailers.

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

Section 1. KRS 189.060 is amended to read as follows:

- (1) Each vehicle towed by a towline shall display the lights required on vehicles of the class to which it belongs.
- (2) Each vehicle being hauled by another and connected to it in a manner that will keep them uniformly spaced shall carry at least one (1) light on the left side in such a manner as to show a green light to the front and a red light to the rear visible at least five hundred (500) feet away.
- (3) When any part of a load projects more than five (5) feet beyond a vehicle a red flag by day and a red light during the period provided in KRS 189.030 must be placed upon the extremity of the projection.
- (4) *Any motor vehicle used as a towing unit where two (2) lamps displaying red lights are not obscured by the towed unit or its load may be equipped with two (2) lamps displaying red lights on the towed unit, the towing unit or both.*

Section 2. KRS 281.600 is amended to read as follows:

- (1) The Department of Vehicle Regulation shall exercise all administrative functions of the state in relation to motor transportation as defined in this chapter, and shall apply, as far as practicable, the administrative and judicial interpretations of the Federal Motor Carrier Act. It shall have the right to regulate motor carriers as provided in this chapter, and to that end may establish reasonable requirements with respect to continuous and adequate service of transportation, systems of accounts, records and reports, preservation of records, and safety of operation and equipment. It may issue subpoenas, subpoenas duces tecum and orders of personal attendance

of witnesses, and production of pertinent records, for any proceeding before it, and permit the taking of depositions, all in accord with the Rules of Civil Procedure and it shall have the power to promulgate administrative regulations as it may deem necessary to carry out the provisions of this chapter. The department shall have the authority to promulgate regulations regarding safety requirements for motor vehicles and the method of operation, including the adoption of any of the federal motor carrier safety regulations and any motor vehicle operating contrary to safety regulations shall be in violation of this section.

- (2) *The provisions established by the Federal Highway Administration in Title 49, Part 393 of the United States Code of Federal Regulations shall not apply to:*
- (a) *A motor vehicle or its towed unit having a fertilizer spreader attachment permanently mounted thereon, having a gross weight not to exceed thirty six thousand (36,000) pounds, and used only for the transportation of bulk fertilizer; or*
  - (b) *A farm wagon type tank trailer of not more than two thousand (2,000) gallon capacity used during liquid fertilizer season as a field storage tank supplying fertilizer to a field applicator, and moved on a public highway for the purpose of bringing fertilizer from a local source of supply to a farm or field, or from one farm or field to another, provided that the vehicle is being operated solely in intrastate transportation.*

Approved March 28, 2006.

## CHAPTER 73

(HB 508)

AN ACT relating to eminent domain.

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

SECTION 1. A NEW SECTION OF KRS 416.540 TO 416.680 IS CREATED TO READ AS FOLLOWS:

- (1) *Every grant of authority contained in the Kentucky Revised Statutes to exercise the power of eminent domain shall be subject to the condition that the authority be exercised only to effectuate a public use of the condemned property.*
- (2) *Public use shall mean the following:*
  - (a) *Ownership of the property by the Commonwealth, a political subdivision of the Commonwealth, or other governmental entity;*
  - (b) *The possession, occupation, or enjoyment of the property as a matter of right by the Commonwealth, a political subdivision of the Commonwealth, or other governmental entity;*
  - (c) *The acquisition and transfer of property for the purpose of eliminating blighted areas, slum areas, or substandard and insanitary areas in accordance with KRS Chapter 99;*
  - (d) *The use of the property for the creation or operation of public utilities or common carriers; or*
  - (e) *Other use of the property expressly authorized by statute.*
- (3) *No provision in the law of the Commonwealth shall be construed to authorize the condemnation of private property for transfer to a private owner for the purpose of economic development that benefits the general public only indirectly, such as by increasing the tax base, tax revenues, employment, or by promoting the general economic health of the community. However, this provision shall not prohibit the sale or lease of property to private entities that occupy an incidental area within a public project or building, provided that no property may be condemned primarily for the purpose of facilitating an incidental private use.*
- (4) *The exercise of the power of eminent domain for the acquisition of property financed by state road funds or federal highway funds shall be exempt from the provisions of this section.*

Section 2. KRS 416.540 is amended to read as follows:

- (1) "Condemn" means to take private property for a public ~~use~~<sup>purpose</sup> under the right of eminent domain;

- (2) "Condemnor" shall mean and include any person, corporation or entity, including the Commonwealth of Kentucky, its agencies and departments, county, municipality and taxing district authorized and empowered by law to exercise the right of eminent domain;
- (3) "Condemnee" means the owner of the property interest being taken;
- (4) "Court" means the Circuit Court;
- (5) "Property" means real or personal property, or both, of any nature or kind that is subject to condemnation;
- (6) "Eminent domain" means the right of the Commonwealth to take for a public ~~use~~~~[purpose]~~ and shall include the right of private persons, corporations or business entities to do so under authority of law.

**Approved March 28, 2006.**

## CHAPTER 74

### (HB 603)

AN ACT relating to the Board of Dentistry.

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

Section 1. KRS 313.200 is amended to read as follows:

- (1) When the appointments have been made as provided in this section, the Kentucky Board of Dentistry shall consist of nine (9) members, each appointed by the Governor. Seven (7) members of the board shall be licensed dentists appointed from a list of three (3) names recommended for each board position by the resident licensed dentists of Kentucky at an annual election at a time and place selected by the Kentucky Board of Dentistry. One (1) member shall be a citizen at large who is not associated with or financially interested in the practice or business regulated. One (1) member of the board shall be a dental hygienist licensed to practice dental hygiene in the Commonwealth. Each appointment to the board of a licensed dental hygienist shall be made from a list of three (3) names recommended for this position by the resident licensed dental hygienists of Kentucky at an annual election at a time and place selected by the board.
- (2)
  - (a) Each dentist member shall have been an actual resident and licensed practicing dentist of this state for not less than five (5) years immediately preceding his appointment to the board. ***The dentist member***~~[He]~~ shall not be in any way connected with or interested in any dental college or dental department of any institution of learning or dental supply business.
  - (b) Each dental hygienist member shall have been an actual resident dental hygienist and licensed practicing dental hygienist in this state for not less than five (5) years preceding his appointment to the board. ***The dental hygienist member***~~[He]~~ shall not be in any way connected with or interested in any dental college or dental department of any institution of learning or dental supply business.
- (3) Each member of the board shall hold office for four (4) years, and until his ***or her*** successor is appointed and qualifies, except that no member shall serve more than two (2) consecutive terms.
- (4) Any vacancy shall be filled for the unexpired term by the Governor in accordance with the provisions of subsection (1) of this section.
- (5) Each member of the board shall receive any necessary expenses incurred in attending its meetings. Each member except the secretary-treasurer shall receive as compensation ***one hundred***~~[fifty]~~ dollars ***(\$100)***~~[((\$50)]~~ for each day actually engaged in the duties of his ***or her*** office. The secretary-treasurer shall receive an annual compensation to be established by the board at its annual session.

**Approved March 28, 2006.**

## CHAPTER 75

### (SB 9)

AN ACT relating to dead bodies.

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



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

- (1) *In the event that a homicide has been committed and the person charged with the homicide refuses to permit the burial of the body of the deceased person who was the victim of his or her alleged homicide, any member of the family of the deceased, either by consanguinity or affinity, may apply to the Circuit Court in the county in which the body of the deceased is located for an order to release the body of the deceased to the applicant for burial, cremation, or other lawful means of disposition.*
- (2) *The Circuit Court, after a hearing in the matter at which the person alleged to have committed the homicide has been afforded the opportunity to appear at the hearing either in person or by counsel or both, shall, if good cause is shown for the release of the body to the applicant, issue an order granting the release of the body to the applicant for burial, cremation, or other lawful means of disposition.*

Approved March 28, 2006.

## CHAPTER 76

(SB 56)

AN ACT relating to the transportation of partially consumed bottles of wine.

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

SECTION 1. A NEW SECTION OF KRS CHAPTER 243 IS CREATED TO READ AS FOLLOWS:

- (1) *A restaurant licensed under KRS 243.030 may permit a patron of the restaurant to remove one (1) opened container of wine from the restaurant's premises for consumption off the premises if the patron has purchased and partially consumed the bottle of wine with a meal on the restaurant's premises.*
- (2) *A partially consumed bottle of wine that is removed from the premises shall be securely resealed by the restaurant licensee or its employee before the bottle is removed from the premises. The partially consumed bottle of wine shall be placed in a bag or other container that is secured in a manner that makes it visibly apparent if the container has been subsequently opened or tampered with, and the licensee shall provide a dated receipt for the wine to the patron.*

SECTION 2. A NEW SECTION OF KRS CHAPTER 243 IS CREATED TO READ AS FOLLOWS:

*If a patron removes a resealed bottle of wine from the premises of a restaurant as provided for in Section 1 of this Act, any resealed bottle of wine that is transported in a motor vehicle shall be placed in a locked glove compartment or the trunk or other area that is not a passenger area under KRS 189.530(5).*

Approved March 28, 2006.

## CHAPTER 77

(SB 66)

AN ACT relating to the Kentucky Board of Home Inspectors.

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

Section 1. KRS 198B.704 is amended to read as follows:

- (1) There is created a board to be known as the Kentucky Board of Home Inspectors.
- (2) The board shall be composed of ten (10) members appointed by the Governor.
  - (a) Five (5) of the members shall:
    1. Have been actively engaged in performing home inspections in Kentucky for at least five (5) years immediately before the member's appointment to the board, or have completed one hundred (100) fee paid inspections per year over the last five (5) years;
    2. Be licensed by the board as a home inspector; and
    3. ~~Be appointed as follows:~~

- a. ~~One (1) person shall be a member of the American Society of Home Inspectors;~~
- b. ~~One (1) person shall be a member of the Kentucky Real Estate Inspectors Association;~~
- e. ~~One (1) person shall be a member of the National Association of Home Inspectors; and~~
- d. ~~Two (2) persons shall be either at large licensed home inspectors or owners or managers of a home inspection company actively performing home inspections within the Commonwealth of Kentucky. The company and its owner or manager shall have been actively engaged in the home inspection profession in Kentucky for a minimum of five (5) years. The company shall employ or contract with multiple licensed home inspectors in good standing with the Kentucky Board of Home Inspectors.~~

~~These five (5) members shall~~ Be selected from a list of fifteen (15) names submitted to the Governor, and compiled by a selection committee composed of *eight (8)* ~~six (6)~~ members, two (2) each from the American Society of Home Inspectors, the Kentucky Real Estate Inspectors Association, *the National Association of Certified Home Inspectors*, and the National Association of Home Inspectors, respectively.

(b) The other five (5) board members shall be qualified as follows:

1. One (1) person shall be a home builder who has been actively engaged in home building in Kentucky for at least five (5) years immediately before the member's appointment to the board. This member shall be selected from a list of three (3) names submitted to the Governor from the Home Builders Association of Kentucky;
2. One (1) person shall be a licensed real estate salesperson or broker under KRS Chapter 324 who has been actively engaged in selling, trading, exchanging, optioning, leasing, renting, managing, or listing residential real estate in Kentucky for at least five (5) years immediately before the member's appointment to the board. This member shall be selected from a list of three (3) names submitted to the Governor from the Kentucky Association of Realtors;
3. One (1) person shall represent the public at large and shall not be associated with the home inspection, home building, or real estate business other than as a consumer. This member shall be appointed by the Governor, but shall not be selected from a submitted list of names;
4. One (1) person shall be a licensed manufactured home retailer, certified retailer, or certified installer who has been actively engaged in such an occupation for at least five (5) years immediately before the member's appointment to the board. This member shall be selected from a list of three (3) names submitted to the Governor from the Kentucky Manufactured Housing Institute; and
5. The Executive Director of the Office of Housing, Buildings, and Construction, or his or her designee shall be a member of the board.

(3) A board member required to have a license in accordance with subsection (2)(a)3. of this section, shall obtain the requisite license in accordance with KRS 198B.712, on or before July 1, 2006. If a board member does not obtain the requisite license on or before July 1, 2006, the board member shall be considered to have resigned from the board on July 1, 2006, and the Governor shall fill the vacancy in accordance with this section. If a board member resigns for failure to obtain a home inspectors license, the actions of the board member and board before July 1, 2006, shall be valid and viable.

(4) The members of the board shall be residents of Kentucky.

(5) The initial terms of office for the nine (9) members appointed to the board by the Governor are as follows:

- (a) Three (3) members for a term of three (3) years;
- (b) Three (3) members for a term of two (2) years; and
- (c) Three (3) members for a term of one (1) year.

Thereafter, all members shall serve a term of three (3) years.

(6) The initial terms begin July 15, 2004.

- (7) The Governor may remove a board member at any time for incompetence, neglect of duty, or unprofessional conduct.
- (8) If a vacancy occurs in the membership of the board, the Governor shall appoint an individual to serve for the remainder of the unexpired term who has like qualifications required of the member who created the vacancy.
- (9) A member shall not serve on the board for more than six (6) consecutive years.
- (10) Each year the board shall elect a member as chairperson and a member as vice chairperson.
- (11) The chairperson and vice chairperson shall serve in their respective capacities for no more than one (1) year consecutively and until a successor is elected.
- (12) The chairperson shall preside at all meetings at which the chairperson is present. The vice chairperson shall preside at meetings in the absence of the chairperson and shall perform other duties as the chairperson directs.
- (13) If the chairperson and vice chairperson are absent from a meeting of the board when a quorum exists, the members who are present may elect a presiding officer who shall serve as acting chairperson until the conclusion of the meeting or until the arrival of the chairperson or vice chairperson.
- (14) The board shall meet at least quarterly each calendar year upon the call of the chairperson or the written request of a majority of the members of the board.
- (15) The chairperson shall establish the date, time, and place for each meeting.
- (16) A majority of the current members of the board constitutes a quorum.
- (17) The affirmative vote of a majority of the members appointed to the board is necessary for the board to take official action.
- (18) Each member of the board is entitled to a minimum salary of thirty-five dollars (\$35) per diem. Each member of the board is entitled to reimbursement for traveling expenses and other expenses actually incurred in connection with the member's duties as established under KRS 45.101.

**Approved March 28, 2006.**

## CHAPTER 78

### (SB 78)

AN ACT relating to physician assistants.

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

Section 1. KRS 311.840 is amended to read as follows:

As used in KRS 311.840 to 311.862:

- (1) "Board" means the Kentucky Board of Medical Licensure;
- (2) "Complaint" means a formal administrative pleading that sets forth charges against a physician assistant and commences a formal disciplinary proceeding;
- (3) "Physician assistant" means a person *licensed under KRS 311.840 to 311.862* who:
  - (a) Has graduated from a physician assistant or surgeon assistant program accredited by the Accreditation Review Commission on Education for Physician Assistants or its predecessor or successor agencies and has passed the certifying examination administered by the National Commission on Certification of Physician Assistants or its predecessor or successor agencies; or
  - (b) Possesses a current physician assistant certificate issued by the board prior to July 15, 2002;
- (4) "Supervising physician" means a physician licensed by the board who supervises one (1) or more physician assistants;

- (5) "Supervising physician in anesthesia" means a physician licensed by the board who has completed postgraduate training in anesthesiology at an anesthesiology program accredited by the Accreditation Council for Graduate Medical Education or its equivalent; and
- (6) "Supervision" means overseeing the activities of and accepting of responsibility for the medical services rendered by a physician assistant. Each team of physicians and physician assistants shall ensure that the delegation of medical tasks is appropriate to the physician assistant's level of training and experience, that the identifications of and access to the supervising physician are clearly defined, and that a process for evaluation of the physician assistant's performance is established.

Section 2. KRS 311.842 is amended to read as follows:

- (1) The board shall promulgate administrative regulations in accordance with KRS Chapter 13A relating to the **licensing**~~certification~~ and regulation, including temporary **licensing**~~certification~~, of physician assistants.
- (2) The board shall establish a nine (9) member Physician Assistant Advisory Committee that shall review and make recommendations to the board regarding all matters relating to physician assistants that come before the board, including but not limited to:
  - (a) Applications for physician assistant **licensing**~~certification~~;
  - (b) **Licensing**~~Certification~~ renewal requirements;
  - (c) Approval of supervising physicians;
  - (d) Disciplinary actions; and
  - (e) Promulgation and revision of administrative regulations.
- (3) Members of the Physician Assistant Advisory Committee shall be appointed by the board for four (4) year terms and shall consist of:
  - (a) Five (5) practicing physician assistants;
  - (b) Two (2) supervising physicians;
  - (c) One (1) member of the board; and
  - (d) One (1) citizen at large.
- (4) The chairperson of the committee shall be elected by a majority vote of the committee members and shall be responsible for presiding over meetings that shall be held on a regular basis.
- (5) Members shall receive reimbursement for expenditures relating to attendance at committee meetings consistent with state policies for reimbursement of travel expenses for state employees.
- (6) Nothing in this chapter shall be construed to require certification of a physician assistant student enrolled in a physician assistant or surgeon assistant program accredited by the Accreditation Review Commission on Education for Physician Assistants or its successor agencies or of a physician assistant employed in the service of the federal government while performing duties relating to that employment.

Section 3. KRS 311.844 is amended to read as follows:

- (1) To be **licensed**~~certified~~ by the board as a physician assistant, an applicant shall:
  - (a) Submit a completed application form with the required fee;
  - (b) Be of good character and reputation;
  - (c) Be a graduate of an approved program; and
  - (d) Have passed an examination approved by the board within three (3) attempts.
- (2) A physician assistant who is authorized to practice in another state and who is in good standing may apply for **licensure**~~certification~~ by endorsement from the state of his or her credentialing if that state has standards substantially equivalent to those of this Commonwealth.
- (3) A physician assistant's **license**~~certification~~ shall be renewed upon fulfillment of the following requirements:
  - (a) The holder shall be of good character and reputation;

- (b) The holder shall provide evidence of completion during the previous two (2) years of a minimum of one hundred (100) hours of continuing education approved by the American Medical Association, the American Osteopathic Association, the American Academy of Family Physicians, the American Academy of Physician Assistants, or by another entity approved by the board;
- (c) The holder shall provide evidence of completion of a continuing education course on the human immunodeficiency virus and acquired immunodeficiency syndrome in the previous ten (10) years that meets the requirements of KRS 214.610; and
- (d) The holder shall provide proof of current certification with the National Commission on Certification of Physician Assistants.

Section 4. KRS 311.845 is amended to read as follows:

- (1) Whenever, in the opinion of the executive director, based upon verified information contained in the application, an applicant for a ~~license~~<sup>certificate</sup> to practice as a physician assistant is eligible therefor under subsections (1) and (2) of KRS 311.844, the executive director may issue to the applicant, on behalf of the board, a temporary ~~license~~<sup>certificate</sup> which shall entitle the holder to practice as a physician assistant for a maximum of six (6) months from the date of issuance unless the temporary ~~license~~<sup>certificate</sup> is canceled by the executive director, who may cancel it at any time, without a hearing, for reasons deemed sufficient with appropriate consultation with the president, and who shall cancel it immediately upon direction by the board or upon the board's denial of the holder's application for a regular ~~license~~<sup>certificate</sup>. The temporary ~~license~~<sup>certificate</sup> shall not be renewable.
- (2) The executive director shall present to the board the application for ~~licensure~~<sup>certification</sup> made by the holder of the temporary ~~license~~<sup>certificate</sup>. If the board issues a regular ~~license~~<sup>certificate</sup> to the holder of a temporary ~~license~~<sup>certificate</sup>, the fee paid in connection with the temporary ~~license~~<sup>certificate</sup> shall be applied to the regular ~~license~~<sup>certificate</sup> fee.
- (3) If the executive director cancels a temporary ~~license~~<sup>certificate</sup>, he *or she* shall promptly notify, by United States certified mail, the holder of the temporary ~~license~~<sup>certificate</sup> at the last known address on file with the board. The temporary ~~license~~<sup>certificate</sup> shall be terminated and of no further force or effect three (3) days after the date the notice was sent by certified mail.

Section 5. KRS 311.846 is amended to read as follows:

- (1) The examination of the National Commission on Certification of Physician Assistants for ~~licensure~~<sup>certification</sup> as a physician assistant shall be approved by the board .
- (2) Educational and training programs approved by the board shall include physician assistant programs that are accredited by the Accreditation Review Commission on Education for Physician Assistants or its predecessor or successor agencies.
- (3) Training programs for the provision of general or regional anesthesia shall be accredited by the Committee on Allied Health Education and Accreditation or the Commission on Accreditation of Allied Health Education Programs.
- (4) A trainee enrolled in an approved program shall be supervised and the training program shall be responsible for the services provided by the trainee. A trainee shall have the same scope of practice as a physician assistant and shall not be considered to be practicing without authorization while enrolled in a training program.

Section 6. KRS 311.848 is amended to read as follows:

- (1) As used in this section, "medical emergency" means a real and substantial threat to public health or the health of an individual as determined by the executive director of the board that requires additional professional resources.
- (2) In a medical emergency, the board may approve an additional physician assistant for a supervising physician practicing in this Commonwealth for a period not to exceed thirty (30) days who:
  - (a) Submits satisfactorily completed forms to the board; and
  - (b) Is ~~licensed~~<sup>credentialed</sup> and in good standing in this Commonwealth.
- (3) In a medical emergency, the board may issue an emergency permit to a physician assistant who:

- (a) Is credentialed and in good standing in another state or Canadian province;
  - (b) Submits satisfactorily completed forms to the board; and
  - (c) Based on verifiable information, meets the requirements for *licensure*~~[regular certification]~~ under KRS 311.844.
- (4) An emergency permit:
- (a) Shall be valid for a period of time not to exceed thirty (30) days;
  - (b) Shall not be renewed or reissued and shall be immediately canceled if a medical emergency no longer exists;
  - (c) May be canceled by the executive director upon reasonable cause without a prior hearing; and
  - (d) Shall not authorize a physician assistant to practice beyond a specified geographical area, beyond the scope of practice encompassed by the medical emergency, or without the supervision of a supervising physician.

Section 7. KRS 311.850 is amended to read as follows:

- (1) The board may revoke, suspend, deny, decline to renew, limit, or restrict the *license*~~[certification]~~ of a physician assistant, or may fine, reprimand or place a physician assistant on probation for no more than five (5) years upon proof that a physician assistant has:
- (a) Knowingly made or presented or caused to be made or presented any false, fraudulent, or forged statement, writing, certificate, diploma, or other document relating to an application for *licensure*~~[certification]~~;
  - (b) Practiced, aided, or abetted in the practice of fraud, forgery, deception, collusion, or conspiracy relating to an examination for *licensure*~~[certification]~~;
  - (c) Been convicted by any court of a misdemeanor offense involving moral turpitude or been convicted of an act that is or would be a felony under the laws of the Commonwealth of Kentucky or of the United States;
  - (d) Become addicted to or is an abuser of alcohol, drugs, or any illegal substance;
  - (e) Developed a physical or mental disability or other condition that presents a danger in continuing to practice medicine to patients, the public, or other health care personnel;
  - (f) Knowingly made or caused to be made or aided or abetted in the making of a false statement in any document executed in connection with the practice of medicine or osteopathy;
  - (g) Performed any act or service as a physician assistant without a designated supervising physician;
  - (h) Exceeded the scope of medical services described by the supervising physician in the applications required under KRS 311.854;
  - (i) Exceeded the scope of practice for which the physician assistant was credentialed by the governing board of a hospital or licensed health care facility under KRS 311.856 and 311.858;
  - (j) Aided, assisted, or abetted the unlawful practice of medicine or osteopathy or any healing art, including the unlawful practice of physician assistants;
  - (k) Willfully violated a confidential communication;
  - (l) Performed the services of a physician assistant in an unprofessional, incompetent, or grossly or chronically negligent manner;
  - (m) Been removed, suspended, expelled, or placed on probation by any health care facility or professional society for unprofessional conduct, incompetence, negligence, or violation of any provision of this section or KRS 311.858 or 311.862;
  - (n) Violated any applicable provision of administrative regulations relating to physician assistant practice;
  - (o) Violated any term of probation or other discipline imposed by the board; or
  - (p) Failed to complete the required number of hours of approved continuing education.

- (2) All disciplinary proceedings against a physician assistant shall be conducted in accordance with the provisions of KRS 311.591, 311.592, 311.593, 311.599, and KRS Chapter 13B and related administrative regulations promulgated under KRS Chapter 311.

Section 8. KRS 311.852 is amended to read as follows:

- (1) At any time when an inquiry panel established under KRS 311.591 has probable cause to believe that a physician assistant has violated the terms of an agreed order as defined in KRS 311.550(19), or violated the terms of a disciplinary order, or that a physician assistant's practice constitutes a danger to the health, welfare, or safety of his or her patients or the general public, the inquiry panel may issue an emergency order in accordance with KRS 13B.125 suspending, limiting, or restricting the physician assistant's ~~license~~~~[certification]~~.
- (2) For the purposes of a hearing conducted under KRS 13B.125 on an emergency order issued under this section, the findings of fact in the emergency order shall constitute a rebuttable presumption of substantial evidence of a violation of law that constitutes immediate danger to the health, welfare, or safety of patients or the general public. For the purposes of this hearing only, hearsay shall be admissible and may serve as a basis of the board's findings.
- (3) An emergency order as described in subsection (1) of this section shall not be issued unless grounds exist for the issuance of a complaint. The inquiry panel shall issue a complaint prior to the date of the emergency hearing or the emergency order shall become void.
- (4) An order of temporary suspension, restriction, or limitation shall not be maintained after a final order as defined in KRS 311.550(20) is served on the charged physician assistant pursuant to the proceeding on the complaint. An appeal of an emergency order shall not prejudice the board from proceeding with the complaint.

Section 9. KRS 311.856 is amended to read as follows:

A supervising physician shall:

- (1) Restrict the services of a physician assistant to services within the physician assistant's scope of practice and to the provisions of KRS 311.840 to 311.862;
- (2) Prohibit a physician assistant from prescribing or dispensing controlled substances;
- (3) Inform all patients in contact with a physician assistant of the status of the physician assistant;
- (4) Post a notice stating that a physician assistant practices medicine or osteopathy in all locations where the physician assistant may practice;
- (5) Require a physician assistant to wear identification that clearly states that he or she is a physician assistant;
- (6) Prohibit a physician assistant from independently billing any patient or other payor for services rendered by the physician assistant;
- (7) If necessary, participate with the governing body of any hospital or other licensed health care facility in a credentialing process established by the facility;
- (8) Not require a physician assistant to perform services or other acts that the physician assistant feels incapable of carrying out safely and properly;
- (9) Maintain adequate, active, and continuous supervision of a physician assistant's activities to assure that the physician assistant is performing as directed and complying with the requirements of KRS 311.840 to 311.862 and all related administrative regulations;
- (10) Sign all records of service rendered by a physician assistant in a timely manner as certification that the physician assistant performed the services as delegated;
- (11)
  - (a) Reevaluate the reliability, accountability, and professional knowledge of a physician assistant two (2) years after the physician assistant's original ~~licensure~~~~[certification]~~ in this Commonwealth and every two (2) years thereafter; and
  - (b) Based on the reevaluation, recommend approval or disapproval of ~~licensure or renewal~~~~[certification or recertification]~~ to the board; and

(12) Notify the board within three (3) business days if the supervising physician:

- (a) Ceases to supervise or employ the physician assistant; or
- (b) Believes in good faith that a physician assistant violated any disciplinary rule of KRS 311.840 to 311.862 or related administrative regulations.

Section 10. KRS 311.862 is amended to read as follows:

- (1) A physician assistant who was practicing as an anesthesiology assistant in Kentucky prior to July 15, 2002, may continue to practice if the physician assistant:
  - (a) Met the practice, education, training, and ~~licensure~~~~[certification]~~ requirements specified in KRS 311.844 and 311.846;
  - (b) Is a graduate of an approved program accredited by the Committee on Allied Health Education and Accreditation or the Commission on Accreditation of Allied Health Education Programs that is specifically designed to train an individual to administer general or regional anesthesia; and
  - (c) Is employed by a supervising physician in anesthesia.
- (2) A physician assistant who has not practiced as an anesthesiology assistant in Kentucky prior to the July 15, 2002, shall meet the following requirements prior to practicing as an anesthesiology assistant:
  - (a) Graduation from an approved four (4) year physician assistant program as specified in subsection (1)(b) of this section and graduation from another two (2) year approved and accredited program that consists of academic and clinical training in anesthesiology;
  - (b) Compliance with the practice, education, training, and ~~licensure~~~~[certification]~~ requirements specified in KRS 311.844 and 311.846; and
  - (c) Employment with a supervising physician in anesthesia.
- (3) A physician assistant practicing as an anesthesiology assistant shall not administer or monitor general or regional anesthesia unless the supervising physician in anesthesia:
  - (a) Is physically present in the room during induction and emergence;
  - (b) Is not concurrently performing any other anesthesiology procedure; and
  - (c) Is available to provide immediate physical presence in the room.

Section 11. A physician assistant who is certified in Kentucky and in good standing on the effective date of this Act shall automatically be licensed under Sections 1 to 10 of this Act and shall be issued a physician assistant license upon annual renewal.

**Approved March 28, 2006.**

## CHAPTER 79

### (SB 97)

AN ACT relating to business authorized by a transitional license for alcoholic beverage sales.

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

SECTION 1. A NEW SECTION OF KRS CHAPTER 243 IS CREATED TO READ AS FOLLOWS:

- (1) *A transitional license may be issued by the director of the Division of Malt Beverages or the director of the Division of Distilled Spirits during the time a transfer of an ongoing business is being processed under the following conditions:*
  - (a) *The purchaser shall file an application for a permanent license with the appropriate local alcoholic beverage authority and with the office;*
  - (b) *The purchaser shall advertise its intention to apply for a license pursuant to KRS 243.360; and*
  - (c) *The purchaser shall pay all application fees for the permanent license.*



- (2) *If the above requirements are met, the director of the Division of Malt Beverages or the director of the Division of Distilled Spirits, as appropriate, shall have the discretion to issue a transitional license with a term of up to sixty (60) days, plus one (1) thirty (30) day extension period, to the purchaser for a processing fee set forth in Section 2 or 3 of this Act. All transitional licenses immediately expire upon the issuance to the purchaser of one (1) or more permanent licenses.*
- (3) *Upon completion of the sale of the business, the purchaser shall not operate the business on the seller's license.*
- (4) *The transitional license shall not be transferable or used for an application to move a business from one (1) location to another location.*

Section 2. KRS 243.030 is amended to read as follows:

The following kinds of distilled spirits and wine licenses may be issued by the director of the Division of Distilled Spirits, the fees for which shall be:

- (1) Distiller's license, per annum ..... \$2,500.00
- (2) Rectifier's license, per annum ..... \$2,500.00
- (3) Blender's license, per annum ..... \$2,500.00
- (4) Vintner's license, per annum ..... \$1,000.00
- (5) Small winery license, per annum ..... \$100.00
  - (a) Small winery off-premises retail license, per annum ..... \$25.00
- (6) Wholesaler's license, per annum ..... \$2,000.00
- (7) Retail package license, per annum:
  - (a) In counties containing cities of the first class or a consolidated local government ..... \$800.00
  - (b) In counties containing cities of the second class ..... \$700.00
  - (c) In counties containing cities of the third class ..... \$600.00
  - (d) In counties containing cities of the fourth class ..... \$500.00
  - (e) In all other counties ..... \$400.00
- (8) Retail drink license, motel drink license, restaurant drink license, or supplemental bar license, per annum:
  - (a) In counties containing cities of the first class or a consolidated local government .... \$1,000.00
  - (b) In counties containing cities of the second class ..... \$700.00
  - (c) In counties containing cities of the third class ..... \$600.00
  - (d) In counties containing cities of the fourth class ..... \$500.00
  - (e) The fee for each of the first five (5) supplemental bar licenses shall be the same as the fee for the drink license. There shall be no charge for each supplemental license issued in excess of five (5) to the same licensee at the same premises.
- (9) Transporter's license, per annum ..... \$100.00
- (10) Dining car license, per annum ..... \$100.00
- (11) Special nonbeverage alcohol vendor's license, per annum ..... \$50.00
- (12) Special industrial alcohol license, per annum ..... \$50.00
- (13) Special nonindustrial alcohol license, per annum ..... \$50.00
- (14) Special agent's or solicitor's license, per annum ..... \$25.00
- (15) Special storage or warehouse license and bottling house storage license,  
per annum \$500.00

- (16) Special temporary liquor license, per event ..... \$100.00
- (17) Special private club license, per annum ..... \$300.00

The fee for each special private club license shall be the fee set out in this subsection; however, there shall be no charge for each special private club license issued in excess of six (6) that is issued to the same licensee at the same premises.

- (18) Special Sunday retail drink license, per annum ..... \$500.00
- (19) Nonresident special agent or solicitor's license, per annum ..... \$100.00
- (20) Transport permit, nonresident license, per annum ..... \$100.00
- (21) Through transporter's license, per annum ..... \$100.00
- (22) Freight forwarder's license, per annum ..... \$100.00
- (23) Restaurant wine license, per annum ..... \$500.00
- (24) Farm winery license, per annum ..... \$100.00
  - (a) Farm winery, off-premises retail outlet license, per annum ..... \$25.00
- (25) Special temporary wine license, per event ..... \$50.00
- (26) Caterer's license, per annum ..... \$800.00
- (27) Souvenir retail liquor license, per annum ..... \$500.00
- (28) Special temporary distilled spirits and wine
  - auction license, per event ..... \$100.00
- (29) Airport drink license, per annum ..... \$1,000.00
- (30) Convention center or convention hotel complex
  - license, per annum ..... \$5,000.00
- (31) Extended hours supplemental license, per annum ..... \$2,000.00
- (32) Horse race track license, per annum ..... \$2,000.00
- (33) Automobile race track license, per annum ..... \$2,000.00
- (34) Air or rail system license, per annum ..... \$2,000.00
- (35) Riverboat license, per annum ..... \$1,000.00
- (36) Bottling house license, per annum ..... \$1,000.00
- (37) Hotel in-room license, per annum ..... \$200.00
- (38) Bonded warehouse license, per annum ..... \$1,000.00
- (39) Air transporter liquor license, per annum ..... \$500.00
- (40) Sampling license, per annum ..... \$100.00
- (41) Replacement or duplicate license ..... \$25.00
- (42) Entertainment destination license, per annum ..... \$7,500.00
- (43) (a) Limited restaurant license or limited golf course license, per annum
  - (includes distilled spirits, wine, and malt beverages), new applicants:
    - 1. In counties containing cities of the first class or a consolidated local government \$1,200.00
    - 2. In counties containing cities of the second class ..... \$900.00
    - 3. In counties containing cities of the third class ..... \$800.00

4. In counties containing cities of the fourth, fifth, or sixth classes ..... \$700.00

- (b) Renewals for limited restaurant licenses or limited golf course licenses shall be \$50.00 less than the applicable licensing fee for new applicants.

(44) *A nonrefundable fee of fifty dollars (\$50) shall be charged to process each new transitional license pursuant to Section 1 of this Act.*

(45) Other special licenses the board finds necessary for the proper regulation and control of the traffic in distilled spirits and wine and provides for by administrative regulation. In fixing the amount of license taxes that are required to be fixed by the board, it shall have regard for the value of the privilege granted.

A nonrefundable application fee of fifty dollars (\$50) shall be charged to process each new application under this section, except for subsections (5), (9), (11), (12), (13), (14), (16), (19), (20), (21), (22), (24), (25), (28), (40), and (41). The application fee shall be applied to the licensing fee if the license is issued; otherwise it shall be retained by the office.

Section 3. KRS 243.040 is amended to read as follows:

The following kinds of malt beverage licenses may be issued by the director of the Division of Malt Beverages, the fees for which shall be:

- (1) Brewer's license, per annum ..... \$2,500.00
- (2) Microbrewery license, per annum ..... \$500.00
- (3) Distributor's license, per annum ..... \$500.00
- (4) Malt beverage retail license, per annum:
  - (a) New applicants ..... \$200.00
  - (b) Renewals ..... \$150.00
- (5) Dining car license, per annum ..... \$200.00
- (6) Transporter's license, per annum ..... \$100.00
- (7) Special temporary license, per event ..... \$50.00
- (8) Special off-premises retail storage license, per annum ..... \$100.00
- (9) Distributor's storage, per annum ..... \$250.00
- (10) Special beer transporter's license, per annum ..... \$100.00
- (11) Brew-on-premises license, per annum ..... \$500.00
- (12) Out-of-state brewer license, per annum ..... \$1,500.00
- (13) Malt beverage warehouse license, per annum ..... \$1,000.00
- (14) Replacement or duplicate license, per annum ..... \$25.00
- (15) Limited out-of-state brewer license, per annum ..... \$250.00
- (16) *A nonrefundable fee of fifty dollars (\$50) shall be charged to process each new transitional license pursuant to Section 1 of this Act.*
- (17) Other special licenses as the state board finds to be necessary for the administration of KRS Chapters 241, 242, 243, and 244 and for the proper regulation and control of the trafficking in malt beverages, as provided for by administrative regulations promulgated by the state board.

Applicants for special licenses provided for under the authority granted in subsection (15) may be exempt from so much of the provisions of subsection (1)(f) of KRS 243.100 set out in administrative regulations promulgated by the board. A nonrefundable application fee of fifty dollars (\$50) shall be charged to process each new application for a license under this section except for subsections (6), (7), (10), and (14). The application fee shall be applied to the licensing fee if the license is issued, or otherwise the fee shall be retained by the office.

**Approved March 28, 2006.**

## **CHAPTER 80**

**(SB 106)**

AN ACT relating to breastfeeding.

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

SECTION 1. A NEW SECTION OF KRS CHAPTER 211 IS CREATED TO READ AS FOLLOWS:

- (1) *Notwithstanding any other provision of the law, a mother may breastfeed her baby or express breastmilk in any location, public or private, where the mother is otherwise authorized to be. Breastfeeding a child or expressing breastmilk as part of breastfeeding shall not be considered an act of public indecency and shall not be considered indecent exposure, sexual conduct, lewd touching, or obscenity.*
- (2) *A municipality may not enact an ordinance that prohibits or restricts a mother breastfeeding a child or expressing breastmilk in a public or private location where the mother and child are otherwise authorized to be. In a municipal ordinance, indecent exposure, sexual conduct, lewd touching, obscenity, and similar terms do not include the act of a mother breastfeeding a child in a public or private location where the mother and child are otherwise authorized to be.*
- (3) *No person shall interfere with a mother breastfeeding her child in any location, public or private, where the mother is otherwise authorized to be.*

**Approved March 28, 2006.**

## **CHAPTER 81**

**(SB 146)**

AN ACT relating to supported living.

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

Section 1. KRS 210.770 is amended to read as follows:

As used in KRS 210.770 to 210.795, unless the context otherwise requires:

- (1) "Mental impairment" includes mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities;
- (2) "Person with a disability" means someone with a physical or mental impairment and includes individuals who have a record or history of an impairment, or are regarded as having a physical or mental impairment that substantially limits one (1) or more major life activities;
- (3) "Physical impairment" means any physiological disorder or corrective, cosmetic disfigurement, or an anatomical loss affecting one (1) or more of the following body systems: neurological, musculo-skeletal, special sense organs, respiratory including speech organs, cardiovascular, reproductive, digestive, genito-urinary, hemic and lymphatic, skin, and endocrine;
- (4) "Substantial limitation of a major life activity" includes limiting such things as walking, talking, seeing, hearing, caring for oneself, or working;
- (5) "**Hart-Supported Living Program**" means *grants which provide* a broad category of highly flexible, individualized services *which, when combined with natural unpaid or other eligible paid supports,* ~~designed and coordinated in such a manner as to~~ provide the necessary assistance to do the following:

- (a) Provide the support necessary to enable a person who is disabled to live in a home of the person's choice which is typical of those living arrangements in which persons without disabilities reside;
  - (b) Encourage the individual's integrated participation in the community with persons who are members of the general citizenry;
  - (c) Promote the individual's rights and autonomy;
  - (d) Enhance the individual's skills and competences in living in the community; and
  - (e) Enable the individual's acceptance in the community by promoting home ownership or leasing arrangements in the name of the individual or the individual's family or guardian;
- (6) "**Hart-Supported Living Program**" does not include *any services that support* the following ~~housing~~ arrangements:
- (a) Segregated living models such as any housing situation which physically or socially isolates people with disabilities from general citizens of the community;
  - (b) *Segregated programs or activities which physically or socially isolate people with disabilities from general citizens of the community;*
  - (c) Congregate living models such as any housing situation which groups individuals with disabilities as an enclave within an integrated setting;
  - ~~(d)(e)~~ Any model where the individual, as an adult, does not have maximum control of the home environment commensurate with the individual's disabilities; and
  - ~~(e)(d)~~ Any single living unit where more than three (3) people with disabilities live;
- (7) "Supported living council" means a supported living council appointed by the Governor and recognized by the commissioner of the Department for Mental Health and Mental Retardation Services ~~to approve individual supported living plans~~; **and**
- (8) "Supported living services" include, but are not limited to:
- (a) Supported living community resource developers;
  - (b) Homemaker services;
  - (c) Personal care services;
  - (d) In-home training and home management assistance;
  - (e) Start-up grants;
  - ~~(f)~~ ~~Monthly stipends~~;
  - ~~(g)~~ Transportation;
  - ~~(g)(h)~~ Home modifications;
  - ~~(h)(i)~~ Adaptive and therapeutic equipment; and
  - ~~(i)(j)~~ **Facilitation**~~[An individual plan]~~ by an independent and trained facilitator **to develop and implement individualized life planning**~~;~~ **and**
- ~~(9) "Regional Supported Living Council" means a regional supported living council created under KRS 210.785].~~

Section 2. KRS 210.775 is amended to read as follows:

- (1) There is hereby created the State Supported Living Council for services to persons with a disability and their families.
- (2) (a) The State Supported Living Council shall be composed of **eleven (11)**~~ten (10)~~ members. The commissioner of the Department for Mental Health and Mental Retardation Services and the executive director of the Kentucky Housing Corporation or their designees shall be ex-officio members.
- (b) **Nine (9)**~~Eight (8)~~ of the members shall be volunteers and shall be appointed by the Governor from a list of nominees in the following manner:

1. Three (3) of the appointed members shall represent family members of persons with a disability.~~{ One (1) member shall be selected from each of three (3) lists containing two (2) nominees submitted by each of the following associations: the Kentucky Association for Retarded Citizens, the Association for Persons with Severe Handicaps, and the Mental Health Coalition; }~~
  - 2.~~{ One (1) of the appointed members shall represent family members of persons with a disability who reside in an intermediate care facility for mental retardation or developmental disabilities. The nominee shall be selected from a list containing two (2) nominees submitted by each of the following associations: Concerned Parents of Hazelwood, Parents and Relatives of Oakwood Facility, and Concerned Parents of Outwood; }~~
  - 3.~~{ Two (2) of the appointed members shall be persons with a disability. { They shall be selected from a list containing two (2) nominees submitted by each of the following associations: the Kentucky Campaign for Personal Attendant Care, the Kentucky Association for Retarded Citizens, the Mental Health Coalition, and the Kentucky Disabilities Coalition; }~~
  - 3.~~{ 4. }~~ One (1) of the appointed members shall represent professionals and providers of services to persons with a disability.~~{ The nominee shall be selected from a list containing two (2) nominees submitted by each of the following associations: the Kentucky Association of Private Residential Resources and the Kentucky Association on Mental Retardation; and }~~
  - 4.~~{ 5. }~~ One (1) of the appointed members shall represent advocates for persons with a disability; **and**~~{ The nominee shall be selected from a list containing two (2) nominees submitted by each of the following entities: the Division of Protection and Advocacy and the Kentucky Council on Developmental Disabilities. }~~
  5. ***Two (2) of the appointed members shall represent the community at large.***
- (3) The appointed members may serve on the council for three (3) years ***from the date of appointment***. Members may be reappointed for ***one (1) additional consecutive three (3) year term***~~{ a maximum of two (2) consecutive terms }~~. The Governor shall fill any vacancy occurring in the council in the manner prescribed in subsection (2) of this section.
  - (4) The Department for Mental Health and Mental Retardation Services shall provide staff assistance to the State Supported Living Council.
  - (5) The chairman of the State Supported Living Council shall be elected from among the members. A majority of the members shall constitute a quorum.
  - (6) The State Supported Living Council shall meet as often as necessary but no less frequently than every other month.
- Section 3. KRS 210.780 is amended to read as follows:
- (1) ~~{ Upon the appointment by the Governor of all members of }~~The State Supported Living Council~~{, the council }~~ shall ***be responsible for making recommendations***~~{ recommend }~~ to the Department for Mental Health and Mental Retardation Services ***for***:
    - (a) A budget and priorities for fund allocations for supported living services for persons with disabilities within the Commonwealth;
    - (b) Standards for quality assurance for persons with a disability who receive supported living services in accordance with KRS 210.770 to 210.795; ***and***
    - (c) ***The procedure for annual review and approval of and funding recommendations for individual plans for Hart-Supported Living Program grants submitted by any person with a disability, and for the amendment of individual plans during a fiscal year.***
  - (2)~~{ The provisions of paragraph (b) of subsection (3) of this section shall be effective upon the members' appointment, and for two (2) years after July 14, 1992, at which time the provisions of KRS 210.785(2) shall apply. }~~
  - (3)~~{ }~~ The State Supported Living Council shall be responsible for:
    - (a) Disseminating information about ***Hart-Supported Living Program grants***~~{ services }~~ available under KRS 210.770 to 210.795;

- (b) ~~Reviewing, approving, and recommending expenditures for individual plans for supported living services submitted by the consumers and providers of supported living services to a regional community mental health mental retardation board;~~
- (c) ~~Encouraging the creation of new providers of supported living services; and~~
- ~~(d) Hearing grievances and providing due process for consumers and providers of supported living services.~~
- (c) **Monitoring the overall effectiveness and quality of the program; and**
- (d) **Developing recommendations for improvements.**

~~((4) The State Supported Living Council shall not impose an individual service plan on any applicant who objects to the plan.)~~

- (3) ~~((5))~~ The State Supported Living Council may recommend necessary administrative regulations under KRS Chapter 13A to carry out the purposes of KRS 210.770 to 210.795.

Section 4. KRS 210.790 is amended to read as follows:

- (1) Only a person with a disability who is a resident of Kentucky or whose family or guardian is a resident of Kentucky is eligible **to apply for a Hart-Supported Living Program grant** ~~services~~. The person may be living with a family member, independently, or be in a congregate setting and be eligible **to apply for a grant** ~~services~~. **If funded, the applicant must maintain Kentucky residency as a condition of receiving grant funds or for the duration of the grant.**
- (2) Any eligible person with a disability who wants to apply for **a Hart-Supported Living Program grant** ~~services~~ may design and request a set of services in the amount, kind, frequency, and duration which is dependent upon the person's individual needs, and is consistent with the definition of **a Hart-Supported Living Program grant** under KRS 210.770.
- (3) Payments for **Hart-Supported Living Program grants** ~~services~~ may be made directly to the person with a disability to enable the person to purchase a service, ~~or~~ to the guardian of the person with a disability, **to a fiscal representative, to a** ~~for to the local~~ service provider **agency**, or to any combination of these parties.
- (4) A license shall not be required for any supported living housing arrangement provided on a contractual basis.

Section 5. KRS 210.795 is amended to read as follows:

- (1) The Department for Mental Health and Mental Retardation Services in cooperation with the State Supported Living ~~Services~~ Council shall establish standards for **the administration of the Hart-Supported Living Program** ~~quality assurance for eligible persons who live in the community in supported living arrangements as defined in KRS 210.770~~. The purpose of these standards is to ensure that a person with a disability receives supported living services in a manner that empowers the person to exercise choice and enhances the quality of that person's life. These standards shall promote the following:
  - (a) **Choice over how, when, and by whom supports are provided and** ~~Control~~ over where and with whom a person with a disability lives;
  - (b) **Responsibility of the person with a disability and his or her representative for managing grants and the provision of supports under the grant;**
  - (c) **Freedom to live a meaningful life and to** ~~Opportunities to meaningfully~~ participate in activities in the community with members of the general citizenry;
  - ~~(d) ((e))~~ Enhancement of health **and safety** ~~through ongoing medical and dental care~~;
  - ~~(e) ((d))~~ **Flexibility of** ~~Flexible~~ services that change as the person's needs change without the individual having to move elsewhere for services;
  - ~~(f) ((e))~~ Use of generic options **and natural supports** ~~such as home health aids, homemaker services, live in roommates or staff, community counselors, neighbors, family, and friends in the development of a supported living plan~~;

~~(g)(f)~~ Well-planned and proactive opportunities to determine the kinds and amounts of support desired, with the meaningful participation of the individual, the individual's family or guardian where appropriate, friends, and professionals; and

~~(h)(g)~~ Home ownership or leasing with the home belonging to the person with a disability, that person's family, or to a landlord to whom rent is paid.

(2) The individual supported living plan shall be developed by the person with a disability and that person's family or guardian where appropriate, and, as appropriate, the proposed or current provider.

~~(3) The individual supported living plan shall document assistance and support required by the person with a disability in the following eight (8) areas:~~

~~(a) Choice and options;~~

~~(b) Personal income;~~

~~(c) Housing;~~

~~(d) Health;~~

~~(e) Safety;~~

~~(f) Appearance and hygiene;~~

~~(g) Relating to others; and~~

~~(h) Activities.~~

~~(4)~~ The Department for Mental Health and Mental Retardation in concert with the State Supported Living Council shall promulgate administrative regulations under KRS Chapter 13A, if necessary, to establish the methods of **awarding Hart-Supported Living Program grants for individual supported living plans and** monitoring the quality of service delivery, and to provide for administrative appeal of decisions. Administrative hearings conducted on appeals shall be conducted in accordance with KRS Chapter 13B.

Section 6. The following KRS section is repealed:

210.785 Regional supported living councils -- Duties.

**Approved March 28, 2006.**

## **CHAPTER 82**

**(SB 155)**

AN ACT relating to telecommunications.

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

Section 1. KRS 15.330 is amended to read as follows:

(1) The council is vested with the following functions and powers:

(a) To prescribe standards for the approval and continuation of approval of schools at which law enforcement **and telecommunications** training courses required under KRS 15.310 to 15.510, **KRS 15.530 to 15.590**, and KRS 15.990 to 15.992 shall be conducted, including but not limited to minimum standards for facilities, faculty, curriculum, and hours of attendance related thereto;

(b) To prescribe minimum qualifications for instructors at such schools, except that institutions of higher education shall be exempt from council requirements;

(c) To prescribe qualifications for attendance and conditions for expulsion from such schools;

(d) To prescribe minimum standards and qualifications for voluntary career development programs for certified peace officers and telecommunicators, including minimum standards for experience, education, and training, and to issue certificates to those meeting the minimum standards;

(e) To approve, to issue, and to revoke for cause certificates to schools and instructors as having met requirements under KRS 15.310 to 15.510, **KRS 15.530 to 15.590**, and KRS 15.990 to 15.992;



- (f) To approve law enforcement officers, *telecommunicators*, and other persons as having met requirements under KRS 15.310 to 15.510, ***KRS 15.530 to 15.590***, and KRS 15.990 to 15.992;
  - (g) To inspect and evaluate schools at any time and to require of schools, instructors, and persons approved or to be approved under the provisions of KRS 15.310 to 15.510, ***KRS 15.530 to 15.590***, and KRS 15.990 to 15.992, any information or documents;
  - (h) To promulgate reasonable rules and administrative regulations in accordance with KRS Chapter 13A to accomplish the purposes of KRS 15.310 to 15.510, ***KRS 15.530 to 15.590***, and KRS 15.990 to 15.992;
  - (i) To monitor the Law Enforcement Foundation Program as prescribed in KRS 15.410 to 15.510;
  - (j) To adopt bylaws for the conduct of its business not otherwise provided for; and
  - (k) The council shall have the authority to certify police officers as set out in this chapter.
- (2) The provisions of KRS 15.310 to 15.510, ***KRS 15.530 to 15.590***, and KRS 15.990 to 15.992 do not apply to the Department of State Police except for the certification requirement established by this chapter.

Section 2. KRS 15.530 is amended to read as follows:

For the purposes of KRS ***15.530***~~[15.540]~~ to 15.590:

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

Section 3. KRS 15.540 is amended to read as follows:

- (1) ***An agency hiring a telecommunicator after July 15, 2006, shall certify to the Department of Criminal Justice Training before***~~[The Justice Cabinet shall determine that all applicants for]~~ admission to the telecommunicator training program ***that the telecommunicator:***
  - (a) ***Is a citizen***~~[(1) — Are citizens]~~ of the United States and ***has***~~[have]~~ reached the age of majority;
  - (b) ***Is a***~~[(2) — Hold]~~ high school ***graduate***~~[diploma]~~ or ***has received a general equivalency diploma (GED)***~~[the equivalent]~~;
  - (c) ***Has***~~[(3) — Have]~~ not been convicted of a felony or other crimes involving moral turpitude as determined by submission of each applicant's fingerprints to the information systems section of the Department of State Police and to the Federal Bureau of Investigation identification division, and by such other investigations as required by the ***hiring agency***;

- (d) *Has taken a psychological suitability screening administered or approved by the Kentucky Law Enforcement Council to determine his or her suitability to perform the duties of a telecommunicator. Any agency that administers its own suitability screening shall certify the results to the department;*
  - (e) *Has taken a polygraph examination administered or approved by the Kentucky Law Enforcement Council to determine his or her suitability to perform the duties of a telecommunicator. Any agency that administers its own polygraph examination shall certify the results to the department; and*
  - (f) *Has passed a drug screening administered or approved by the Kentucky Law Enforcement Council. A person shall be deemed to have passed a drug screening if the results are negative for the use of an illegal controlled substance or prescription drug abuse. Any agency that administers its own screening shall certify passing results to the department.*
- (2) *Provisions of the Open Records Act, KRS 61.870 to 61.884, to the contrary notwithstanding, the applicant's home address, telephone number, date of birth, Social Security number, and results of any background investigation, psychological suitability screening, and polygraph examination conducted under this section shall not be subject to disclosure*
- ~~[applicant's place of employment; and~~
- ~~(4) Are free of any physical, emotional or mental condition which might adversely affect their employment performance].~~

Section 4. KRS 15.560 is amended to read as follows:

- (1) No person shall receive an official appointment on a permanent basis as a law enforcement telecommunicator unless the person has previously been awarded a certificate by the **Kentucky Law Enforcement Council**~~[commissioner]~~ attesting to such person's satisfactory completion of a non-CJIS telecommunications academy. Every person who is employed after June 24, 2003, as a law enforcement telecommunicator by any law enforcement agency in this state, regardless of prior experience as a **non-CJIS**~~[law enforcement]~~ telecommunicator, shall forfeit his or her position as such unless, within twelve (12) months from the date of his or her employment, he or she satisfactorily completes the non-CJIS telecommunications academy and is awarded a certificate attesting thereto. The **council**~~[commissioner]~~ shall waive the training requirements listed in this section for all law enforcement telecommunicators who are serving on **July 15, 2006**~~[June 24, 2003]~~, and possess a certificate of completion of an approved law enforcement telecommunicator basic training program.
- (2) All **non-CJIS**~~[law enforcement]~~ telecommunicators, whether originally employed before or after **July 15, 2006**~~[June 24, 2003]~~, shall successfully complete each calendar year an in-service training course, appropriate to their job assignment and responsibility, of at least eight (8) hours' duration at a school certified or recognized by the Kentucky Law Enforcement Council.
- (3) In the event of extenuating circumstances beyond the control of a **non-CJIS**~~[law enforcement]~~ telecommunicator that prevent completion of training within the time specified, the commissioner or the commissioner's designee may grant the **non-CJIS**~~[law enforcement]~~ telecommunicator an extension of time, not to exceed one hundred eighty (180) days, in which to complete the training.
- (4) *A non-CJIS telecommunicator who fails to complete the training within a period of twelve (12) months and any extension of time granted under this section shall be terminated by the employing agency and shall not be permitted to serve as a telecommunicator with any governmental agency in the Commonwealth for a period of one (1) year.*

Section 5. KRS 15.565 is amended to read as follows:

- (1) No person shall receive an official appointment on a permanent basis as a CJIS telecommunicator unless that person has previously been awarded a certificate by the **Kentucky Law Enforcement Council**~~[commissioner]~~ attesting to that person's satisfactory completion of the **CJIS** telecommunications academy. Every person who is employed after **July 15, 2006**~~[June 24, 2003]~~, as a CJIS telecommunicator shall forfeit his or her position as such unless, within six (6) months from the date of employment, that person satisfactorily completes the **CJIS** telecommunications academy and is awarded a certificate attesting thereto. The **council**~~[commissioner]~~ shall waive the training requirements listed in this section and award a CJIS telecommunicator certificate for all CJIS telecommunicators who are serving on **July 15, 2006**~~[June 24, 2003]~~, and have successfully completed the CJIS-full access course.

- (2) A ~~*non-CJIS*~~~~[law enforcement]~~ telecommunicator who gains employment as a CJIS telecommunicator shall successfully complete the CJIS-full access course within six (6) months from the date of his or her employment. A ~~*non-CJIS*~~~~[law enforcement]~~ telecommunicator whose employing agency initiates the use of CJIS shall successfully complete the CJIS-full access course within six (6) months from the date that the agency initiates the use of CJIS.
- (3) All CJIS telecommunicators, whether originally employed before or after ~~*July 15, 2006*~~~~[June 24, 2003]~~, shall successfully complete each calendar year an in-service training course, appropriate to their job assignment and responsibility, of at least eight (8) hours' duration at a school certified or recognized by the Kentucky Law Enforcement Council.
- (4) All CJIS telecommunicators, whether originally employed before or after ~~*July 15, 2006*~~~~[June 24, 2003]~~, shall successfully complete ~~*eight (8) hours of CJIS in-service training*~~~~[,]~~ every two (2) years~~[, eight (8) hours of CJIS in-service training]~~ at a school certified or recognized by the Kentucky Law Enforcement Council.
- (5) Extensions of time in which to complete the training specified in this section may be granted by the commissioner of the Department of State Police or the commissioner's designee.
- (6) *A CJIS telecommunicator who fails to complete the training within a period of six (6) months and any extension of time granted under this section shall be terminated by the employing agency and shall not be permitted to serve as a telecommunicator with any governmental agency in the Commonwealth for a period of one (1) year.*

Section 6. KRS 15.580 is amended to read as follows:

The *Kentucky Law Enforcement Council and the Justice and Public Safety* Cabinet shall maintain a roster of all certified~~[law enforcement]~~ telecommunicators.

Section 7. KRS 15.590 is amended to read as follows:

KRS ~~*15.530 to 15.590*~~~~[15.540 to 15.580]~~ shall be administered by the *Kentucky Law Enforcement Council*, ~~which~~~~[commissioner of the Department of Criminal Justice Training, who]~~ shall ~~*promulgate*~~~~[issue such]~~ administrative regulations as necessary regarding training, in-service training, and telecommunications practices.

**Approved March 28, 2006.**

## CHAPTER 83

(HB 28)

AN ACT relating to electricians and electrical contractors.

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

SECTION 1. A NEW SECTION OF KRS 227.450 TO 227.500 IS CREATED TO READ AS FOLLOWS:

- (1) *Electrical inspectors shall have the authority to take immediate action to prevent further electrical work at any inspection site where, in the judgment of the electrical inspector, imminent danger to life or property exists. Actions the electrical inspector may take to address this danger are the following:*
  - (a) *Stop-work order regarding any electrical work at the inspection site; or*
  - (b) *Recommendations of fines or other penalties as described in Section 4 of this Act.*
- (2) *The findings of the electrical inspector under subsection (1) of this section shall be presumed to be correct until the city, county, urban-county, charter county, or consolidated local government, the office, or the party affected by the findings demonstrates that it is more likely than not that the electrical inspector was incorrect in his or her findings.*
- (3) *The actions of an electrical inspector under this section are subject to misconduct investigation by the executive director under KRS 227.492, and the inspector is subject to any appropriate criminal or civil penalty due to misconduct or violation of any provision of KRS 227.200 to 227.400 or 227.450 to 227.500.*

Section 2. KRS 227.480 is amended to read as follows:

- (1) A city, county, urban-county, **charter county**, or consolidated local government shall, according to the Uniform State Building Code as it pertains to the plan review and inspection responsibilities of local governments, require any person to obtain permits before commencing construction, alteration, or repairs of any electrical wiring. **The city, county, urban-county, charter county, or consolidated local government shall, and** require **all inspections that are deemed**~~[such inspection as it deems]~~ necessary **by the office** for the safety of life and property. **The office shall promulgate administrative regulations to describe the circumstances where inspections are required.**
- (2) A city, county, urban-county, **charter county**, or consolidated local government or the state shall not issue a permit unless the applicant submits proof of being licensed as an electrical contractor under KRS **Chapter 227A**~~[227A.010 to 227A.140]~~ or of acting on behalf of a licensed electrical contractor. However, the provisions of this subsection shall not apply to a homeowner or farmer who does construction, alteration, or repairs of any electrical wiring on his or her own premises or any other person exempt from licensing under KRS 227A.030. This subsection shall not apply to electrical work performed by the Commonwealth of Kentucky, a city, county, urban-county, **charter county**, or consolidated local government, or any subdivision thereof.
- (3) A city, county, urban-county, **charter county**, or consolidated local government shall appoint and may fix the compensation of city, county, urban-county, **charter county**, or consolidated local government electrical inspectors, and may by ordinance fix reasonable fees and establish other requirements for the conduct of electrical inspections within its boundaries. All electrical inspectors must be certified under KRS 227.489.
- (4) Reasonable standards for the construction, alteration, and repair of any electrical wiring shall be those adopted in the Uniform State Building Code, as promulgated by the Board of Housing, Buildings and Construction, and shall have as a minimum standard the requirements of the National Electric Code. These standards shall be used by the electrical inspector in making his inspections.

Section 3. KRS 227.491 is amended to read as follows:

- (1) An electrical inspector who certifies an electrical installation shall furnish and attach an approval sticker, bearing his or her signature and certification number in a conspicuous place on the main service entrance equipment. He or she shall also provide the owner of the electrical installation or his or her authorized agent with a certificate of approval if the same is requested. A complete record of each inspection shall be kept by the inspector and these records shall be made available to the Office of Housing, Buildings and Construction upon its request.
- (2) No electrical inspector shall:
  - (a) Attempt to supplant, overrule or otherwise invalidate the judgment of another electrical inspector whose services for a particular building, structure or other project have been solicited by an owner, contractor, municipality or other person without first obtaining express written consent from the designated inspector's office supervising the original inspector; **or**
  - (b) **Certify an unlicensed or unlawful electrical installation.**
- (3) Failure of an electrical inspector to observe **subsection (2) of this section**~~[this provision]~~ shall subject ~~that~~~~said~~ inspector to review by the executive director of housing, buildings and construction with possible suspension of certification for a period not to exceed one (1) year from **the** date of the executive director's ruling.

Section 4. KRS 227.500 is amended to read as follows:

- (1) A city,~~or~~ county, **urban-county, charter county, or consolidated local government** may fix as a penalty for the violation of any ordinance or resolution passed under the provisions of KRS 227.200 to 227.500, a fine of not less than twenty-five dollars (\$25) nor more than two hundred fifty dollars (\$250), or imprisonment for not more than ninety (90) days, or both.
- (2) **If properly recommended by an electrical inspector under Section 1 of this Act, a city, county, urban-county, charter county, or consolidated local government may fix as a penalty for the violation of any ordinance or resolution passed under the provisions of this chapter, the Uniform State Building Code, or the standards of safety of the Commonwealth of Kentucky, a fine of one thousand dollars (\$1,000) for the first offense, and a fine of two thousand dollars (\$2,000) for each subsequent offense.**

Section 5. KRS 227A.030 is amended to read as follows:

- (1) The provisions of KRS 227A.010 to 227A.140 shall not apply to installations under the exclusive control of electric utilities for the purpose of communication, metering, or for the generation, control, transformation, transmission, and distribution of electric energy located in buildings used exclusively by utilities for those purposes or located outdoors on property owned or leased by the utility or on public highways, streets, or roads, or outdoors by established rights on private property.
- (2) Nothing in KRS 227A.010 to 227A.140 shall require that a maintenance worker or maintenance engineer performing routine maintenance of electrical systems be licensed.
- (3) Nothing in KRS 227A.010 to 227A.140 shall prohibit or interfere with the ability of a homeowner or farmer to install or repair electrical wiring on his or her real property.
- (4) Nothing in KRS 227A.010 to 227A.140 shall require that a retailer or its agent engaged in making installations of an appliance purchased at a retail establishment be licensed.
- (5) Nothing in KRS 227A.010 to 227A.140 shall be construed to require persons making installations exempt by KRS 227.460 to be licensed or to work for a licensed person.
- (6) Nothing in KRS 227A.010 to 227A.140 shall preclude the use of unlicensed, nonresident electricians in temporary, emergency, or industrial shutdown situations. Those unlicensed, nonresident electricians shall apply for an electrician's license or a master electrician's license after they are employed and engaged in electrical work in the Commonwealth of Kentucky for a period of ~~ten (10)~~~~thirty (30)~~ days. ***No unlicensed, nonresident electrician shall be employed or engaged in electrical work in the Commonwealth of Kentucky for a total of more than thirty (30) days in any calendar year without applying for an electrician's license or a master electrician's license.*** The license shall be obtained by the temporary, unlicensed, nonresident electricians within sixty (60) days of securing employment.
- (7) Nothing in KRS 227A.010 to 227A.140 shall apply to a person performing work at a surface or underground coal mine or at a coal preparation plant.
- (8) Nothing in KRS 227A.010 to 227A.140 shall apply to a person performing work for a telecommunications company for which the voltage is fifty (50) volts or less.
- (9) Nothing in KRS 227A.010 to 227A.140 shall prohibit a factory-authorized representative from the installation, maintenance, or service of a medical equipment device. This exemption does not include work providing electrical feeds into the power distribution unit or installation of conduits and raceways. This exemption covers only those factory engineers or third-party service companies with equivalent training who are qualified to perform such service.
- (10) Nothing in KRS 227A.010 to 227A.140 shall apply to low-voltage, power-limited installations for control or coordination of interconnected devices separated from a power source by a Class 2 or Class 3 transformer installed by a person licensed as:
  - (a) A master or journeyman heating, ventilation, and air conditioning technician employed by a licensed HVAC contractor pursuant to KRS 198B.658;
  - (b) A fire protection sprinkler contractor pursuant to KRS 198B.560;
  - (c) A manufactured housing dealer or certified installer pursuant to KRS 227.610;
  - (d) A boiler mechanic pursuant to KRS 236.210;
  - (e) A master or journeyman plumber pursuant to KRS 318.030;
  - (f) An onsite sewage disposal system installer pursuant to KRS 211.357; or
  - (g) An electrician or master electrician employed by an electrical contractor pursuant to KRS 227A.010 to 227A.140.
- (11) The provisions of KRS 227A.010 to 227A.140 shall not apply to work performed at industrial manufacturing facilities by employees of those facilities.

Section 6. This Act shall be known and may be cited as "Isaac's Act."

**Approved March 28, 2006.**

**CHAPTER 84****(HB 78)**

AN ACT relating to tobacco warehouses.

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

Section 1. KRS 154.01-010 is amended to read as follows:

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

- (1) "Agribusiness" or "agricultural business entity" means any person, partnership, registered limited liability partnership, corporation, limited liability company, or any other entity engaged in a business that processes raw agricultural products, including timber, or provides value-added functions with regard to raw agricultural products;
- (2) "Approved business network" or "approved flexible industrial network" means a business network comprising three (3) or more business firms or industries which have been identified as key industries and targeted by the state's strategic economic development plan for special consideration and assistance by the agencies of the Commonwealth;
- (3) "Authority" means the Kentucky Economic Development Finance Authority, consisting of a committee as set forth in KRS 154.20-010;
- (4) "Board" means the Kentucky Economic Development Partnership, an administrative body within the meaning of KRS 12.010, and the governing body of the Cabinet for Economic Development, as created and established in KRS 154.10-010;
- (5) "Business network" or "flexible industrial network" means a formalized, collaborative mechanism organized by and operating among three (3) or more industrial entities, business enterprises, or private sector firms for the purposes of, but not limited to: pooling expertise; improving responses to changing technology or markets; lowering the risks to individual entities of accelerated modernization; encouraging new technology investments, new market development, and employee skills improvement; and developing a system of collective intelligence among participating entities;
- (6) "Cabinet" means the Cabinet for Economic Development as established under KRS 12.250, and governed by the Kentucky Economic Development Partnership;
- (7) "Commonwealth" means the Commonwealth of Kentucky;
- (8) "Cost of a project" means the cost of the acquisition, construction, reconstruction, conversion, or leasing of any industrial, commercial, health care, agricultural, or forestry enterprise, or any part thereof, to carry out the purposes and objectives of this chapter, including, but not limited to, acquisition of land or interest in land, buildings, structures, or other planned or existing planned improvements to land, including leasehold improvements, machinery, equipment, or furnishings; working capital; and administrative costs including, but not limited to, engineering, architectural, legal, and accounting fees which are necessary for the project;
- (9) "Local and regional economic development interest" means any local business or economic development interest, including, but not limited to, chambers of commerce, business development associations, industrial development organizations, area development districts, and public economic development entities;
- (10) "Industrial entity" means any corporation, limited liability company, partnership, registered limited liability partnership, person, or any other legal entity, domestic or foreign, which will itself or through its subsidiaries or affiliates, engage in an industrial improvement project in the Commonwealth;
- (11) "Industrial improvement project" means and includes the acquisition, construction, or implementation of new manufacturing, processing, or assembling facilities, equipment, methods or processes, or improvements to or repair of existing manufacturing, processing, or assembling facilities, equipment, methods, or processes, **including repair, restoration, or conversion of tobacco warehouses**, as well as improvements to the real estate upon which the facilities are located, and includes any capital improvement to any existing facility, including any restructuring, retooling, rebuilding, reequipping, or any other form of upgrading such existing facility and equipment and any other improvements to such real estate, existing facility, or manufacturing, processing, or assembling equipment, method, or process;

- (12) "Key industry" means an industry or business within an industrial sector which has been identified in and targeted by the state's economic development strategic plan as having major importance to the sustained economic growth of the Commonwealth and in which member firms sell goods or services into markets for which national or international competition exists, including, but not limited to, secondary forest products manufacturing, agribusiness, and high technology and biotechnology manufacturing and services;
- (13) "Military" and "defense" mean all military and defense installations, entities, activities, and personnel located, operating, or living in Kentucky;
- (14) "Municipality" means a county, city, village, township, development organization, an institution of higher education, a community or junior college, a subdivision or instrumentality of any of the foregoing, or any entity created by two (2) or more municipalities pursuant to the Interlocal Cooperation Act, KRS 65.210 to 65.300;
- (15) "Network broker" means a person who is trained to assist private sector firms to form business networks and make other similar efforts to provide for joint manufacturing, marketing, technology development, information dissemination, and other activities;
- (16) "Non-appropriation-supported bond" means any long-term financial borrowing instrument for which regular debt service does not originate from an appropriation of the General Assembly;
- (17) "Non-appropriation-supported note" means any short-term financial borrowing instrument for which loan payments do not originate from an appropriation of the General Assembly;
- (18) "Person" means an individual, partnership, registered limited liability partnership, joint venture, military facility operated by a department or agency of the United States, profit or nonprofit corporation including a public or private college or university, limited liability company, or other entity or association of persons organized for agricultural, commercial, health care, or industrial purposes; or a public utility or local industrial development corporation;
- (19) "Private sector" means any source other than the authority, a state or federal entity, or an agency thereof;
- (20) "Project" means an endeavor approved by the cabinet or authority and related to industrial, manufacturing, mining, mining reclamation for economic development, commercial, health care, or agricultural enterprise. Project shall include, but is not limited to, agribusiness, agricultural or forestry production, harvesting, storage, or processing facilities or equipment; equipment or facilities designed to produce energy from renewable resources; research parks; office facilities; engineering facilities; research and development laboratories; ***repair, restoration, or conversion of tobacco warehouses for an economic development or commercial use***; warehousing facilities; parts distribution facilities; depots or storage facilities; port facilities; railroad facilities, including trackage, right-of-way, and appurtenances; airports and airport renovation; water and air pollution control equipment or waste disposal facilities; tourist facilities; theme or recreational parks; health care and health related facilities; farms, ranches, forests, and other agricultural or forestry commodity producers; agricultural harvesting, storage, transportation, or processing facilities or equipment; grain elevators; shipping heads and livestock pens; livestock; wharves and dock facilities; water, electricity, hydroelectric, coal, petroleum, or natural gas provision facilities; dams and irrigation facilities; sewage, liquid, and solid waste collection, disposal treatment, and drainage services and facilities. Except for airport-related facilities, project shall not include that portion of an endeavor devoted to the sale of goods at retail or that portion of an endeavor devoted to housing which does not consist of the manufacture of housing;
- (21) "Reclamation development fund" means the fund administered by the Kentucky Economic Development Finance Authority to foster economic development on surface mining land;
- (22) "Reclamation development project" means only that reconditioning of land affected by surface mining, which will directly promote and benefit an economic undertaking which constitutes a project under subsection (20) of this section;
- (23) "Reclamation development plan" means a plan submitted to the Environmental and Public Protection Cabinet to show compliance with reclamation standards, and submitted to the Kentucky Economic Development Finance Authority to seek moneys from the reclamation development fund for a reclamation development project;
- (24) "Secretary" means the chief executive officer and secretary of the Cabinet for Economic Development;
- (25) "State" means the Commonwealth of Kentucky; and

- (26) "Tax revenues" means any revenues received by the Commonwealth directly or indirectly as a result of the industrial improvement project, including state corporate income taxes, state income taxes paid by employees who work in the project, state property taxes, state corporation license taxes, or state sales and use taxes.

**Approved March 28, 2006.**

## **CHAPTER 85**

### **(HB 79)**

AN ACT relating to a school employee on active military duty.

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

Section 1. KRS 161.168 is amended to read as follows:

Notwithstanding any other statute to the contrary, a certified employee of a local board of education who is ***a member of a state National Guard or a Reserve component ordered***~~called~~ to active military duty ***by the President of the United States*** shall be granted a leave of absence for this purpose and shall be considered to be rendering service to the state.

- (1) A local board of education that has granted military leave to a certified employee and has a commitment from the employee to return to work upon the conclusion of military leave may provide the employer's contribution toward the purchase of the state's medical insurance program during the period of military leave as long as the employee or spouse pays the additional cost of dependent coverage.
- (2) Upon the employee's return to work, ***the Commonwealth of Kentucky shall***~~a local school district may~~ pay the member contribution and any accrued interest that is required to be paid ~~to the Kentucky Teachers' Retirement System~~ under KRS 161.507(4)(b) in order for the member to receive retirement service credit for the period of active military duty. ~~This payment shall be paid in lump sum by the school district directly to the retirement system on the member's behalf under the conditions set forth in KRS 161.540(2). This lump sum payment shall not be included in a member's annual compensation as defined under KRS 161.220(10).~~ Under no circumstances shall a member be entitled to service credit under this paragraph that is in violation of the provisions of KRS 161.500.
- (3) For each year of military service or each year of combined military and school service within a school year, the certified employee shall receive a year of service credit for purposes of the district's single salary schedule defined in KRS 157.320.
- (4) No provisions of this section shall be construed to provide disability benefits under KRS 161.611 or 161.663, survivorship benefits under KRS 161.520, life insurance benefits under KRS 161.555 or any other benefit available from the Kentucky Teachers' Retirement System as a result of active military service, or conditions or injuries resulting from active military service, except for the accrual of service credit which shall be acknowledged by the retirement system subject to the relevant conditions set forth in KRS 161.507.

Section 2. KRS 161.550 is amended to read as follows:

- (1) Beginning with July 1, each employer, except as provided under KRS 161.555, shall contribute annually to the retirement system a permanent amount equal to that contributed by members of the retirement system it employs plus an additional three and one-fourths percent (3.25%) of the total of salaries of members of the retirement system it employs to discharge the system's unfunded obligations with interest assumed by the state and to provide funding to the medical insurance fund as provided under KRS 161.420(5).
- (2) In addition to the required contributions in subsection (1) of this section, the state shall contribute annually to the retirement system a percentage of the total salaries of the state-funded and federally funded members it employs to provide stabilization funding for the medical insurance fund. This contribution shall be known as the state medical insurance fund stabilization contribution. The percentage to be contributed by the state shall be determined by the retirement system's actuary for each biennial budget period. The percentage to be contributed by the state may be suspended or adjusted by the General Assembly if in its judgment the welfare of the Commonwealth so demands.
- (3) Each employer shall remit the required employer contributions to the retirement system under the terms and conditions specified for member contributions under KRS 161.560. The state shall provide annual appropriations based upon estimated funds needed to meet the requirements of KRS 161.155; ***161.168;***



161.507(4); 161.515; 161.545; 161.553; 161.605; 161.612; and 161.620(1), (3), (5), (6), and (7). In the event an annual appropriation is less than the amount of these requirements, the state shall make up the deficit in the next biennium budget appropriation to the retirement system. Employer contributions to the retirement system are for the exclusive purpose of providing benefits to members and annuitants and these contributions shall be considered deferred compensation to the members.

**Approved March 28, 2006.**

## CHAPTER 86

**(HB 102)**

AN ACT relating to nursing.

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

SECTION 1. A NEW SECTION OF KRS CHAPTER 314 IS CREATED TO READ AS FOLLOWS:

*The Nurse Licensure Compact is hereby enacted and entered into with all other jurisdictions that legally join in the Compact, which is, in form, substantially as follows:*

### ARTICLE I

#### *Findings and Declaration of Purpose*

*a. The party states find that:*

- 1. The health and safety of the public are affected by the degree of compliance with and the effectiveness of enforcement activities related to state nurse licensure laws;*
- 2. Violations of nurse licensure and other laws regulating the practice of nursing may result in injury or harm to the public;*
- 3. The expanded mobility of nurses and the use of advanced communication technologies as part of our nation's healthcare delivery system require greater coordination and cooperation among states in the areas of nurse licensure and regulation;*
- 4. New practice modalities and technology make compliance with individual state nurse licensure laws difficult and complex;*
- 5. The current system of duplicative licensure for nurses practicing in multiple states is cumbersome and redundant to both nurses and states.*

*b. The general purposes of this Compact are to:*

- 1. Facilitate the states' responsibility to protect the public's health and safety;*
- 2. Ensure and encourage the cooperation of party states in the areas of nurse licensure and regulation;*
- 3. Facilitate the exchange of information between party states in the areas of nurse regulation, investigation and adverse actions;*
- 4. Promote compliance with the laws governing the practice of nursing in each jurisdiction;*
- 5. Invest all party states with the authority to hold a nurse accountable for meeting all state practice laws in the state in which the patient is located at the time care is rendered through the mutual recognition of party state licenses.*

### ARTICLE II

#### *Definitions*

*As used in this Compact:*

- a. "Adverse action" means a home or remote state action.*
- b. "Alternative program" means a voluntary, non-disciplinary monitoring program approved by a nurse licensing board.*

- c. *"Coordinated licensure information system" means an integrated process for collecting, storing, and sharing information on nurse licensure and enforcement activities related to nurse licensure laws, which is administered by a non-profit organization composed of and controlled by state nurse licensing boards.*
- d. *"Current significant investigative information" means investigative information that a licensing board, after a preliminary inquiry that includes notification and an opportunity for the nurse to respond if required by state law, has reason to believe is not groundless and, if proved true, would indicate more than a minor infraction; or investigative information that indicates that the nurse represents an immediate threat to public health and safety regardless of whether the nurse has been notified and had an opportunity to respond.*
- e. *"Home state" means the party state which is the nurse's primary state of residence.*
- f. *"Home state action" means any administrative, civil, equitable or criminal action permitted by the home state's laws which are imposed on a nurse by the home state's licensing board or other authority including actions against an individual's license such as: revocation, suspension, probation or any other action which affects a nurse's authorization to practice.*
- g. *"Licensing board" means a party state's regulatory body responsible for issuing nurse licenses.*
- h. *"Multistate licensure privilege" means current, official authority from a remote state permitting the practice of nursing as either a registered nurse or a licensed practical/vocational nurse in such party state. All party states have the authority, in accordance with existing state due process law, to take actions against the nurse's privilege such as: revocation, suspension, probation or any other action which affects a nurse's authorization to practice.*
- i. *"Nurse" means a registered nurse or licensed practical/vocational nurse, as those terms are defined by each party's state practice laws.*
- j. *"Party state" means any state that has adopted this Compact.*
- k. *"Remote state" means a party state, other than the home state, where the patient is located at the time nursing care is provided, or, in the case of the practice of nursing not involving a patient, in such party state where the recipient of nursing practice is located.*
- l. *"Remote state action" means any administrative, civil, equitable or criminal action permitted by a remote state's laws which are imposed on a nurse by the remote state's licensing board or other authority including actions against an individual's multistate licensure privilege to practice in the remote state, and cease and desist and other injunctive or equitable orders issued by remote states or the licensing boards thereof.*
- m. *"State" means a state, territory, or possession of the United States, the District of Columbia or the Commonwealth of Puerto Rico.*
- n. *"State practice laws" means those individual party's state laws and regulations that govern the practice of nursing, define the scope of nursing practice, and create the methods and grounds for imposing discipline.*
- o. *"State practice laws" does not include the initial qualifications for licensure or requirements necessary to obtain and retain a license, except for qualifications or requirements of the home state.*

### ARTICLE III

#### General Provisions and Jurisdiction

- a. *A license to practice registered nursing issued by a home state to a resident in that state will be recognized by each party state as authorizing a multistate licensure privilege to practice as a registered nurse in such party state. A license to practice licensed practical/vocational nursing issued by a home state to a resident in that state will be recognized by each party state as authorizing a multistate licensure privilege to practice as a licensed practical/vocational nurse in such party state. In order to obtain or retain a license, an applicant must meet the home state's qualifications for licensure and license renewal as well as all other applicable state laws.*
- b. *Party states may, in accordance with state due process laws, limit or revoke the multistate licensure privilege of any nurse to practice in their state and may take any other actions under their applicable state laws necessary to protect the health and safety of their citizens. If a party state takes such action, it shall promptly notify the administrator of the coordinated licensure information system. The administrator of the*

*coordinated licensure information system shall promptly notify the home state of any such actions by remote states.*

- c. Every nurse practicing in a party state must comply with the state practice laws of the state in which the patient is located at the time care is rendered. In addition, the practice of nursing is not limited to patient care, but shall include all nursing practice as defined by the state practice laws of a party state. The practice of nursing will subject a nurse to the jurisdiction of the nurse licensing board and the courts, as well as the laws, in that party state.*
- d. This Compact does not affect additional requirements imposed by states for advanced practice registered nursing. However, a multistate licensure privilege to practice registered nursing granted by a party state shall be recognized by other party states as a license to practice registered nursing if one is required by state law as a precondition for qualifying for advanced practice registered nurse authorization.*
- e. Individuals not residing in a party state shall continue to be able to apply for nurse licensure as provided for under the laws of each party state. However, the license granted to these individuals will not be recognized as granting the privilege to practice nursing in any other party state unless explicitly agreed to by that party state.*

#### ARTICLE IV

##### *Applications for Licensure in a Party State*

- a. Upon application for a license, the licensing board in a party state shall ascertain, through the coordinated licensure information system, whether the applicant has ever held, or is the holder of, a license issued by any other state, whether there are any restrictions on the multistate licensure privilege, and whether any other adverse action by any state has been taken against the license.*
- b. A nurse in a party state shall hold licensure in only one party state at a time, issued by the home state.*
- c. A nurse who intends to change primary state of residence may apply for licensure in the new home state in advance of such change. However, new licenses will not be issued by a party state until after a nurse provides evidence of change in primary state of residence satisfactory to the new home state's licensing board.*
- d. When a nurse changes primary state of residence by:*
  - 1. Moving between two party states, and obtains a license from the new home state, the license from the former home state is no longer valid;*
  - 2. Moving from a non-party state to a party state, and obtains a license from the new home state, the individual state license issued by the non-party state is not affected and will remain in full force if so provided by the laws of the non-party state;*
  - 3. Moving from a party state to a non-party state, the license issued by the prior home state converts to an individual state license, valid only in the former home state, without the multistate licensure privilege to practice in other party states.*

#### ARTICLE V

##### *Adverse Actions*

*In addition to the General Provisions described in Article III, the following provisions apply:*

- a. The licensing board of a remote state shall promptly report to the administrator of the coordinated licensure information system any remote state actions including the factual and legal basis for such action, if known. The licensing board of a remote state shall also promptly report any significant current investigative information yet to result in a remote state action. The administrator of the coordinated licensure information system shall promptly notify the home state of any such reports.*
- b. The licensing board of a party state shall have the authority to complete any pending investigations for a nurse who changes primary state of residence during the course of such investigations. It shall also have the authority to take appropriate action(s), and shall promptly report the conclusions of such investigations to the administrator of the coordinated licensure information system. The administrator of the coordinated licensure information system shall promptly notify the new home state of any such actions.*

- c. *A remote state may take adverse action affecting the multistate licensure privilege to practice within that party state. However, only the home state shall have the power to impose adverse action against the license issued by the home state.*
- d. *For purposes of imposing adverse action, the licensing board of the home state shall give the same priority and effect to reported conduct received from a remote state as it would if such conduct had occurred within the home state. In so doing, it shall apply its own state laws to determine appropriate action.*
- e. *The home state may take adverse action based on the factual findings of the remote state, so long as each state follows its own procedures for imposing such adverse action.*
- f. *Nothing in this Compact shall override a party state's decision that participation in an alternative program may be used in lieu of licensure action and that such participation shall remain non-public if required by the party state's laws. Party states must require nurses who enter any alternative programs to agree not to practice in any other party state during the term of the alternative program without prior authorization from such other party state.*

#### ARTICLE VI

##### *Additional Authorities Invested in Party State Nurse Licensing Boards*

*Notwithstanding any other powers, party state nurse licensing boards shall have the authority to:*

- a. *If otherwise permitted by state law, recover from the affected nurse the costs of investigations and disposition of cases resulting from any adverse action taken against that nurse;*
- b. *Issue subpoenas for both hearings and investigations which require the attendance and testimony of witnesses, and the production of evidence. Subpoenas issued by a nurse licensing board in a party state for the attendance and testimony of witnesses, and/or the production of evidence from another party state, shall be enforced in the latter state by any court of competent jurisdiction, according to the practice and procedure of that court applicable to subpoenas issued in proceedings pending before it. The issuing authority shall pay any witness fees, travel expenses, mileage and other fees required by the service statutes of the state where the witnesses and/or evidence are located;*
- c. *Issue cease and desist orders to limit or revoke a nurse's authority to practice in their state;*
- d. *Promulgate uniform rules and regulations as provided for in Article VIIIc.*

#### ARTICLE VII

##### *Coordinated Licensure Information System*

- a. *All party states shall participate in a cooperative effort to create a coordinated database of all licensed registered nurses and licensed practical/vocational nurses. This system will include information on the licensure and disciplinary history of each nurse, as contributed by party states, to assist in the coordination of nurse licensure and enforcement efforts.*
- b. *Notwithstanding any other provision of law, all party states' licensing boards shall promptly report adverse actions, actions against multistate licensure privileges, any current significant investigative information yet to result in adverse action, denials of applications, and the reasons for such denials, to the coordinated licensure information system.*
- c. *Current significant investigative information shall be transmitted through the coordinated licensure information system only to party state licensing boards.*
- d. *Notwithstanding any other provision of law, all party states' licensing boards contributing information to the coordinated licensure information system may designate information that may not be shared with non-party states or disclosed to other entities or individuals without the express permission of the contributing state.*
- e. *Any personally identifiable information obtained by a party state's licensing board from the coordinated licensure information system may not be shared with non-party states or disclosed to other entities or individuals except to the extent permitted by the laws of the party state contributing the information.*
- f. *Any information contributed to the coordinated licensure information system that is subsequently required to be expunged by the laws of the party state contributing that information, shall also be expunged from the coordinated licensure information system.*

- g. *The Compact administrators, acting jointly with each other and in consultation with the administrator of the coordinated licensure information system, shall formulate necessary and proper procedures for the identification, collection and exchange of information under this Compact.*

#### ARTICLE VIII

##### *Compact Administration and Interchange of Information*

- a. *The head of the nurse licensing board, or his/her designee, of each party state shall be the administrator of this Compact for his/her state.*
- b. *The Compact administrator of each party state shall furnish to the Compact administrator of each other party state any information and documents including, but not limited to, a uniform data set of investigations, identifying information, licensure data, and disclosable alternative program participation information to facilitate the administration of this Compact.*
- c. *Compact administrators shall have the authority to develop uniform rules to facilitate and coordinate implementation of this Compact. These uniform rules shall be adopted by party states, under the authority invested under Article VIId.*

#### ARTICLE IX

##### *Immunity*

*No party state or the officers or employees or agents of a party state's nurse licensing board who acts in accordance with the provisions of this Compact shall be liable on account of any act or omission in good faith while engaged in the performance of their duties under this Compact. Good faith in this article shall not include willful misconduct, gross negligence, or recklessness.*

#### ARTICLE X

##### *Entry into Force, Withdrawal and Amendment*

- a. *This Compact shall enter into force and become effective as to any state when it has been enacted into the laws of that state. Any party state may withdraw from this Compact by enacting a statute repealing the same, but no such withdrawal shall take effect until six months after the withdrawing state has given notice of the withdrawal to the executive heads of all other party states.*
- b. *No withdrawal shall affect the validity or applicability by the licensing boards of states remaining party to the Compact of any report of adverse action occurring prior to the withdrawal.*
- c. *Nothing contained in this Compact shall be construed to invalidate or prevent any nurse licensure agreement or other cooperative arrangement between a party state and a non-party state that is made in accordance with the other provisions of this Compact.*
- d. *This Compact may be amended by the party states. No amendment to this Compact shall become effective and binding upon the party states unless and until it is enacted into the laws of all party states.*

#### ARTICLE XI

##### *Construction and Severability*

- a. *This Compact shall be liberally construed so as to effectuate the purposes thereof. The provisions of this Compact shall be severable and if any phrase, clause, sentence or provision of this Compact is declared to be contrary to the constitution of any party state or of the United States or the applicability thereof to any government, agency, person or circumstance is held invalid, the validity of the remainder of this Compact and the applicability thereof to any government, agency, person or circumstance shall not be affected thereby. If this Compact shall be held contrary to the constitution of any state party thereto, the Compact shall remain in full force and effect as to the remaining party states and in full force and effect as to the party state affected as to all severable matters.*
- b. *In the event party states find a need for settling disputes arising under this Compact:*
  - 1. *The party states may submit the issues in dispute to an arbitration panel which will be composed of an individual appointed by the Compact administrator in the home state; an individual appointed by*

*the Compact administrator in the remote state(s) involved; and an individual mutually agreed upon by the Compact administrators of all the party states involved in the dispute.*

*The decision of a majority of the arbitrators shall be final and binding.*

Section 2. KRS 314.011 is amended to read as follows:

As used in *this chapter* ~~[KRS 314.011 to 314.161 and KRS 314.991]~~, unless the context thereof requires otherwise:

- (1) "Board" means Kentucky Board of Nursing;
- (2) "Delegation" means directing a competent person to perform a selected nursing activity or task in a selected situation under the nurse's supervision and pursuant to administrative regulations promulgated by the board in accordance with the provisions of KRS Chapter 13A;
- (3) "Nurse" means a person *who is* licensed *or holds the privilege to practice* under the provisions of this chapter as a registered nurse or as a licensed practical nurse;
- (4) "Nursing process" means the investigative approach to nursing practice utilizing a method of problem-solving by means of:
  - (a) Nursing diagnosis, a systematic investigation of a health concern, and an analysis of the data collected in order to arrive at an identifiable problem; and
  - (b) Planning, implementation, and evaluation based on nationally accepted standards of nursing practice;
- (5) "Registered nurse" means one who is licensed *or holds the privilege* under the provisions of this chapter to engage in registered nursing practice;
- (6) "Registered nursing practice" means the performance of acts requiring substantial specialized knowledge, judgment, and nursing skill based upon the principles of psychological, biological, physical, and social sciences in the application of the nursing process in:
  - (a) The care, counsel, and health teaching of the ill, injured, or infirm;
  - (b) The maintenance of health or prevention of illness of others;
  - (c) The administration of medication and treatment as prescribed by a physician, physician assistant, dentist, or advanced registered nurse practitioner and as further authorized or limited by the board, and which are consistent either with American Nurses' Association Standards of Practice or with Standards of Practice established by nationally accepted organizations of registered nurses. Components of medication administration include but are not limited to:
    1. Preparing and giving medications in the prescribed dosage, route, and frequency, including dispensing medications only as defined in subsection (17)(b) of this section;
    2. Observing, recording, and reporting desired effects, untoward reactions, and side effects of drug therapy;
    3. Intervening when emergency care is required as a result of drug therapy;
    4. Recognizing accepted prescribing limits and reporting deviations to the prescribing individual;
    5. Recognizing drug incompatibilities and reporting interactions or potential interactions to the prescribing individual; and
    6. Instructing an individual regarding medications;
  - (d) The supervision, teaching of, and delegation to other personnel in the performance of activities relating to nursing care; and
  - (e) The performance of other nursing acts which are authorized or limited by the board, and which are consistent either with American Nurses' Association Standards of Practice or with Standards of Practice established by nationally accepted organizations of registered nurses;
- (7) "Advanced registered nurse practitioner" means one who is registered and designated to engage in advanced registered nursing practice including the nurse anesthetist, nurse midwife, clinical nurse specialist, and nurse practitioner pursuant to KRS 314.042;

- (8) "Advanced registered nursing practice" means the performance of additional acts by registered nurses who have gained added knowledge and skills through an organized postbasic program of study and clinical experience and who are certified by the American Nurses' Association or other nationally established organizations or agencies recognized by the board to certify registered nurses for advanced nursing practice. The additional acts shall, subject to approval of the board, include but not be limited to prescribing treatment, drugs, devices, and ordering diagnostic tests. Advanced registered nurse practitioners who engage in these additional acts shall be authorized to issue prescriptions for and dispense nonscheduled legend drugs as defined in KRS 217.905, under the conditions set forth in KRS 314.042. Nothing in this chapter shall be construed as requiring an advanced registered nurse practitioner designated by the board as a nurse anesthetist to obtain prescriptive authority pursuant to this chapter or any other provision of law in order to deliver anesthesia care. The performance of these additional acts shall be consistent with the certifying organization or agencies' scopes and standards of practice recognized by the board by administrative regulation;
- (9) "Licensed practical nurse" means one who is licensed *or holds the privilege* under the provisions of this chapter to engage in licensed practical nursing practice;
- (10) "Licensed practical nursing practice" means the performance of acts requiring knowledge and skill such as are taught or acquired in approved schools for practical nursing in:
- (a) The observing and caring for the ill, injured, or infirm under the direction of a registered nurse, a licensed physician, or dentist;
  - (b) The giving of counsel and applying procedures to safeguard life and health, as defined and authorized by the board;
  - (c) The administration of medication or treatment as authorized by a physician, physician assistant, dentist, or advanced registered nurse practitioner and as further authorized or limited by the board which is consistent with the National Federation of Licensed Practical Nurses or with Standards of Practice established by nationally accepted organizations of licensed practical nurses;
  - (d) Teaching, supervising, and delegating except as limited by the board; and
  - (e) The performance of other nursing acts which are authorized or limited by the board and which are consistent with the National Federation of Practical Nurses' Standards of Practice or with Standards of Practice established by nationally accepted organizations of licensed practical nurses;
- (11) "School of nursing" means a nursing education program preparing persons for licensure as a registered nurse or a practical nurse;
- (12) "Continuing education" means offerings beyond the basic nursing program that present specific content planned and evaluated to meet competency based behavioral objectives which develop new skills and upgrade knowledge;
- (13) "Nursing assistance" means the performance of delegated nursing acts by unlicensed nursing personnel for compensation under supervision of a nurse;
- (14) "Sexual assault nurse examiner" means a registered nurse who has completed the required education and clinical experience and maintains a current credential from the board as provided under KRS 314.142 to conduct forensic examinations of victims of sexual offenses under the medical protocol issued by the State Medical Examiner pursuant to KRS 216B.400(4);
- (15) "Competency" means the application of knowledge and skills in the utilization of critical thinking, effective communication, interventions, and caring behaviors consistent with the nurse's practice role within the context of the public's health, safety, and welfare;
- (16) "Credential" means a current license, registration, certificate, or other similar authorization that is issued by the board;
- (17) "Dispense" means:
- (a) To receive and distribute noncontrolled legend drug samples from pharmaceutical manufacturers to patients at no charge to the patient or any other party; or
  - (b) To distribute noncontrolled legend drugs from a local, district, and independent health department, subject to the direction of the appropriate governing board of the individual health department;

- (18) "Dialysis care" means a process by which dissolved substances are removed from a patient's body by diffusion, osmosis, and convection from one (1) fluid compartment to another across a semipermeable membrane;
- (19) "Dialysis technician" means a person who is not a nurse, a physician assistant, or a physician and who provides dialysis care in a licensed renal dialysis facility under the direct, on-site supervision of a registered nurse or a physician; and
- (20) "Clinical internship" means a supervised nursing practice experience which involves any component of direct patient care.

Section 3. KRS 314.021 is amended to read as follows:

- (1) It is the declared policy of the General Assembly of Kentucky that the practice of nursing should be regulated and controlled as provided herein and by regulations of the board in order to protect and safeguard the health and safety of the citizens of the Commonwealth of Kentucky.
- (2) All individuals licensed *or privileged* under provisions of this chapter shall be responsible and accountable for making decisions that are based upon the individuals' educational preparation and experience in nursing and shall practice nursing with reasonable skill and safety.

Section 4. KRS 314.031 is amended to read as follows:

- (1) It shall be unlawful for any person to call or hold herself or himself out as or use the title of nurse or to practice or offer to practice as a nurse unless licensed *or privileged* under the provisions of this chapter.
- (2) It shall be unlawful for any person to operate or to offer to operate or to represent or advertise the operation of a school of nursing unless the school of nursing has been approved under the provisions of this chapter.
- (3) It shall be unlawful for any person knowingly to employ a nurse unless the nurse is licensed *or privileged* under the provisions of this chapter.
- (4) It shall be unlawful for any nurse, employer of nurses, or any person having knowledge of facts to refrain from reporting to the board a nurse who:
  - (a) Has been convicted of *any felony or a misdemeanor involving drugs, alcohol, fraud, deceit, falsification of records, a breach of trust, physical harm or endangerment to others, or dishonesty under the laws of any state or of the United States*~~[a misdemeanor or felony which involved acts that bear directly on the qualifications or ability of the applicant or licensee to practice nursing]~~; or
  - (b) Is suspected of fraud or deceit in procuring or attempting to procure a license, *credential, or privilege* to practice nursing; or
  - (c) Is suspected of negligently or willfully acting in a manner inconsistent with the practice of nursing; or
  - (d) Is suspected of being unfit or incompetent to practice nursing by reason of negligence or other causes including, but not limited to, being unable to practice nursing with reasonable skill or safety; or
  - (e) Is suspected of violating any provisions of this chapter; or
  - (f) Has a license, *privilege, or credential* to practice as a nurse denied, limited, suspended, probated, revoked, or otherwise disciplined in another jurisdiction on grounds sufficient to cause a license, *privilege, or credential* to be denied, limited, suspended, probated, revoked, or otherwise disciplined in this Commonwealth; or
  - (g) Is practicing nursing without a current active license, *privilege*, or valid temporary work permit issued by the board; or
  - (h) Is suspected of abusing, misusing, or misappropriating any drugs placed in the custody of the nurse for administration, or for use of others; or
  - (i) Is suspected of falsifying or in a negligent manner making incorrect entries or failing to make essential entries on essential records.

Section 5. KRS 314.042 is amended to read as follows:

- (1) An applicant for registration and designation to practice as an advanced registered nurse practitioner shall file with the board a written application for registration and designation and submit evidence, verified by oath, that the applicant has completed an organized postbasic program of study and clinical experience acceptable to the



board; has fulfilled the requirements of KRS 214.615(1); is certified by a nationally-established organization or agency recognized by the board to certify registered nurses for advanced nursing practice; and is able to understandably speak and write the English language and to read the English language with comprehension.

- (2) The board may issue a registration to practice advanced registered nursing to an applicant who holds a current active registered nurse license issued by the board *or holds the privilege to practice as a registered nurse in this state* and meets the qualifications of subsection (1) of this section. An advanced registered nurse practitioner shall be designated by the board as a nurse anesthetist, nurse midwife, nurse practitioner, or clinical nurse specialist.
- (3) The applicant for registration and designation or renewal thereof to practice as an advanced registered nurse practitioner shall pay a fee to the board as set forth in regulation by the board.
- (4) An advanced registered nurse practitioner shall maintain a current active registered nurse license issued by the board *or holds the privilege to practice as a registered nurse in this state* and maintain current certification by the appropriate national organization or agency recognized by the board.
- (5) Any person who holds a registration and designation to practice as an advanced registered nurse practitioner in this state shall have the right to use the title "advanced registered nurse practitioner" and the abbreviation "ARNP." No other person shall assume the title or use the abbreviation or any other words, letters, signs, or figures to indicate that the person using the same is an advanced registered nurse practitioner. No person shall practice as an advanced registered nurse practitioner unless registered under this section.
- (6) Any person heretofore registered as an advanced registered nurse practitioner under the provisions of this chapter who has allowed the registration to lapse may be reinstated on payment of current fee and by meeting the provisions of this chapter and regulations promulgated by the board pursuant to the provisions of KRS Chapter 13A.
- (7) The board may authorize a person to practice as an advanced registered nurse practitioner temporarily and pursuant to applicable regulations promulgated by the board pursuant to the provisions of KRS Chapter 13A if the person is awaiting the results of the national certifying examination for the first time or is awaiting licensure by endorsement. A person awaiting the results of the national certifying examination shall use the title "ARNP Applicant" or "ARNP App."
- (8) Before an advanced registered nurse practitioner engages in the prescribing or dispensing of nonscheduled legend drugs as authorized by KRS 314.011(8), the advanced registered nurse practitioner shall enter into a written collaborative practice agreement with a physician that defines the scope of the prescriptive authority.
- (9) Nothing in this chapter shall be construed as requiring an advanced registered nurse practitioner designated by the board as a nurse anesthetist to enter into a collaborative practice agreement with a physician, pursuant to this chapter or any other provision of law, in order to deliver anesthesia care.

Section 6. KRS 314.046 is amended to read as follows:

When a patient suffering from a terminal illness, whose death is anticipated and who is receiving the services of a hospice program licensed by the State of Kentucky under KRS Chapter 216B, dies at home or in a hospice inpatient program or unit, a registered nurse, licensed *or privileged* by the Kentucky Board of Nursing and employed by the attending hospice, and who treated the patient, may make the actual determination and pronouncement of death. The nurse shall release the body to the funeral director after having signed on the designated line the provisional report of death as furnished by the state registrar of vital statistics.

Section 7. KRS 314.085 is amended to read as follows:

- (1) If the board has reasonable cause to believe that any licensee; applicant for licensure by examination, endorsement, reinstatement, or change of status; *holder of the privilege to practice as a nurse; credential holder*; or holder of a temporary work permit is unable to practice with reasonable skill and safety or has abused alcohol or drugs, it may require the person to submit to a mental health, chemical dependency, or physical evaluation by a licensed or certified practitioner designated by the board. Upon the failure of the person to submit to a mental health, chemical dependency or physical evaluation, unless due to circumstances beyond the person's control, the board may initiate an action for immediate temporary suspension pursuant to KRS 314.089 or deny the application until the person submits to the required evaluation.

- (2) Every licensee; applicant for licensure by examination, endorsement, reinstatement, or change of status; **holder of the privilege to practice as a nurse; credential holder**; or holder of a temporary work permit shall be deemed to have given consent to submit to a mental health, chemical dependency, or physical evaluation when so directed in writing by the board. The direction to submit to an evaluation shall contain the basis of the board's reasonable cause to believe that the person is unable to practice with reasonable skill and safety, or has abused alcohol or drugs. The person shall be deemed to have waived all objections to the admissibility of the examining practitioner's testimony or examination reports on the ground of privileged communication.
- (3) The licensee; applicant for licensure by examination, endorsement, reinstatement, or change of status; **holder of the privilege to practice as a nurse; credential holder**; or holder of a temporary work permit shall bear the cost of any mental health, chemical dependency, or physical evaluation ordered by the board.

Section 8. KRS 314.089 is amended to read as follows:

- (1) The board's president or the president's designee may determine that immediate temporary suspension of a license **or privilege** against which disciplinary action or an investigation is pending is necessary in order to protect the public. When it appears that this action may be necessary, the executive director or the executive director's designee shall issue an emergency order suspending the nurse's license **or privilege**. Upon appeal of an emergency order, an emergency hearing shall be conducted in accordance with KRS 13B.125.
- (2) No board member shall be disqualified from serving on a disciplinary action hearing panel for the reason that he has previously sat on a hearing panel considering temporary suspension of the same license **or privilege**.
- (3) The board shall expedite disciplinary actions in which a license **or privilege** has been temporarily suspended.
- (4) The order of immediate temporary suspension shall remain in effect until either reconsidered or superseded by final disciplinary action by the board.

Section 9. KRS 314.091 is amended to read as follows:

- (1) The board shall have power to reprimand, deny, limit, revoke, probate, or suspend any license or credential to practice nursing issued by the board or applied for in accordance with this chapter **or the privilege to practice as a nurse recognized by the board in accordance with this chapter**, or to otherwise discipline a licensee, credential holder, **privilege holder**, or applicant, or to deny admission to the licensure examination, or to require evidence of evaluation and therapy upon proof that the person:
  - (a) Is guilty of fraud or deceit in procuring or attempting to procure a license, **credential, or privilege** to practice nursing;
  - (b) Has been convicted of any felony, or a misdemeanor involving drugs, alcohol, fraud, deceit, falsification of records, a breach of trust, physical harm or endangerment to others, or dishonesty, under the laws of any state or of the United States. The record of conviction or a copy thereof, certified by the clerk of the court or by the judge who presided over the conviction, shall be conclusive evidence. For the purposes of this section, "conviction" means but is not limited to pleading no contest, entering an Alford plea, or entry of a court order suspending the imposition of a criminal penalty to a crime;
  - (c) Has been convicted of a misdemeanor offense under KRS Chapter 510 involving a patient, or a felony offense under KRS Chapter 510, 530.064, or 531.310, or has been found by the board to have had sexual contact as defined in KRS 510.010(7) with a patient while the patient was under the care of the nurse;
  - (d) Has negligently or willfully acted in a manner inconsistent with the practice of nursing;
  - (e) Is unfit or incompetent to practice nursing by reason of negligence or other causes, including but not limited to, being unable to practice nursing with reasonable skill or safety;
  - (f) Abuses use of controlled substances, prescription medications, or alcohol;
  - (g) Has misused or misappropriated any drugs placed in the custody of the nurse for administration, or for use of others;
  - (h) Has falsified or in a negligent manner made incorrect entries or failed to make essential entries on essential records;
  - (i) Has a license, **privilege**, or credential to practice as a nurse denied, limited, suspended, probated, revoked, or otherwise disciplined in another jurisdiction on grounds sufficient to cause a license **or**

**privilege** to be denied, limited, suspended, probated, revoked, or otherwise disciplined in this Commonwealth, including action by another jurisdiction for failure to repay a student loan;

- (j) Has violated any of the provisions of this chapter;
  - (k) Has violated any lawful order or directive previously entered by the board;
  - (l) Has violated any administrative regulation promulgated by the board; or
  - (m) Has been listed on the nurse aide abuse registry with a substantiated finding of abuse, neglect, or misappropriation of property.
- (2) All hearings shall be conducted in accordance with KRS Chapter 13B. A suspended or revoked license, **privilege**, or credential may be reinstated at the discretion of the board, and in accordance with regulations promulgated by the board.
  - (3) The executive director may issue subpoenas to compel the attendance of witnesses and the production of documents in the conduct of an investigation. The subpoenas may be enforced by the Circuit Court as for contempt. Any order or subpoena of the court requiring the attendance and testimony of witnesses and the production of documentary evidence may be enforced and shall be valid anywhere in this state.
  - (4) At all hearings on request of the board the Attorney General of this state or one (1) of the assistant attorneys general designated by the Attorney General shall appear and represent the board.
  - (5) A final order of the board shall be by majority vote thereof.
  - (6) Any person adversely affected by any final order of the board may obtain a review thereof by filing a written petition for review with the Circuit Court of the county in which the board's offices are located in accordance with KRS Chapter 13B.
  - (7) If the board substantiates that sexual contact occurred between a nurse and a patient while the patient was under the care of or in a professional relationship with the nurse, the nurse's license, **privilege**, or credential may be revoked or suspended with mandatory treatment of the nurse as prescribed by the board. The board may require the nurse to pay a specified amount for mental health services for the patient which are needed as a result of the sexual contact.

Section 10. KRS 314.099 is amended to read as follows:

Jurisdiction, both as to person and subject matter, under **this chapter** ~~[KRS 314.011 to 314.161]~~ vests with the board upon application for licensure **or practice on the privilege** and shall continue during periods of licensure and lapse of licensure. The jurisdiction of the board shall be continuous over the individual applicant or licensee **or holder of the privilege** and shall not be divested by voluntary surrender of a license **or privilege**, withdrawal of an application, or expiration of a temporary work permit.

Section 11. KRS 314.101 is amended to read as follows:

- (1) This chapter does not prohibit **the following**:
  - (a) The **practice of any currently licensed nurse of another state practicing in this state during an emergency occurring in this state or any other state declared by the President of the United States or the Governor of Kentucky. The duration and conditions of the practice shall be determined by the board** ~~[furnishing of nursing assistance in an emergency]~~;
  - (b) The practice of nursing which is incidental to the program of study by individuals enrolled in nursing education programs and refresher courses approved by the board or in graduate programs in nursing;
  - (c) The practice of any legally qualified nurse of another state who is employed by the United States government or any bureau, division, or agency thereof while in the discharge of his or her official duties; or
  - (d) The practice of any currently licensed nurse of another state **who is in this state on a nonroutine basis to:**
    - 1. **Provide care to a patient being transported into, out of, or through this state;**
    - 2. **Provide nursing consulting services; or**

3. ***Present a continuing nursing education program***~~[whose responsibilities include transporting patients into, out of, or through this state].~~
- (2) Nothing in this chapter shall be construed as prohibiting care of the sick with or without compensation or personal profit when done in connection with the practice of the religious tenets of any recognized or established church by adherents thereof as long as they do not engage in the practice of nursing as defined in this chapter.
- (3) Nothing in this chapter shall limit, preclude, or otherwise restrict the practices of other licensed personnel in carrying out their duties under the terms of their licenses.
- (4) A temporary work permit may be issued by the board to persons who have completed the requirements for, applied for, and paid the fee for licensure by endorsement. Temporary work permits shall be issued only for the length of time required to process applications for endorsement and shall not be renewed. No temporary work permit shall be issued to an applicant who has failed the licensure examination.
- (5) The board may summarily withdraw a temporary work permit upon determination that the person does not meet the requirements for licensure or has disciplinary action pending against the person's license in this or another jurisdiction.

SECTION 12. A NEW SECTION OF KRS CHAPTER 314 IS CREATED TO READ AS FOLLOWS:

***References in the Kentucky Revised Statutes to persons "licensed" under this chapter as nurses, registered nurses, licensed registered nurses, or licensed practical nurses shall be interpreted to include persons credentialed or privileged under this chapter to practice those occupations.***

Section 13. This Act takes effect on June 1, 2007.

**Approved March 28, 2006.**

## CHAPTER 87

### (HB 125)

AN ACT relating to educational rank.

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

Section 1. KRS 161.1211 is amended to read as follows:

- (1) The Education Professional Standards Board shall rank teachers as follows:
  - Rank I. Those holding regular certificates and who have a master's degree in a subject field approved by the Education Professional Standards Board or equivalent continuing education and who have earned thirty (30) semester hours of approved graduate work or equivalent continuing education; ~~or [and] those teachers who have met the requirements for Rank II and~~ ***earned initial***~~[hold current]~~ certification of the National Board for Professional Teaching Standards. ***The board shall not allow a teacher who qualified for Rank I status on the basis of his or her national board certification to maintain that classification if the national board certificate is revoked for misconduct or voided for other reasons.***
  - Rank II. Those holding regular certificates and who have a master's degree in a subject field approved by the Education Professional Standards Board or equivalent continuing education.
  - Rank III. Those holding regular certificates and who have an approved four (4) year college degree or the equivalent.
  - Rank IV. Those holding emergency certificates and who have ninety-six (96) to one hundred twenty-eight (128) semester hours of approved college training or the equivalent.
  - Rank V. Those holding emergency certificates and who have sixty-four (64) to ninety-five (95) semester hours of approved college training or the equivalent.
- (2) In determining ranks, the Education Professional Standards Board shall classify teachers who hold valid certificates in the respective ranks according to approved college semester hours of credit or equivalent continuing education. The board, in defining preparation for certain types of vocational teachers as equivalent to college training, shall give consideration to apprenticeship training and industrial experience.

- (3) For purposes of the state salary schedule only as referenced in KRS 158.070, rank shall be determined on September 15 of each year.
- (4) Nothing in this section shall allow the Education Professional Standards Board by regulation to reclassify downward any teachers in Ranks II or I.

**Approved March 28, 2006.**

## CHAPTER 88

(HB 336)

AN ACT relating to soybeans.

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

SECTION 1. A NEW SECTION OF KRS 247.510 TO 247.595 IS CREATED TO READ AS FOLLOWS:

- (1) *Notwithstanding KRS 247.510 to 247.595, no assessment levied under KRS 247.510 to 247.595 shall be effective as long as the federal Soybean Promotion, Research, and Consumer Information Act, 7 U.S.C. secs. 6301 to 6311, is in effect.*
- (2) *If the federal act is terminated or suspended, any assessment levied under KRS 247.510 to 247.595 shall become effective and shall be collected and utilized according to the provisions of KRS 247.510 to 247.595.*

Section 2. KRS 247.530 is amended to read as follows:

- (1) *Any existing association which is fairly representative of the soybean producers of Kentucky may at any time after the effective date of this Act*~~[In the event that a valid petition is filed with the Kentucky Soybean Association and certified by the Commissioner of Agriculture, the Kentucky Soybean Association shall]~~ make application to the State Board of Agriculture on forms prescribed by the board *for certification and approval for the purpose of conducting a referendum among the producers of soybeans upon the question of levying an assessment under the provisions of KRS 247.510 to 247.595, and for collecting and utilizing the assessment for the purpose stated in the referendum*~~[and approved for the purpose of conducting a referendum among the producers of soybeans pursuant to KRS 247.510 to 247.595].~~
- (2) ~~[Upon receipt of such application,]~~ The Commissioner shall publish *the*~~[such]~~ application through the medium of the public press in the state within ten (10) days of receipt *of the application*~~[thereof].~~

Section 3. KRS 247.552 is amended to read as follows:

*No assessment levied by any referendum conducted under the provisions of KRS 247.510 to 247.595 shall exceed the rate of one-fourth of one percent (0.25%) of the net market price per bushel on all soybeans marketed within the Commonwealth. The assessment shall be deducted from the amount paid the producer at the first point of sale*~~[There is hereby imposed and levied an assessment at the rate of one fourth of one percent (0.25%) of the net market price per bushel on all soybeans marketed within the Commonwealth, such assessment to be deducted from the amount paid the producer at the first point of sale. The question of the levy of the assessment on soybeans, provided for herein, may be referred to a vote of the soybean producers of the state by the filing of petitions with the Kentucky Soybean Association containing signatures of Kentucky soybean producers equal in number to twenty percent (20%) of all soybean producers in the state as recorded in the latest United States census of agriculture. If such petitions are filed and at the referendum election a majority of the Kentucky soybean producers voting on the question vote against the levy on soybeans, the assessment shall not thereafter be levied. Only those soybean producers who produced soybeans in Kentucky in the crop year immediately preceding the referendum shall be eligible to vote in the election].~~

Section 4. KRS 247.553 is amended to read as follows:

A first purchaser who purchases soybeans *in accordance with*~~[pursuant to]~~ a contract or otherwise with the intent of utilizing the soybeans for seed stock shall be responsible for remitting the assessment due on the soybeans as required by KRS 247.570. The assessment shall be collected from the producer at the time of final settlement for the soybeans. The assessment on soybeans marketed for use as seed stock shall be based upon *the percentage specified in Section 3 of this Act, multiplied by*~~[one fourth of one percent (0.25%) of]~~ the posted county price for soybeans on the day of settlement as posted at the local *Farm Service Agency*~~[Agricultural Stabilization and Conservation Service (ASCS)]~~

office for the county in which the first purchaser is located. ***No assessment shall be collected unless the assessment in Section 3 of this Act is in force.***

Section 5. KRS 247.573 is amended to read as follows:

There is hereby established a ***Kentucky Soybean Promotion Board***.~~[promotion board]~~ ***The promotion board shall consist*** of four (4) members appointed by the Kentucky Soybean Association; two (2) members appointed by the Kentucky Farm Bureau Federation;~~and~~ one (1) member appointed by the Commissioner of Agriculture; ***the Kentucky director or directors who serve on the United Soybean Board; and the Kentucky director or directors who serve on the American Soybean Association.*** The appointments shall be for terms of two (2) fiscal years, a fiscal year running from July 1 to the following June 30, and each appointing body shall promptly file with the promotion board the names of its respective appointees.

**Approved March 28, 2006.**

## CHAPTER 89

**(HB 387)**

AN ACT relating to occupational safety and health standards.

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

Section 1. KRS 338.051 is amended to read as follows:

- (1) There is hereby established the Kentucky Occupational Safety and Health Standards Board consisting of the commissioner and twelve (12) members equally representing industry, labor, agriculture and the safety and health profession. The members shall be appointed by the Governor for terms of three (3) years and until their successors are appointed and qualified, from lists of nominees submitted by bona fide associations representative of industry, labor, agriculture and the safety and health profession. Members shall receive twenty-five dollars (\$25) per day for attending each meeting and shall be reimbursed for actual expenses incurred in carrying out their duties. The commissioner shall act as chairman of the board. No member of the board may have a concurrent term on the review commission.
- (2) The board shall hold ~~annual~~**semiannual** meetings and additional meetings as needed. A majority of the board constitutes a quorum for the transaction of business.
- (3) The board shall adopt and promulgate occupational safety and health rules, regulations, ***and standards, except that the chairman of the board may adopt established federal standards without board approval if necessary to meet federal time requirements. The board shall***~~and~~ secure all expertise, testimony, and evidence necessary to accomplish the purposes of this chapter.
- (4) The board shall be attached to the Department of Labor for administrative purposes.

Section 2. KRS 338.061 is amended to read as follows:

- (1) Occupational safety and health standards may be adopted, modified, or repealed by the board as it shall deem necessary.
- (2) Established federal standards and national consensus standards may be adopted~~[by the board]~~ by reference.

**Approved March 28, 2006.**

## CHAPTER 90

**(HB 616)**

AN ACT relating to prisons.

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

Section 1. KRS 197.510 is amended to read as follows:

Any contract entered on or after July 15, 1988, between the state and a private provider for the operation and management of an adult correctional facility shall include terms which comply with at least the following:

- (1) Unless otherwise provided by KRS 197.505 to 197.525, any adult correctional facility contracted for pursuant to KRS 197.505 shall submit a plan to the department for achieving American Correctional Association standards within five (5) years, which is appropriate for the specific type of adult correctional facility.
- (2) The provisions of KRS Chapter 45A shall apply to any contract or any proposal for a contract authorized by KRS 197.505 to 197.525 for an adult correctional facility.
- (3) The adult correctional facility shall prepare an annual written budget of anticipated revenues and expenditures which is approved by the appropriate governing authority. The facility shall have written policies which govern revisions in the budget. The facility shall have a fiscal system which accounts for all income and expenditures on an on-going basis.
- (4) The adult correctional facility shall prepare and distribute to its governing authority and appropriate agencies including the department, at a minimum, the following documents: annual budget income and expenditure statements; funding source financial reports; and annual independent audit report.
- (5) The adult correctional facility shall have written fiscal policies and procedures adopted by the governing authority which include at a minimum: internal controls; petty cash; bonding; signature control on checks; resident funds; and employee expense reimbursement.
- (6) There shall be an annual independent audit of the adult correctional facility. The facility shall have a written policy for inventory control of all property and assets and for purchasing and requisitioning supplies and equipment. The facility shall use a method which documents and authorizes wage payment to employees and consultants.
- (7) The private provider shall develop and implement a plan for the dissemination of information about the adult correctional facility to the public, government agencies, and the media. The plan shall be made available to all persons. All documents and records, except financial records, maintained by the private provider shall be deemed public records as defined by KRS 61.870 and be subject to the provisions of KRS 61.872 to 61.884.
- (8) The adult correctional facility shall conform to all applicable zoning ordinances and all applicable state and local building codes, including the Kentucky Building Code, 1983 edition and subsequent modifications or replacements thereto.
- (9) The adult correctional facility shall comply with all applicable laws and regulations of the local and state government regarding sanitation, food service, safety, and health. Copies of inspections completed by the appropriate authorities shall be sent to the department.
- (10) The adult correctional facility shall comply with the provisions of the Life Safety Code, 1983 edition, National Fire Protection Association 101 and the regulations of the state or the local fire safety authority, whichever has primary jurisdiction over the adult correctional facility. Copies of the inspections completed by the appropriate authorities shall be sent to the department.
- (11) A minimum of sixty (60) square feet of floor space per resident shall be provided in the ~~living~~<sup>sleeping</sup> area of the adult correctional facility. Other areas to be provided shall include space and furnishings to accommodate group meetings of the residents, private counseling space with adequate furniture, and a visiting area.
- (12) The adult correctional facility shall provide a variety of indoor and outdoor recreational and leisure time activities to include but not be limited to: television, radio, library materials, and recreational facilities. Telephone facilities shall be available on the premises, which are accessible to residents.
- (13) The adult correctional facility shall provide a level and quality of programs at least equal to those provided by state-operated facilities that house similar types of inmates and at a cost that provides the state with a savings of not less than ten percent (10%) of the cost of housing inmates in similar facilities and providing similar programs to those types of inmates in state-operated facilities.
- (14) The adult correctional facility shall be staffed twenty-four (24) hours per day seven (7) days per week. The staffing pattern shall be adequate to insure close inmate surveillance and maintenance of security within the facility. The staffing pattern shall address the program, transportation, and security needs of the facility. In determining security need, the proximity of the facility to neighborhood and schools shall be considered.
- (15) The adult correctional facility shall have a written personnel policy and employees shall be given a copy. The personnel policies shall include, at a minimum:

- (a) Organization chart;
  - (b) Employment practices and procedures including in-service training and staff developing;
  - (c) Promotions;
  - (d) Job qualifications and job descriptions;
  - (e) Grievance and appeal procedures;
  - (f) Employee evaluation;
  - (g) Personnel records;
  - (h) Benefits;
  - (i) Holidays;
  - (j) Leave;
  - (k) Hours of work;
  - (l) Salaries (or the base for determining salaries);
  - (m) Disciplinary procedures;
  - (n) Termination; and
  - (o) Resignation.
- (16) The adult correctional facility shall maintain written job descriptions and job qualifications for all positions in the facility including: job title, responsibilities of the positions, and required minimum experience and education. An affirmative action program shall be adopted by the governing authority. The correctional facility shall maintain a current, accurate, and confidential personnel record on each employee. The facility shall have written policy and procedures requiring an annual performance evaluation of all employees. This evaluation shall be reviewed and discussed with the employee.
- (17) Prior to employment, all employees of the adult correctional facility shall be subject to thorough background investigation to include criminal, medical, and employment history. All security employees of the facility shall be at least **eighteen (18)** ~~twenty-one (21)~~ years of age. The facility shall provide initial orientation for all new employees during the first week of employment. The facility shall comply with all governmental regulatory requirements related to employment and personnel practices. Personnel selection and assignments shall be based on merit.
- (18) The administrator of the adult correctional facility shall have a minimum of five (5) years experience in corrections or law enforcement and five (5) years experience in administration. The remaining staff of the facility shall have the same qualifications and training as the staff employed in similar positions in adult correctional facilities operated by the department.
- (19) The adult correctional facility shall provide the following services and programs, the extent to which shall be set forth in the contract between the state and the private provider but shall be consistent with the standards of the American Correctional Association:
- (a) Health and medical services;
  - (b) Food services;
  - (c) Mail, telephone use, and visitation;
  - (d) Access to legal services and legal materials;
  - (e) Vocational training;
  - (f) Educational programs;
  - (g) Counseling services including personal counseling;
  - (h) Drug and alcohol counseling; and
  - (i) Sanitation services.



- (20) The adult correctional facility shall have a written fire and emergency plan for the facility which shall be communicated to all employees and inmates and updated, if needed. The facility's written emergency plan shall be conspicuously posted in the facility. The facility staff shall document the conduct of quarterly emergency drills.
- (21) The adult correctional facility shall have a written policy restricting the use of physical force to instances of justifiable self-protection, prevention of property damage, and prevention of escapes, and only to the degree necessary. In compliance with applicable laws, the facility shall maintain and make public, written policies and procedures for conducting searches of residents and all areas of the facility, to control contraband and locate missing or stolen property. The facility shall have a written plan to control movement in and out of the facility. The facility shall have written procedures to account for the whereabouts of the residents at all times.
- (22) The adult correctional facility shall establish a procedure for inspecting all facility areas accessible to inmates for contraband and physical security at least weekly. Isolated security spot checks shall be conducted daily. Items considered as contraband or items permitted in the facility shall be clearly defined in the facility's rules.
- (23) The adult correctional facility shall report all suspected felonies to the Kentucky State Police for investigation. A written report shall be made of all extraordinary or unusual occurrences within twenty-four (24) hours of the occurrence. This report shall be placed in the inmate's folder and a copy forwarded to the department. All these occurrences shall be promptly reported to the department verbally prior to submission of the written report. Extraordinary or unusual occurrences shall include, but not be limited to:
  - (a) Death of a resident;
  - (b) Attempted suicide or suicide;
  - (c) Serious injury, whether accidental or self-inflicted;
  - (d) Attempted escape or escape from confinement;
  - (e) Fire;
  - (f) Riot;
  - (g) Battery, whether by a staff member or resident;
  - (h) Sexual assaults; and
  - (i) Occurrence of contagious or infectious disease, or illness within the facility.
- (24) Each adult correctional facility shall have written policy and procedures for emergency situations including but not limited to:
  - (a) Escapes;
  - (b) Taking of hostages;
  - (c) Riots;
  - (d) Food poisoning;
  - (e) Civil disturbances in the community;
  - (f) Natural disaster;
  - (g) Suicides; and
  - (h) Other deaths and disorder.
- (25) The adult correctional facility shall adopt a written policy and procedures which shall insure that the constitutional rights of inmates to voluntarily practice their own religious activities are protected, subject only to those limitations necessary to maintain order and security of the facility.
- (26) The adult correctional facility shall adopt a written policy which shall be implemented to insure that no inmate or group of inmates is in a position of control or authority over other inmates.
- (27) The adult correctional facility shall have a policy and procedure for recommending awarding of meritorious good time for inmates in accordance with policies and procedures of the department. The procedures shall

include formation of a committee to include an administrator to screen all recommendations. The recommendations shall be sent to the department. Recommendations for restoration of good time shall be screened by the same committee and forwarded to the department.

- (28) If the adult correctional facility operates a canteen, all profits shall be spent for recreational programs for inmates. Prices shall be in accordance with those established by the Department of Corrections Inmate Canteen Board.
- (29) The department shall have the authority to conduct periodic, scheduled, and unannounced inspections of the adult correctional facility during the term of the contract. The department shall generally observe and monitor the operations of the adult correctional facility at least once per week.
- (30) The contract shall provide a hold harmless clause by which the private provider agrees to indemnify, defend, and hold harmless the Commonwealth, its officers, agents, and employees from:
  - (a) Any claims or losses for service rendered by the private provider, person, or firm performing or supplying services in connection with performance of the contract;
  - (b) Any claims or losses to any person or firm injured or damaged by the erroneous or negligent acts of the private provider, its officers, or employees in the performance of the contract;
  - (c) Any claims or losses resulting to any person or firm injured or damaged by the private provider, its officers, or employees by the publication, translation, reproduction, delivery, performance, use, or disposition of any data processed under the contract in a manner not authorized by the contract, or by federal or Commonwealth regulations or statutes; and
  - (d) Any failure of the private provider, its officers, or employees to observe Kentucky laws, including, but not limited to, labor laws and minimum wage laws.
- (31) The contract shall require that the private provider give a performance bond to the Commonwealth as obligee, in form satisfactory to the Commonwealth, executed by a surety company authorized to do business in Kentucky and in the penal sum equal to: twenty percent (20%) multiplied by the maximum number of inmates to be housed in the adult correctional facility multiplied by three hundred sixty-five (365) and further multiplied by the rate to be paid the private provider per inmate per day.
- (32) The private provider shall provide public liability, property damage, and workers' compensation insurance, insuring, as they may appear, the interest of all parties of agreement against any and all claims which may arise out of the private provider's operations under the terms of this contract. If any carrier of the insurance exercises cancellation, notice shall be made immediately to the Commonwealth of the cancellation.
- (33) As set forth within the contract between the Department of Corrections and the private provider:
  - (a) Failure of the private provider to provide the required services, products, or facilities shall entitle the department to withhold from the contract an amount up to two (2) times the estimated value per day per inmate for the service, product, or facility during the entire length of time which the failure to provide exists.
  - (b) The department shall in writing notify the provider of any failure to provide services, products, or facilities as required. A copy of the written notice shall be sent to the Finance and Administration Cabinet. The private provider shall have fourteen (14) calendar days from its receipt of the notice to abate the failure to provide and to notify the department of the corrective action taken by the private provider.
  - (c) In the event the department determines that the failure to provide has not been abated within fourteen (14) calendar days after the initial notice, the commissioner of the Department of Corrections shall hold, or assign the matter to a hearing officer for, a hearing and issue findings of fact, conclusions of law, and a recommended order.
  - (d) Failure to provide services, products, or facilities as required in this agreement shall result in an order to withhold from the contract an amount up to two (2) times the estimated value, as determined after a hearing, per day per inmate for the service, product, or facility during the entire length of time which the failure to provide exists.
  - (e) The withholding shall continue until such time as the failure to provide is corrected in the manner stated in the order.

- (f) The department and private provider shall in good faith negotiate the actual fair value of the omitted service, product, or facility which shall be subtracted from the amount withheld. The balance of the withholding, if any, shall be promptly returned to the private provider upon final agreement of the department and private provider. Additional withholding from the contract shall be made by the department if an additional amount is due.
- (g) The provider may appeal, within thirty (30) days, any order of the department to the Franklin Circuit Court.

**Approved March 28, 2006.**

## CHAPTER 91

### (SCR 98)

A CONCURRENT RESOLUTION directing a study on the economic and health impacts of bicycle and pedestrian activity programs.

WHEREAS, the National Center for Disease Control reports that sixty-three (63) percent of Kentucky adults are obese or overweight and that thirty-five (35) percent of our low-income children are overweight or at risk of overweight, creating an obesity crisis which jeopardizes Kentucky's public health and economic future; and

WHEREAS, Kentucky's leaders, in partnership with both the public and private sectors, are implementing various programs to address the obesity crisis, including Kentucky's Nutrition and Physical Activity State Action Plan, which includes recommendations for increasing the number of safe and accessible bicycle and pedestrian facilities in Kentucky's workplaces, schools and communities; and

WHEREAS, Kentucky's traffic safety risks grow as the numbers of bicyclists and pedestrians increase, and Kentucky's Transportation Center, in 2004, reported that motorists in Kentucky had nine hundred six (906) pedestrian collisions, with fifty (50) of these resulting in fatalities, and also reported four hundred fifty-two (452) collisions involving bicyclists and six were fatalities; and

WHEREAS, Kentucky's economic development and tourism opportunities for bicycle events exist statewide from Ashland to Paducah, exemplified by the two day Louisville to Bardstown bicycle event known as My Old Kentucky Home Bike Tour, enjoyed by some thirteen hundred (1,300) cyclists annually and which was named by Bicycling Magazine as the one of the top fifty (50) rides in the United States;

NOW, THEREFORE,

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

Section 1. The Legislative Research Commission is directed to conduct a study of the economic and public health impacts of bicycling and pedestrian transportation activities in Kentucky. The study's purpose is to examine options for improving Kentucky's tourism and economic opportunities related to safe and accessible bicycling and pedestrian activity along with related options for addressing Kentucky's obesity crisis. The study shall examine, at a minimum, the following topics and should result in a report which addresses their status:

(1) An inventory and analysis of state and local bicycle events, including estimates of economic impact and their tourism promotion activities and programs and options for improving bicycling event-related tourism.

(2) An analysis of public and private sector programs which improve opportunities for physical exercise through bicycling and walking, focusing on model programs which educate Kentuckians to achieve healthy lifestyles. The study should review those model programs which are conducted at minimal cost and which have positive economic impact on communities.

(3) A review, examination, and analysis of Kentucky's bicycle safety and accidents, reporting trends and reviewing options for increasing public safety.

Section 2. In conducting research and preparing the report, input shall be sought from appropriate state and local agencies and organizations, such as Kentucky's Health Services, Transportation, and Commerce Cabinets, local and regional planning and public health agencies, local governments, local and statewide health, hiking, bicycle,

tourism and related groups and organizations involved in these issues. The report shall be finalized no later than October 1, 2006 and shall be presented to the Legislative Research Commission.

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

**Approved March 30, 2006**

## **CHAPTER 92**

### **(SCR 130)**

A CONCURRENT RESOLUTION to encourage the documentation of rock fences worthy of preservation and the development of criteria for their protection and preservation.

WHEREAS, the historic rock fences of Kentucky, particularly those in the Bluegrass region, are in danger of loss to road projects, neglect, and pilferage; and

WHEREAS, Kentucky's rock fences are widely recognized as trademarks of the region; and

WHEREAS, rock fences were built by Scots-Irish settlers, Irish immigrants, African-American freedmen, and the Works Progress Administration; and

WHEREAS, rock fence protection is being administered in diverse areas from the West Coast to Tennessee to New England; and

WHEREAS, New Hampshire and Rhode Island require rebuilding historic walls, and California is placing some of its walls on the National Register of Historic Places; and

WHEREAS, Fayette County, Kentucky, having lost 25 percent of the rock fences around its horse farms and family farms between 1967 and 1990, now requires the moving and rebuilding of old rock fences threatened by development; and

WHEREAS, such rock fences are visible reminders of the history of this Commonwealth, marking the bounds of old, historic properties and having served as battle lines during the Civil War; and

WHEREAS, they are expressions of the skill, practicality, and artistry of those early Kentuckians who built beauty into utilitarian structures; and

WHEREAS, the tourism, growth, and development industries routinely promote Central Kentucky by means of literature depicting historic rock fences and scenic landscapes, illustrating the importance of these rural elements to our citizens, our visitors, and to future generations; and

WHEREAS, it is appropriate that the Commonwealth of Kentucky act to preserve its historic heritage before more is lost or irreparably damaged;

NOW, THEREFORE,

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

Section 1. The Kentucky Heritage Council and the Dry Stone Conservancy of Kentucky are hereby strongly encouraged to document rock fences worthy of preservation, to provide training in skills essential to their maintenance, and to develop criteria for their protection and preservation, including standards for moving and rebuilding such fences when other alternatives are not available.

**Approved March 30, 2006**

**CHAPTER 93****(SB 83)**

AN ACT relating to the threshold amount for postsecondary institution capital construction projects that are self-performed.

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

Section 1. KRS 164A.585 is amended to read as follows:

- (1) Subject to authorization by the General Assembly and KRS 164A.580, the governing boards may make plans and specifications, advertise for bids, let contracts or incur any financing commitments, either in the way of a charge against institution funds or in the way of negotiations for issuance of revenue bonds, for any capital construction projects involving the improvement of lands or the construction, alteration, reconstruction, or major repair of any building or other structure, or sewage disposal, water supply system or other utility system.
- (2) Review of construction plans for conformance with the uniform state building code shall be conducted by the Office of Housing, Buildings and Construction. The board shall not approve any such project requiring its approval in any instance where it finds that the project is not needed, or that the proposed method of financing is not sound, or in cases where the project will exceed the amount of the funds available therefor, or the work contemplated will be insufficient to accomplish the purpose of the project, or that after providing for the ordinary recurring expenses of administration and debt service and for payments under existing allotments for extraordinary expenses and capital outlay, cash will not be available in the Treasury to promptly pay for the work or that the work is to be done by employees of the institution.
- (3) Any capital construction project, except as provided in subsection (4) of this section, shall be contracted for on a competitive bid basis, and the execution of such contracts shall be approved and authorized by the board. When a capital construction project has been approved as provided in this section, in whole or in part, the board shall prepare the plans and specifications, advertise for bids, award the contracts, supervise the construction and handle the financial negotiations.
- (4) A capital construction project, the total cost of completion of which will not exceed ~~two~~<sup>one</sup> hundred thousand dollars ~~(\$200,000)~~<sup>(\$100,000)</sup>, may be performed by the employees of the institution or by individuals hired specifically for the project. Necessary materials and supplies shall be procured in accordance with the standard purchasing procedures and policies of the board as defined in KRS 164A.575.

**Approved March 30, 2006**

**CHAPTER 94****(SB 132)**

AN ACT relating to fish and wildlife license violations.

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

SECTION 1. A NEW SECTION OF KRS CHAPTER 150 IS CREATED TO READ AS FOLLOWS:

- (1) *The department may enter into reciprocal agreements with one (1) or more states relating to violations of hunting and fishing laws. Upon entering such an agreement, the department shall promulgate an administrative regulation adopting the provisions of the agreement and incorporating the entire document by reference.*
- (2) *The department may, pursuant to a reciprocal agreement and administrative regulation authorized by subsection (1) of this section, deny, suspend, revoke, or reinstate:*
  - (a) *A hunting, fishing, or trapping license; or*
  - (b) *A privilege, in the case of an individual who is license exempt.*

Section 2. KRS 150.280 is amended to read as follows:

- (1) Except as provided by administrative regulation, a person shall not propagate or hold protected wildlife without obtaining a permit to do so from the department. The department shall promulgate administrative regulations governing all such activity and prescribing permit fees. Any permit issued pursuant to this section may be revoked for a violation by the holder thereof of any of the ***provisions of this chapter, any administrative regulation of the department, or hunting, fishing, or wildlife laws of the federal government***~~[Kentucky or of any administrative regulation of the department]~~.
- (2) The department shall by administrative regulation identify species of wildlife potentially damaging to native ecosystems and shall prohibit the transporting or holding of these wildlife.

Section 3. KRS 150.990 is amended to read as follows:

- (1) Each bird, fish, or animal taken, possessed, bought, sold, or transported and each device used or possessed contrary to the provisions of this chapter or any administrative regulation promulgated by the commission thereunder shall constitute a separate offense. The penalties prescribed in this section shall be for each offense.
- (2)
  - (a) ***Any person who fails to appear pursuant to a citation or summons issued by a conservation officer or peace officer of this Commonwealth for violation of this chapter or any administrative regulation promulgated thereunder shall forfeit his or her license, or if that person is license exempt, shall forfeit the privilege to perform the acts authorized by the license. The individual shall not be permitted to purchase another license or exercise the privileges granted by a license until the citation or summons is resolved. The court shall notify the department whenever a person has failed to appear pursuant to a citation or summons for a violation of this chapter or any administrative regulation promulgated thereunder.***
  - (b) Any person who violates any of the provisions of this chapter or any administrative regulations promulgated by the commission thereunder may, in addition to the penalties provided in subsections (3), (4), (5), (6), (7), and (8) of this section, forfeit his license, or if that person is license exempt, may forfeit the privilege to perform the acts authorized by the license and shall not be permitted to purchase another license or exercise the privileges granted by a license during the same license year. No fines, penalty, or judgment assessed or rendered under this chapter shall be suspended, reduced, or remitted otherwise than expressly provided by law. Any person who violates any administrative regulation which has been or may be promulgated by the commission under any provisions of this chapter shall be subject to the same penalty as is provided for the violation of any provisions of this chapter under which the administrative regulation is promulgated.
- (3) Any person who violates any of the provisions of KRS 150.120, 150.170, 150.280, 150.320, 150.355, 150.362, 150.400, 150.410, 150.415, 150.416, 150.445, 150.450, 150.470, 150.603, 150.235(1), 150.330(2), or 150.470, or any of the provisions of this chapter or any administrative regulation promulgated by the commission for which no definite fine or imprisonment is fixed shall be fined not less than ***fifty***~~[twenty-five]~~ dollars ***(\$50)***~~[(25)]~~ nor more than ***five***~~[two]~~ hundred dollars ***(\$500)***~~[(200)]~~.
- (4) Any person who violates any of the provisions of KRS 150.290, 150.300, 150.340, 150.360, 150.362(1), 150.485, 150.600, 150.630, 150.660, the provisions of KRS 150.195(5) to (8), or KRS 150.660(3) shall be fined not less than ***fifty***~~[twenty-five]~~ dollars ***(\$50)***~~[(25)]~~ nor more than ***five***~~[two]~~ hundred dollars ***(\$500)***~~[(200)]~~ or be imprisoned for not more than six (6) months, or both. Also, any person violating the provisions of KRS 150.300 shall be assessed treble damages as provided in KRS 150.690 or 150.700. Damages assessed under this subsection shall be ordered to be paid directly to the department. The court shall not direct that the damages be paid through the circuit clerk.
- (5) Any person who violates any of the provisions of KRS 150.411, 150.412, or 150.417 shall be fined not less than one hundred dollars (\$100) nor more than five hundred dollars (\$500).
- (6) Any person who violates any of the provisions of KRS 150.183, 150.305, 150.365, 150.370, 150.330(1), or 150.235(2), (3), or (4) shall be fined not less than one hundred dollars (\$100) nor more than five hundred dollars (\$500) or imprisoned for not more than six (6) months, or both.
- (7) Any person who violates any of the provisions of KRS 150.460 shall be fined not less than one hundred dollars (\$100) nor more than five hundred dollars (\$500) or imprisoned for not more than six (6) months, or both, and in addition to these penalties shall be liable to the department in an amount not to exceed the replacement value of the fish and wildlife which has been killed or destroyed. Costs assessed for the restoration of wildlife under this subsection shall be ordered to be paid directly to the department. The court shall not direct that the costs be paid through the circuit clerk.

- (8) Any person who violates the provisions of KRS 150.180, 150.520, 150.525, or administrative regulations issued thereunder shall for the first offense be fined not less than one hundred dollars (\$100) nor more than one thousand dollars (\$1,000); and shall for a second offense be fined not less than five hundred dollars (\$500) nor more than one thousand five hundred dollars (\$1,500); and for any subsequent offense, be fined two thousand dollars (\$2,000).
- (9) Any person who violates the provisions of KRS 150.520 or administrative regulations issued thereunder shall, if the violation relates to methods of taking mussels, for a first offense be imprisoned in the county jail for no more than thirty (30) days; for a second offense be imprisoned in the county jail for no more than six (6) months; and for any subsequent offense be imprisoned in the county jail for no more than one (1) year. The penalties for violation of this subsection shall be in addition to the penalties for violation of subsection (8).
- (10) Any person who violates any of the provisions of KRS 150.4111, 150.640, or subsections (2) or (3) of KRS 150.450 shall be fined not less than one hundred dollars (\$100) nor more than one thousand dollars (\$1,000).
- (11) Any person who violates any of the provisions of KRS 150.390 or KRS 150.092(4) shall be fined not less than one hundred dollars (\$100) nor more than one thousand dollars (\$1,000) or imprisoned for not less than thirty (30) days nor more than one (1) year, or both. In addition to the penalties prescribed above, he shall forfeit his license or, if license exempt, the privilege to perform the acts authorized by the license for a period of one (1) to three (3) years and shall be liable to the department in an amount reasonably necessary to replace any deer, wild turkey, or bear taken in violation of KRS 150.390 and for violations of subsection (4) of KRS 150.092 shall be liable to the landowner or occupant for reasonable compensation for damages. Wildlife replacement costs assessed under this subsection shall be ordered to be paid directly to the department. The court shall not direct that the damages be paid through the circuit clerk. Damages assessed under this subsection shall be ordered to be paid directly to the landowner or occupant. The court shall not direct that the damages be paid through the circuit clerk. Any person who possesses, takes, or molests a wild elk in violation of KRS 150.390 or administrative regulations adopted under authority of that section shall be fined not less than one thousand dollars (\$1,000) nor more than five thousand dollars (\$5,000) or imprisoned for up to six (6) months, or both. In addition to these penalties, the person shall pay to the department an amount not to exceed the greater of the replacement cost of the wild elk or double any monetary gain realized from the illegal activity and shall forfeit his or her license, or if license exempt, the privilege to perform the acts authorized by the license for a period of one (1) to three (3) years.
- (12) Any person who violates any of the provisions of KRS 150.090 other than a criminal homicide or an assault against an officer enforcing the provisions of this chapter, KRS Chapter 235, or the administrative regulations issued thereunder shall be guilty of a Class A misdemeanor.
- (13) Any person who commits a criminal homicide or an assault against an officer enforcing the provisions of this chapter, KRS Chapter 235, or the administrative regulations issued thereunder shall be subject to the penalties specified for the offense under KRS Chapter 507 or 508, as appropriate.
- (14) A person shall be guilty of a Class B misdemeanor upon the first conviction for a violation of KRS 150.710. A subsequent conviction shall be a Class A misdemeanor.
- (15) Any person who violates the provisions of KRS 150.092 or the administrative regulations promulgated thereunder for which no other penalty is specified elsewhere in this section shall for the first offense be fined not less than one hundred dollars (\$100) nor more than three hundred dollars (\$300); for the second offense, be fined not less than three hundred dollars (\$300) nor more than one thousand dollars (\$1,000); and for subsequent offenses, shall forfeit the license, or if license-exempt, the privilege to perform the acts authorized by the license, for one (1) year and shall be fined not less than one thousand dollars (\$1,000) or be imprisoned in the county jail for up to one (1) year, or both. In addition to the penalties prescribed in this subsection, the violator shall be liable to the landowner or tenant for the replacement cost of any property which was damaged or destroyed by his actions. Damages assessed under this subsection shall be ordered to be paid directly to the landowner or the tenant. The court shall not direct that the damages be paid through the circuit clerk.

**Approved March 30, 2006**

## CHAPTER 95

(SB 143)

AN ACT relating to the board of accountancy.

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

Section 1. KRS 325.230 is amended to read as follows:

- (1) There is hereby created a State Board of Accountancy. The board shall consist of seven (7) members, appointed by the Governor. Six (6) of the members shall be certified public accountants. One (1) of the members shall be a citizen at large who is not a certified public accountant. Members serving on the board as of July 15, 1994, shall retain their appointments until their terms expire. Whenever an appointment is to be made, the Kentucky Society of Certified Public Accountants shall submit to the Governor the names of three (3) persons for each vacancy to be filled. All persons recommended shall be qualified for membership on the board, and the Governor shall appoint one (1) of the three (3) recommended. Members of the board shall be citizens of the United States and residents of this state and the certified public accountant members shall hold licenses to practice issued under the provisions of this chapter. Of the new members appointed to the board, as provided by this section, one (1) member shall be appointed for a term of one (1) year and one (1) member shall be appointed for a term of four (4) years from June 19, 1976. Succeeding appointments to the board shall be for a term of four (4) years. Vacancies occurring during a term shall be filled by appointment for the unexpired term. Upon the expiration of his term of office, a member shall continue to serve until his successor shall have been appointed and shall have qualified. The Governor shall remove from the board any member whose license to practice is not renewed or which has become void, revoked, or suspended, and may, after hearing, remove any member of the board for neglect of duty or other just cause.
- (2) Each member of the board shall be paid ***the amount established by an administrative regulation promulgated by the board, not to exceed two***~~hundred~~<sup>hundred</sup> dollars ~~(\$200)~~~~(\$100)~~ for each day spent in the discharge of his official duties, and shall be reimbursed for his actual and necessary expenses therein incurred.

Approved March 30, 2006

## CHAPTER 96

(SB 202)

AN ACT relating to osteoporosis.

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

SECTION 1. A NEW SECTION OF KRS CHAPTER 211 IS CREATED TO READ AS FOLLOWS:

- (1) ***The Department for Public Health shall establish, promote, and maintain a statewide multigenerational osteoporosis prevention and education program using available federal funds, state funds appropriated for that purpose, and other available funding. The program shall:***
  - (a) ***Promote the public awareness of the causes of osteoporosis, options for prevention, the value of early detection, and treatment; and***
  - (b) ***Increase health care provider awareness of national clinical guidelines related to the prevention, diagnosis, and treatment of osteoporosis.***
- (2) ***The public education component of the program created in subsection (1) of this section shall include, but not be limited to:***
  - (a) ***The cause and nature of osteoporosis;***
  - (b) ***Risk factors;***
  - (c) ***The role of oophorectomy and hysterectomy in the development of osteoporosis;***
  - (d) ***The prevention of osteoporosis, including nutrition, physical exercise, and weight;***
  - (e) ***Diagnostic procedures and appropriate indications for their use;***



- (f) *The risks and benefits of hormone replacement therapy;*
- (g) *Environment safety and injury prevention; and*
- (h) *Availability of osteoporosis treatment services in the community.*
- (3) *The department may consult, contract, or establish a cooperative relationship with local health departments, the University of Kentucky College of Agriculture Cooperative Extension Service, libraries, and community organizations to carry out the requirements of subsections (1) and (2) of this section.*
- (4) *The department may use existing publications, the Department for Public Health Web site, and the Kentucky e-Health Network to promote health care provider awareness of clinical practice guidelines related to the prevention, diagnosis, and treatment of osteoporosis.*

**Approved March 30, 2006**

## CHAPTER 97

### (HCR 42)

A CONCURRENT RESOLUTION confirming the appointment of Lorraine G. Williams to the Education Professional Standards Board.

WHEREAS, by the authority granted by KRS 161.028, Governor Ernie Fletcher has issued Executive Order 2005-1159 appointing Lorraine G. Williams as a member of the Education Professional Standards Board, representing school administrators, to replace Joe M. Welch, Louisville, whose term has expired, for a term expiring September 18, 2009; and

WHEREAS, appointments to the Education Professional Standards Board are subject to confirmation by the Senate and the House of Representatives; and

WHEREAS, the House of Representatives and the Senate find that Lorraine G. Williams meets the requirements of KRS 161.028 for service on the Education Professional Standards Board;

NOW, THEREFORE,

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

Section 1. The House of Representatives and the Senate, as required by KRS 161.028, hereby confirm the appointment of Lorraine G. Williams to the Education Professional Standards Board for a term expiring September 18, 2009.

Section 2. The Clerk of the House of Representatives shall forward a copy of this Resolution, and written confirmation of its adoption, to Ms. Lorraine G. Williams, 4030 Bates Creek Road #2903, Lexington, Kentucky 40517 and to Governor Ernie Fletcher, State Capitol, Room 100, Frankfort, Kentucky 40601.

**Approved March 30, 2006**

## CHAPTER 98

### (HCR 224)

A CONCURRENT RESOLUTION confirming the appointment of C. B. Akins, Sr. to the Kentucky Board of Education.

WHEREAS, pursuant to KRS 156.029, the Governor has appointed, by Executive Order 2006-200, C. B. Akins, Sr. as a member of the Kentucky Board of Education representing the Fifth Supreme Court District for a term expiring April 14, 2010; and

WHEREAS, by letter dated February 24, 2006, the Governor has delivered C. B. Akins, Sr.'s name for confirmation as a member of the board, as required by KRS 11.160, to replace Dorothy Z. Combs; and

WHEREAS, the House of Representatives and the Senate find that C. B. Akins, Sr. meets the requirements established in KRS 156.029 and 156.040 for membership on the Kentucky Board of Education;

NOW, THEREFORE,

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

Section 1. The House of Representatives and the Senate hereby confirm the appointment of C. B. Akins, Sr. to the Kentucky Board of Education for a term ending April 14, 2010.

Section 2. The Clerk of the House of Representatives, pursuant to KRS 11.160(2), shall notify Governor Ernie Fletcher, Room 100, State Capitol, Frankfort, Kentucky 40601; and C. B. Akins, Sr., 3389 Malone Drive, Lexington, Kentucky 40513, in writing, of the General Assembly's action.

**Approved March 30, 2006**

## **CHAPTER 99**

### **(HCR 226)**

A CONCURRENT RESOLUTION confirming the reappointment of R. Keith Travis to the Kentucky Board of Education.

WHEREAS, pursuant to KRS 156.029, the Governor has reappointed, by Executive Order 2006-200, R. Keith Travis as a member of the Kentucky Board of Education representing the First Supreme Court District for a term expiring April 14, 2010; and

WHEREAS, by letter dated February 24, 2006, the Governor has delivered R. Keith Travis's name for confirmation as a member of the board as required by KRS 11.160; and

WHEREAS, the House of Representatives and the Senate find that R. Keith Travis meets the requirements established in KRS 156.029 and 156.040 for membership on the Kentucky Board of Education;

NOW, THEREFORE,

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

Section 1. The House of Representatives and the Senate hereby confirm the reappointment of R. Keith Travis to the Kentucky Board of Education for a term ending April 14, 2010.

Section 2. The Clerk of the House of Representatives, pursuant to KRS 11.160(2), shall notify Governor Ernie Fletcher, Room 100, State Capitol, Frankfort, Kentucky 40601 and R. Keith Travis, 4290 Lakeview Church Road, Benton, Kentucky 42025, in writing, of the General Assembly's action.

**Approved March 30, 2006**

## **CHAPTER 100**

### **(HB 81)**

AN ACT changing the classification of the City of Taylorsville, in Spencer County and declaring an emergency.

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

WHEREAS, satisfactory information has been presented to the General Assembly that the population of the City of Taylorsville, in Spencer County, is such to justify its being classified as a city of the fifth class;

NOW, THEREFORE,

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

Section 1. The City of Taylorsville, in Spencer County, is transferred from the sixth to the fifth class of cities.

Section 2. Whereas, the fiscal year for the city begins prior to the effective date for legislation passed during the 2006 Regular Session, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming a law.

**Approved March 30, 2006**

## **CHAPTER 101**

### **(HB 111)**

AN ACT relating to the removal of Social Security numbers from marriage licenses.

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

Section 1. KRS 402.100 is amended to read as follows:

Each county clerk shall use the form prescribed by the Department for Libraries and Archives when issuing a marriage license. This form shall provide for the entering of all of the information required in this section, and may also provide for the entering of additional information prescribed by the Department for Libraries and Archives. The form shall consist of:

- (1) A marriage license which provides for the entering of:
  - (a) An authorization statement of the county clerk issuing the license for any person or religious society authorized to perform marriage ceremonies to unite in marriage the persons named;
  - (b) Vital information for each party, including the full name, date of birth, place of birth, race, condition (single, widowed, or divorced), number of previous marriages, occupation, current residence, relationship to the other party, **and** full names of parents, ~~and the Social Security number of each party if that party has a Social Security number~~; and
  - (c) The date and place the license is issued, and the signature of the county clerk or deputy clerk issuing the license.
- (2) A marriage certificate which provides for the entering of:
  - (a) A statement by the person performing the marriage ceremony or the clerk of the religious society authorized to solemnize the marriage ceremony that the ceremony was performed. The statement shall include the name and title of the person performing the ceremony or the name of the religious society solemnizing the marriage, the names of persons married, the date and place of the marriage, and the names of two (2) witnesses;
  - (b) A statement by the person performing the marriage ceremony of his legal qualification under this chapter to perform the ceremony, such statement to include the name of the county or city where his license to perform marriage ceremonies was issued or, in the case of religious societies authorized by KRS 402.050(c) to solemnize marriages, the name of the city or county where the religious society is incorporated. The provisions of this paragraph shall not be construed to require the clerk of a religious society to be present at the marriage so long as the witnesses of the society are present;
  - (c) A dated signature of the person performing the ceremony; and
  - (d) A signed statement by the county clerk or a deputy county clerk of the county in which the marriage license was issued that the marriage certificate was recorded. The statement shall indicate the name of the county and the date the marriage certificate was recorded.
- (3) A certificate to be delivered by the person performing the marriage ceremony or the clerk of the religious society performing the marriage ceremony to the parties married. This certificate shall provide for the entering of:
  - (a) A statement by the person performing the marriage ceremony or the clerk of the religious society performing the marriage ceremony that the ceremony was performed. The statement shall include the name and title of the person performing the ceremony, or the name of the religious society performing the ceremony, the names of persons married, the date and place of the marriage, the names of two (2) witnesses, and the following information as recorded on the license authorizing the marriage: the date

the license was issued, the name of the county clerk under whose authority the license was issued, and the county in which the license was issued; and

- (b) A dated signature of the person performing the ceremony or the clerk of the religious society performing the ceremony.
- (4) ~~Any~~ Social Security number *shall be requested as a means of identification of each party but shall not be recorded on the marriage license or certificate. Other means of identification may also be requested if a party does not have a Social Security number. The Social Security number shall be forwarded to the appropriate agency within the Cabinet for Health and Family Services that is responsible for enforcing child support, and the number shall be stored by that agency with a nonidentifying numeric. The Social Security number shall not be available for public release* ~~recorded on the marriage license shall be stored by the county clerk with a nonidentifying numeric, and the nonidentifying numeric shall be recorded on the marriage license form. The Social Security number shall not be available for public release except for use by the Cabinet for Health and Family Services in efforts to enforce child support~~.

Approved March 30, 2006

## CHAPTER 102

### (HB 142)

AN ACT relating to preneed funeral service or burial contracts.

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

Section 1. KRS 367.934 is amended to read as follows:

- (1) All payments of money made to any person, partnership, association, or corporation upon any agreement or contract, or any series or combination of agreements or contracts, but not including the furnishing of cemetery lots or mausoleums, which has for a purpose the furnishing or performance of funeral services, or the furnishing or delivery of personal property, merchandise, or services of any nature in connection with the final disposition of a dead human body, for future use at a time determinable by the death of the person whose body is to be disposed of, are held to be trust funds. The person, partnership, association, or corporation receiving the payments is declared to be the agent thereof, and shall deposit all payments in a trust account with a bank or trust company or invest said payments in a savings and loan association or federally chartered credit union. The trustee shall be the financial institution holding said funds. All of the interest, dividends, increases, or accretions of whatever nature earned by the funds deposited in a trust account shall remain with the principal of such account and become a part thereof, subject to all of the regulations concerning the principal of said fund herein contained. The agent shall have the authority at any time to transfer or redesignate the trustee of said funds in his *or her* discretion upon notification to the Attorney General. In case of any transfer, the former trustee shall transfer funds directly to and payable to the newly-designated trustee or its representative.
- (2) All payments made to the agent under the agreement, contract, or plan are and shall remain trust funds with the financial institution until the death of the person for whose service the funds were paid and until the delivery of all merchandise and full performance of all services called for by the agreement, contract, or plan, except where payment is made pursuant to a request for refund.
- (3) The funds shall not be paid by the financial institution until a certified statement is furnished to the financial institution by the agent setting forth that all of the terms and conditions of the agreement have been fully performed by the person, association, partnership, firm, or corporation. Any balance remaining in the fund after payment for the merchandise and services as set forth in the agreement, contract, or plan shall be paid to the estate of the beneficiary of the agreement, contract, or plan.
- (4) *The funds shall not be paid by the financial institution until the agent has proven the death of the person for whose service the funds were paid by furnishing the financial institution with a verified or certified copy of a record verifying the death, issued by the state registrar of the Vital Statistics Branch or its successor agency as authorized by KRS Chapter 213 or a provisional certificate of death as described in KRS 213.076.*
- (5) No provision of KRS 367.932 to 367.974 shall be construed to apply to contracts for funeral service or merchandise sold as preneed and burial insurance policies which are regulated by the Office of Insurance of this state.

Section 2. KRS 367.942 is amended to read as follows:

- (1) Every licensee shall keep and maintain adequate records including but not limited to the following:
  - (a) A cash receipts journal, listing moneys received in chronological order, dates, and amounts received, and identification of the payor or purchaser;
  - (b) A cash disbursement journal, containing the same information for moneys disbursed. If a separate bank account is kept exclusively for any such funds, the checkbook could be used as a cash disbursement journal;
  - (c) A "reconciliation," done at least once every twelve (12) months. The reconciliation shall indicate the beginning balance in the trust account, payments received during the period, interest earned during the period, disbursements on either cancellation or the death of the beneficiary, and the ending balance for the period. The ending balance for each period is determined as follows:
 

Beginning Balance

+ Payments received

+ Interest

- Disbursements

Ending Balance
  - (d) Documentation files, supporting the reconciliation and containing the preneed burial contract. Each file, consisting of a separate file for each contract, should include the name and address of the purchaser, the beneficiary, and the financial institution in which the trust funds were deposited. Passbooks, certificates, and other evidence of the account with the financial institution should be kept with the individual files, depending on the safety and security of the files.
  - (e) *A certified copy of a verification of death issued by the state registrar of the Vital Statistics Branch or its successor agency as authorized by KRS Chapter 213, or a provisional certificate of death as described in KRS 213.076 upon the death of each person for whose service funds were paid to the licensee by the trustee under a preneed burial contract.*
- (2) All sales, trust fund, and accounting records of the agent licensee shall be readily available at the agent's principal place of business in this state at reasonable times for examination by an authorized representative of the Attorney General's office.
- (3) The necessary expenses of any examination made pursuant to this section shall be paid by the licensee, but in no case shall the Attorney General or his *or her* authorized representatives be paid more than the actual expenses of such examination not to exceed the lesser of the following amounts: one hundred dollars (\$100) per day for each auditor or five dollars (\$5) for each agent's sales contract examined. The agent may pay for this expense using interest moneys which have accrued on the agent's existing preneed funeral trust fund accounts. Any withdrawal of interest for this purpose shall be taken as a pro rata share of all of the agent's existing preneed funeral trust fund accounts. The Attorney General shall be advised in writing by the agent when interest moneys is the source of payment and shall receive written certification from the financial institution or agent that the withdrawal was a pro rata share.
- (4) This section shall apply to examinations of all preneed funeral contracts whether entered into prior to or after July 13, 1984.

Section 3. KRS 304.12-240 is amended to read as follows:

- (1) As used in this section, *unless the context requires otherwise:*
  - (a) "Preneed funeral contract or prearrangement" means an agreement by or for an individual before that individual's death relating to the purchase or provision of specific funeral or cemetery merchandise or services; *and*
  - (b) *"Agent" has the meaning provided in KRS 367.932.*
- (2) The executive director shall adopt regulations requiring life insurers to provide disclosure to consumers when life insurance or annuities are used to fund preneed funeral contracts or prearrangements.

- (3) *Life insurance and annuity benefits used to fund preneed funeral contracts or prearrangements shall not be paid by a life insurer until the agent has proven the death of the person for whose service the premiums were paid by furnishing the life insurer with a verified or certified copy of a record verifying the death issued by the state registrar of the Vital Statistics Branch of its successor agency as authorized by KRS Chapter 213 or a provisional certificate of death as described in KRS 213.076.*

Approved March 30, 2006

## CHAPTER 103

### (HB 151)

AN ACT relating to indoor tanning devices.

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

SECTION 1. A NEW SECTION OF KRS CHAPTER 217 IS CREATED TO READ AS FOLLOWS:

*As used in Sections 1 to 5 of this Act, unless the context requires otherwise:*

- (1) *"Cabinet" means the Cabinet for Health and Family Services;*
- (2) *"Tanning device" means any equipment that emits radiation used for tanning of the skin, such as a sun lamp, tanning booth or tanning bed, and includes any accompanying equipment, such as protective eyewear, timers, and handrails; and*
- (3) *"Tanning facility" means any place where a tanning device is used for a fee, membership dues, or other compensation.*

SECTION 2. A NEW SECTION OF KRS CHAPTER 217 IS CREATED TO READ AS FOLLOWS:

- (1) *Before any person who has reached his or her fourteenth birthday and has not passed his or her eighteenth birthday uses a tanning device, he or she shall give the tanning facility a statement, signed by his or her parent or legal guardian, stating that the parent or legal guardian has read and understood the warnings given by the tanning facility, and that they consent to the minor's use of the tanning device and agree that the minor will use protective eye wear. This parental consent is valid for one (1) calendar year.*
- (2) *A person under the age of fourteen (14) shall be accompanied by a parent or legal guardian when using a tanning device.*

SECTION 3. A NEW SECTION OF KRS CHAPTER 217 IS CREATED TO READ AS FOLLOWS:

- (1) *A tanning facility shall give each customer a written statement pursuant to 21 CFR 1040.20. The written statement shall include warnings stating that:*
  - (a) *Failure to use eye protection provided to the customer by the tanning facility may result in damage to the eyes;*
  - (b) *Overexposure to ultraviolet light causes burns;*
  - (c) *Repeated exposure may result in premature aging of the skin and skin cancer;*
  - (d) *Abnormal skin sensitivity or burning may be caused by reactions of the following to ultraviolet light:*
    - 1. *Food;*
    - 2. *Cosmetics; or*
    - 3. *Medications including, but not limited to:*
      - a. *Tranquilizers;*
      - b. *Diuretics;*
      - c. *Antibiotics;*
      - d. *High blood pressure medicines; or*
      - e. *Birth control pills.*

- (e) *Any person taking a prescription or over-the-counter drug should consult a physician before using a tanning device.*
- (2) *Each tanning facility shall;*
  - (a) *Maintain the written or electronic consent forms of the parents or guardians for a period of not less than two (2) years, and make the forms available to cabinet personnel for inspection upon request; and*
  - (b) *Make written or electronic records showing the dates and duration of use of a tanning device at the tanning facility by children fourteen (14) years of age to eighteen (18) years of age, and maintain those records for a period of not less than two (2) years, and make the records available for cabinet or health department personnel for inspection upon request.*
- (3) *Before July 1, 2007, all indoor tanning facilities shall register with the local health department in the district or county in which the facility is operating. Registration shall be valid for one (1) year and applicants shall pay a fee of twenty dollars (\$20) to the district or county health department.*

SECTION 4. A NEW SECTION OF KRS CHAPTER 217 IS CREATED TO READ AS FOLLOWS:

*The cabinet shall promulgate administrative regulations as follows:*

- (1) *Develop a strategy to monitor compliance with 21 CFR 1040.20;*
- (2) *Develop forms to assist tanning facilities with record keeping regarding parental consent, frequency of use by children fourteen (14) to eighteen (18) years of age, and other forms as needed to implement Sections 1 to 5 of this Act; and*
- (3) *Create penalties for violating provisions of Sections 1 to 5 of this Act.*

SECTION 5. A NEW SECTION OF KRS CHAPTER 217 IS CREATED TO READ AS FOLLOWS:

*Any administrative hearing conducted under Sections 1 to 5 of this Act shall be conducted in accordance with KRS Chapter 13B.*

**Approved March 30, 2006**

## **CHAPTER 104**

**(HCR 222)**

A CONCURRENT RESOLUTION confirming the appointment of John Douglas Hubbard to the Kentucky Board of Education.

WHEREAS, pursuant to KRS 156.029, the Governor has appointed, by Executive Order 2006-200, John Douglas Hubbard as a member of the Kentucky Board of Education representing the Third Supreme Court District for a term expiring April 14, 2010; and

WHEREAS, by letter dated February 24, 2006, the Governor has delivered John Douglas Hubbard's name for confirmation as a member of the board as required by KRS 11.160, to replace Hilma S. Prather, Somerset; and

WHEREAS, the House of Representatives and the Senate find that John Douglas Hubbard meets the requirements established in KRS 156.029 and 156.040 for membership on the Kentucky Board of Education;

NOW, THEREFORE,

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

Section 1. The House of Representatives and the Senate hereby confirm the appointment of John Douglas Hubbard to the Kentucky Board of Education for a term ending April 14, 2010.

Section 2. The Clerk of the House of Representatives, pursuant to KRS 11.160(2), shall notify Governor Ernie Fletcher, Room 100, State Capitol, Frankfort, Kentucky 40601 and John Douglas Hubbard, 102 Westwind Trail, Bardstown, Kentucky 40004, in writing, of the General Assembly's action.

**Approved March 30, 2006**

**CHAPTER 105****(HB 278)**

AN ACT relating to lights on slow moving vehicles.

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

Section 1. KRS 189.050 is amended to read as follows:

- (1) Except as provided in any regulations adopted pursuant to KRS 189.287, all vehicles shall display at the rear one (1) red light visible when lighted for at least five hundred (500) feet. A red reflector meeting the requirements may be used in lieu of a red light.
- (2) Every motor bus used for the transportation of persons for hire shall be equipped with at least one (1) red light with the word "STOP" on it which can be seen for one hundred and fifty (150) feet when illuminated. This subsection shall not apply to school buses or church buses.
- (3) No person shall operate any motor truck or semitrailer truck on any highway unless it is equipped with a yellow or red light that automatically indicates the application of brakes and is visible from the rear a distance of not less than two hundred (200) feet.
- (4) No person shall operate on any highway a motor truck or semitrailer truck having a width of any part in excess of eighty-four (84) inches, unless it carries at least two (2) clearance lights to indicate the outside left limit of the motor truck or semitrailer truck, one (1) light colored white or green, to be attached to and be visible from the front of the motor truck or semitrailer truck, and one (1) light colored red, to be attached to and be visible from the rear, in each case a distance of not less than five hundred (500) feet.
- (5) When in operation on any highway slow-moving or motorless vehicles, except bicycles, shall have at least one (1) lamp on the left side of the vehicle whether from the front or rear, showing white and of sufficient power to reveal clearly the outline of the left side of the vehicle and in such a manner that the outline may be observed clearly by approaching vehicles from a distance of at least one hundred (100) feet.
- (6) ***When in operation between sunset and sunrise on any highway, motorless vehicles, except bicycles, shall have in operation a four (4) way flasher system, with two (2) flashing yellow or amber lights visible from the front of the vehicle and two (2) flashing red lights visible from the rear of the vehicle.***

Section 2. KRS 189.287 is amended to read as follows:

The Transportation Cabinet may promulgate bicycle safety regulations and standards. Bicycle riders and bicycles complying with such regulations and standards are exempt from the provisions of KRS 189.040(9), 189.050(1), 189.050(5) **and (6)**, and 189.080. Such bicycles and riders are also exempt from municipal and other local government regulations concerning safety equipment but not method of operation. In promulgating regulations and standards the Transportation Cabinet shall permit use of lightweight modern technological substitutes for lights, reflectors, and bells. The purpose of this section is to encourage bicycling and bicycle touring in this state by enabling bicycle riders to make use of modern technology to make their presence known to other users of the road. The Transportation Cabinet may consult with organizations of bicycle riders to aid it in the search for bicycle safety equipment and rules convenient for long distance bicycle riders.

**Approved March 30, 2006**

**CHAPTER 106****(HB 285)**

AN ACT relating to special license plates.

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

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

- (1) ***As used in this section, "owner" means a person who has purchased or leased a motor vehicle that is registered under the provisions of KRS 186.050(1) or (3)(a).***



- (2) *The provisions of this chapter relating to special license plates to the contrary notwithstanding, if a vehicle has been issued a special license plate and the owner of the vehicle wishes to surrender the plate and exchange it for a different special license plate, the owner may, at the time he or she renews the vehicle's annual registration, exchange the special plate without being required to obtain a regular registration plate.*
- (3) *An owner requesting to exchange a special license plate shall be required to surrender the special license plate issued to the vehicle and the appropriate certificate of registration to the county clerk of the county where the person lives. Upon payment of the fee established in subsection (4) of this section, the county clerk shall immediately exchange the special license plate and issue a new special license plate and certificate of registration without placing further requirements upon the owner.*
- (4) *The fee to exchange a special license plate under this section shall be the fee charged under this chapter for the particular special license plate which is being requested.*

**Approved March 30, 2006**

## CHAPTER 107

### (HB 301)

AN ACT relating to elections and declaring an emergency.

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

SECTION 1. A NEW SECTION OF KRS CHAPTER 119 IS CREATED TO READ AS FOLLOWS:

*Any person who provides compensation or makes any such expenditure as payment or consideration for registering voters that is based upon the total number of voters a person registers or the total number of voters a person registers in a particular party, political group, political organization, or voters of independent status shall be guilty of a Class B misdemeanor.*

Section 2. KRS 116.025 is amended to read as follows:

- (1) Every person who is a resident of this state and the precinct in which he or she offers to vote on or before the day preceding the closing of the registration books for any primary, general, or special election, who possesses on the day of any election the qualifications set forth in Section 145 of the Constitution, exclusive of the durational residency requirements, who is not disqualified under that section or under any other statute, and who is registered as provided in this chapter, may vote for all officers to be elected by the people and on all public questions submitted for determination at that election, in the precinct in which he or she is qualified to vote. Any person who shall have been convicted of any election law offense which is a felony shall not be permitted to vote until his or her civil rights have been restored by executive pardon.
- (2) Any person charged with or indicted for a crime, whether or not in custody for same, who has not yet been convicted of the offense and who is not otherwise ineligible to vote, may vote for all offices to be elected by the people and on all public questions submitted for determination at that election, in the precinct in which he or she is qualified to vote.
- (3) A registered voter who changes his or her place of residence from one (1) precinct to another within the same county while the registration books are closed shall be permitted to update the voting records and to vote in the present election at the appropriate precinct for the current address as set forth in KRS 116.085(3).
- (4) Notwithstanding any provision of law to the contrary, any registered voter who changes his or her place of residence from one (1) precinct to another within the same county prior to the closing of the registration books and who fails to transfer his or her registration with the county clerk prior to the date the registration books are closed shall be permitted to vote in the present election at the appropriate precinct for the current address as set forth in KRS 116.085(2).
- (5) Any registered voter who changes his or her place of residence to a different county while the registration books are closed shall be permitted to vote at the appropriate precinct for his or her former residence in the present election and shall thereafter transfer his or her voter registration.

- (6) *Any registered voter who changes his or her place of residence to a different county and fails to register to vote in the county of current residence prior to the date the registration books are closed shall not be eligible to vote in the present election in the county of current residence or the county of former residence.*
- (7) Any registered voter who changes his or her place of registration to a different state while the registration books are closed in the new state of residence before a presidential election shall be permitted to cast an absentee ballot for President and Vice President only, notwithstanding subsection (1) of this section, by mail or at the county clerk's office of the former residence or other place designated by the county board of elections and approved by the State Board of Elections.

Section 3. KRS 117.235 is amended to read as follows:

- (1) No person, other than the election officers, challengers, and a minor child in the company of a voter, shall be permitted within the voting room while the vote is being polled, except for the purpose of voting or except by authority of the election officers to keep order and enforce the law. At the voter's discretion, a minor child in the company of a voter may accompany the voter into a voting booth or other private area provided for casting a vote.
- (2) No officer of election shall do any electioneering on election day.
- (3) *No person shall electioneer at the polling place on the day of any election, as established in KRS 118.025, within a distance of three hundred (300) feet of* ~~No person shall, on the day of any election as established in KRS 118.025 and on the days during which absentee voting is permitted under KRS 117.085(1)(c), do any electioneering at the polling place or within a distance of three hundred (300) feet of a county clerk's office or~~ any entrance to a building in which a voting machine is located if that entrance is unlocked and is used by voters on election day, unless the fiscal court or legislative body of an urban-county, charter county, or consolidated local government, on a countywide basis, specifically prohibits electioneering on the day of any election by ordinance for a distance greater than three hundred (300) feet from the polling place. *No person shall electioneer within the interior of a building, or affix any electioneering materials to the exterior or interior of a building, where the county clerk's office is located, or any building designated by the county board of elections and approved by the State Board of Elections for absentee voting, during the hours absentee voting is being conducted in the building by the county clerk pursuant to KRS 117.085(1)(c).* Electioneering shall include the displaying of signs, the distribution of campaign literature, cards, or handbills, the soliciting of signatures to any petition, or the solicitation of votes for or against any bona fide candidate or ballot question in a manner which expressly advocates the election or defeat of the candidate or expressly advocates the passage or defeat of the ballot question, but shall not include exit polling *or other exceptions established by the State Board of Elections through administrative regulations.*
- (4) No voter shall be permitted to converse with others while in any room in which voting, including absentee voting, is conducted concerning their support or nonsupport of any candidate, party, or issue to be voted on, except as provided in KRS 117.255.
- (5) Any precinct election officer, county clerk, deputy county clerk, or any law enforcement official may enforce the election laws and maintain law and order at the polls and within three hundred (300) feet of any entrance to the building in which the voting machine is located if that entrance is unlocked and is used by voters. Assistance may be requested of any law enforcement officer.
- (6) Notwithstanding the provisions of subsection (1) of this section, the State Board of Elections may establish a program designed to instill in school children a respect for the democratic principles of voting by conducting in any county a mock election for school children in conjunction with any regular, primary, or special election. The State Board of Elections shall promulgate administrative regulations regarding the mock elections to insure that the regular voting process will not be impaired.

Section 4. Whereas it is preferable that the provisions of this Act apply consistently to both the primary and general elections scheduled throughout the state in this calendar year, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming a law.

**Approved March 30, 2006**

**CHAPTER 108****(HB 314)**

AN ACT relating to a veterans' personal loan program.

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

SECTION 1. A NEW SECTION OF KRS CHAPTER 40 IS CREATED TO READ AS FOLLOWS:

**(1) As used in this section:**

- (a) "Department" means the Department of Veterans' Affairs; and**
- (b) "Veteran" means a person who served in the active Armed Forces of the United States, including the Coast Guard of the United States, and was released, separated, discharged, or retired therefrom under honorable or general conditions.**

**(2) A veterans' personal loan program trust fund is established to oversee and administer funds under the veterans' personal loan program.**

**(3) (a) To be eligible for a loan under the veterans' personal loan program, an applicant shall be a resident of, and living in, the Commonwealth on the date of the application.**

- (b) 1. As used in this paragraph, "qualified" means having met loan conditions established by an administrative regulation promulgated by the department. However, the term of a loan shall not exceed ten (10) years.**

- 2. The department shall cause the veterans' personal loan program trust fund to lend a qualified veteran or deceased veteran's unremarried spouse not more than ten thousand dollars (\$10,000), or a lesser amount established by an administrative regulation promulgated by the department, for:**

- a. The purchase of a home, business, or business property;**
- b. The education of the loan applicant or the loan applicant's spouse;**
- c. The payment of family medical or funeral expenses; or**
- d. The consolidation of debt.**

- 3. The department shall cause the veterans' personal loan trust fund to lend a qualified child of a veteran or parent or guardian of that child not more than ten thousand dollars (\$10,000), or a lesser amount established by an administrative regulation promulgated by the department, for the education of that child, who is under the age of twenty-seven (27), at a university, junior college, vocational training institute, or nonpublic school admitting children in preschool through grade twelve (12).**

- (c) No person shall receive a loan under this section in an amount that, when added to the balance of the person's existing loan, or loans, under this section, would result in a total indebtedness to the veterans' personal loan program trust fund of more than ten thousand dollars (\$10,000), or a lesser amount established by an administrative regulation promulgated by the department.**

**(4) (a) The veterans' personal loan program trust fund shall:**

- 1. Execute necessary instruments; and**
- 2. Collect principal and interest.**

**(b) The veterans' personal loan program trust fund may:**

- 1. Compromise indebtedness;**
- 2. Sue and be sued;**
- 3. Post bonds;**
- 4. Write off indebtedness that it considers uncollectible;**

5. *Exercise the rights of an owner and mortgagee if a loan provided under this section is secured by a real estate mortgage;*
  6. *Charge to a loan applicant loan expenses incurred under this section; and*
  7.
    - a. *Receive state appropriations, gifts, grants, federal funds, and any other funds both public and private.*
    - b. *Funds received, which are not necessary for the operation of the veterans' personal loan program trust fund, shall remain with the department to finance other department operations.*
- (5) *The department shall promulgate administrative regulations necessary to carry out the provisions of this section.*

Approved March 30, 2006

## CHAPTER 109

(HB 272)

AN ACT relating to highways.

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

Section 1. KRS 189.580 is amended to read as follows:

- (1) (a) The operator of any vehicle, whose vehicle, vehicle load, or vehicle equipment which is involved in an accident resulting in injury to or death of any person or resulting only in damage to a vehicle or other property which is driven or attended by any person shall immediately stop and ascertain the extent of the injury or damage and render reasonable assistance, including the carrying, or making of arrangements for the carrying, of such person to a physician, surgeon, or hospital for medical or surgical treatment if it is apparent that such treatment is necessary, or if such carrying is requested by the injured person. The operator or person having or assuming authority of the operator, or ownership of the vehicle, shall give the occupant of the vehicle, or person struck, if requested, the registration number of the vehicle, if any, and also the names and addresses of the owner, the occupants and operator. The total names need not exceed five (5) in number.
- (b) *If an accident that occurs on an interstate highway or parkway or any on-ramp or off-ramp thereto does not involve death, known or visible injury, or the transportation of hazardous material, the operator shall move the vehicle off the roadway to a place as close to the accident scene as practicable without obstructing traffic as soon as the vehicle can be moved without the risk of further injury or damage. The operator or person having or assuming authority of the operator, or ownership of the vehicle, shall give any other person involved in the accident, if requested, the registration number of the vehicle, if any, and also the names and addresses of the owner, the occupants, and the operator of his or her vehicle, and insurance information for the vehicle.*
- (2) The operator of any vehicle which collides with or is involved in an accident with any vehicle or other property which is unattended resulting in any damage to such other vehicle or property shall immediately stop *as close to the accident scene as possible without obstructing traffic* and shall then and there either locate and notify the operator or owner of such vehicle or other property of his name, address, and the registration number of the vehicle he is driving or shall attach securely in a conspicuous place in or on such vehicle or other property a written notice giving his name, address, and the registration number of the vehicle he is driving, or shall file a report with the local police department.
- (3) *If the operator of a vehicle is unable to move a vehicle off the roadway under the provisions of subsections (1) and (2) of this section, the operator or owner may permit any person who possesses a valid operator's license or proper class of commercial driver's license to move the vehicle as provided in this section.*
- (4) *Except as provided for in subsection (5) of this section, a peace officer or safety officer may remove or cause to be removed from the roadway of an interstate highway or parkway or any on-ramp or off-ramp thereto, without consent of the owner or operator, any vehicle, cargo, or other property which is obstructing the roadway, creating or aggravating an emergency situation, or otherwise endangering public safety. Any vehicle, cargo, or other property obstructing the roadway of an interstate highway or parkway shall be*

*removed by the most expeditious means available to clear the obstruction, giving due regard to the protection of the property removed.*

- (5) (a) *In accidents that involve fatalities or known or visible injuries, the removal provisions of subsection (4) of this section shall apply only after all medical assistance, fire supervision, and site investigation have been completed.*
- (b) *The removal provisions of subsection (4) of this section shall not apply if an accident involves, or is believed to involve, a release of hazardous materials.*
- (6) (a) *The operator of a vehicle involved in an accident on a highway in this state which results in a fatality or a known or visible injury to a person or damage to a vehicle which renders the vehicle inoperable shall immediately notify a public safety answering point, law enforcement agency, or law enforcement officer having jurisdiction if the operator is physically capable of doing so and has in his or her possession a functioning communications device with which to do so.*
- (b) *In the event an operator fails to notify or is incapable of notifying a public safety answering point, law enforcement agency, or law enforcement officer having jurisdiction, the responsibility for reporting the accident within a reasonable amount of time shall rest with the owner of the vehicle or any occupant of the vehicle at the time of the accident if the owner or occupant is physically capable of doing so, has in his or her possession a functioning communications device with which to do so, and, in the case of the owner, knows of the motor vehicle accident. A law enforcement officer having jurisdiction shall investigate the accident and file a written report of the accident with the officer's agency.*
- (7) The operator of a vehicle involved in an accident *on a highway in this state*~~[in subsection (1) or (2) above]~~ resulting in injury to or death of any person or in which total property damage of five hundred dollars (\$500) or more is sustained, *and in which an investigation is not conducted by a law enforcement officer*, shall *file a written report of the accident with the Department of State Police*~~[, report the matter in writing to the Justice Cabinet]~~ within ten (10) days *of the occurrence of the accident upon forms provided by the department*.
- (8) *Any agency, including the Commonwealth, that removes property from the roadway may intervene in any civil action arising from the accident to recover any costs expended. An owner of real property shall not be liable for the costs of removal under this section of trees, fences, structures, or other debris which fall into the roadway as a result of fire, severe weather, or other casualty.*

Section 2. KRS 189.990 is amended to read as follows:

- (1) Any person who violates any of the provisions of KRS 189.020 to 189.040, subsections (1), (2), and (5) of KRS 189.050, KRS 189.060 to 189.080, subsections (1) to (3) of KRS 189.090, KRS 189.100, 189.110, 189.130 to 189.160, subsections (2) to (4) of KRS 189.190, KRS 189.200, 189.285, 189.290, 189.300 to 189.360, KRS 189.380, KRS 189.400 to 189.430, KRS 189.450 to 189.458, KRS 189.4595 to 189.480, subsection (1) of KRS 189.520, KRS 189.540, KRS 189.570 to 189.630, except subsection (1)(b), *or (6)(b)* of KRS 189.580, KRS 189.345, subsection (4) of KRS 189.456, and 189.960 shall be fined not less than twenty dollars (\$20) nor more than one hundred dollars (\$100) for each offense. Any person who violates subsection (1)(a) of KRS 189.580 shall be fined not less than twenty dollars (\$20) nor more than two thousand dollars (\$2,000) or imprisoned in the county jail for not more than one (1) year, or both. Any person who violates paragraph (c) of subsection (5) of KRS 189.390 shall be fined not less than eleven dollars (\$11) nor more than thirty dollars (\$30). Neither court costs nor fees shall be taxed against any person violating paragraph (c) of subsection (5) of KRS 189.390.
- (2) (a) Any person who violates the weight provisions of KRS 189.212, 189.221, 189.222, 189.226, 189.230, or 189.270 shall be fined two cents (\$0.02) per pound for each pound of excess load when the excess is five thousand (5,000) pounds or less. When the excess exceeds five thousand (5,000) pounds the fine shall be two cents (\$0.02) per pound for each pound of excess load, but the fine levied shall not be less than one hundred dollars (\$100) and shall not be more than five hundred dollars (\$500).
- (b) Any person who violates the provisions of KRS 189.271 and is operating on a route designated on the permit shall be fined one hundred dollars (\$100); otherwise, the penalties in paragraph (a) of this subsection shall apply.

- (c) Any person who violates any provision of subsections (3) and (4) of KRS 189.050, subsection (4) of KRS 189.090, KRS 189.221 to 189.230, 189.270, 189.280, 189.490, or the dimension provisions of KRS 189.212, for which another penalty is not specifically provided shall be fined not less than ten dollars (\$10) nor more than five hundred dollars (\$500).
- (d) Nothing in this subsection or in KRS 189.221 to 189.228 shall be deemed to prejudice or affect the authority of the Department of Vehicle Regulation to suspend or revoke certificates of common carriers, permits of contract carriers, or drivers' or chauffeurs' licenses, for any violation of KRS 189.221 to 189.228 or any other act applicable to motor vehicles, as provided by law.
- (3) (a) Any person who violates subsection (1) of KRS 189.190 shall be fined not more than fifteen dollars (\$15).
- (b) Any person who violates subsection (5) of KRS 189.190 shall be fined not less than thirty-five dollars (\$35) nor more than two hundred dollars (\$200).
- (4) (a) Any person who violates subsection (1) of KRS 189.210 shall be fined not less than twenty-five dollars (\$25) nor more than one hundred dollars (\$100).
- (b) Any peace officer who fails, when properly informed, to enforce KRS 189.210 shall be fined not less than twenty-five dollars (\$25) nor more than one hundred dollars (\$100).
- (c) All fines collected under this subsection, after payment of commissions to officers entitled thereto, shall go to the county road fund if the offense is committed in the county, or to the city street fund if committed in the city.
- (5) Any person who violates KRS 189.370 shall for the first offense be fined not less than one hundred dollars (\$100) nor more than two hundred dollars (\$200) or imprisoned not less than thirty (30) days nor more than sixty (60) days, or both. For each subsequent offense occurring within three (3) years, the person shall be fined not less than three hundred dollars (\$300) nor more than five hundred dollars (\$500) or imprisoned not less than sixty (60) days nor more than six (6) months, or both. The minimum fine for this violation shall not be subject to suspension. A minimum of six (6) points shall be assessed against the driving record of any person convicted.
- (6) Any person who violates KRS 189.500 shall be fined not more than fifteen dollars (\$15) in excess of the cost of the repair of the road.
- (7) Any person who violates KRS 189.510 or KRS 189.515 shall be fined not less than twenty dollars (\$20) nor more than fifty dollars (\$50).
- (8) Any peace officer who violates subsection (2) of KRS 189.520 shall be fined not less than thirty-five dollars (\$35) nor more than one hundred dollars (\$100).
- (9) (a) Any person who violates KRS 189.530(1) shall be fined not less than thirty-five dollars (\$35) nor more than one hundred dollars (\$100), or imprisoned not less than thirty (30) days nor more than twelve (12) months, or both.
- (b) Any person who violates KRS 189.530(2) shall be fined not less than thirty-five dollars (\$35) nor more than one hundred dollars (\$100).
- (10) Any person who violates any of the provisions of KRS 189.550 shall be guilty of a Class B misdemeanor.
- (11) Any person who violates subsection (2) of KRS 189.560 shall be fined not less than thirty dollars (\$30) nor more than one hundred dollars (\$100) for each offense.
- (12) The fines imposed by paragraph (a) of subsection (3) and subsections (6) and (7) of this section shall, in the case of a public highway, be paid into the county road fund, and, in the case of a privately owned road or bridge, be paid to the owner. These fines shall not bar an action for damages for breach of contract.
- (13) Any person who violates any of the provisions of KRS 189.120 shall be fined not less than twenty dollars (\$20) nor more than one hundred dollars (\$100) for each offense.
- (14) Any person who violates any provision of KRS 189.575 shall be fined not less than twenty dollars (\$20) nor more than twenty-five dollars (\$25).
- (15) Any person who violates subsection (2) of KRS 189.231 shall be fined not less than twenty dollars (\$20) nor more than one hundred dollars (\$100) for each offense.

- (16) Any person who violates restrictions or regulations established by the secretary of transportation pursuant to subsection (3) of KRS 189.231 shall, upon first offense, be fined one hundred dollars (\$100) and, upon subsequent convictions, be fined not less than one hundred dollars (\$100) nor more than five hundred dollars (\$500) or imprisoned for thirty (30) days, or both.
- (17)
  - (a) Any person who violates any of the provisions of KRS 189.565 shall be guilty of a Class B misdemeanor.
  - (b) In addition to the penalties prescribed in paragraph (a) of this subsection, in case of violation by any person in whose name the vehicle used in the transportation of inflammable liquids or explosives is licensed, the person shall be fined not less than one hundred dollars (\$100) nor more than five hundred dollars (\$500). Each violation shall constitute a separate offense.
- (18) Any person who abandons a vehicle upon the right-of-way of a state highway for three (3) consecutive days shall be fined not less than thirty-five dollars (\$35) nor more than one hundred dollars (\$100), or imprisoned for not less than ten (10) days nor more than thirty (30) days.
- (19) Every person violating KRS 189.393 shall be guilty of a Class B misdemeanor, unless the offense is being committed by a defendant fleeing the commission of a felony offense which the defendant was also charged with violating and was subsequently convicted of that felony, in which case it is a Class A misdemeanor.
- (20) Any law enforcement agency which fails or refuses to forward the reports required by KRS 189.635 shall be subject to the penalties prescribed in KRS 17.157.
- (21) A person who elects to operate a bicycle in accordance with any regulations adopted pursuant to KRS 189.287 and who willfully violates a provision of a regulation shall be fined not less than ten dollars (\$10) nor more than one hundred dollars (\$100). A person who operates a bicycle without complying with any regulations adopted pursuant to KRS 189.287 or vehicle safety statutes shall be prosecuted for violation of the latter.
- (22) Any person who violates KRS 189.860 shall be fined not more than five hundred dollars (\$500) or imprisoned for not more than six (6) months, or both.
- (23) Any person who violates KRS 189.754 shall be fined not less than twenty-five dollars (\$25) nor more than three hundred dollars (\$300).
- (24) Any person who violates the provisions of KRS 189.125(3) shall be fined fifty dollars (\$50).
- (25) Any person who violates the provisions of KRS 189.125(6) shall be fined an amount not to exceed twenty-five dollars (\$25).
- (26) Fines levied pursuant to this chapter shall be assessed in the manner required by KRS 534.020, in amounts consistent with this chapter. Nonpayment of fines shall be governed by KRS 534.060.
- (27) A licensed driver under the age of eighteen (18) charged with a moving violation pursuant to this chapter as the driver of a motor vehicle may be referred, prior to trial, by the court to a diversionary program. The diversionary program under this subsection shall consist of one (1) or both of the following:
  - (a) Execution of a diversion agreement which prohibits the driver from operating a vehicle for a period not to exceed forty-five (45) days and which allows the court to retain the driver's operator's license during this period; and
  - (b) Attendance at a driver improvement clinic established pursuant to KRS 186.574. If the person completes the terms of this diversionary program satisfactorily the violation shall be dismissed.
- (28) A person who violates the provisions of subsection (2) or (3) of KRS 189.459 shall be fined two hundred fifty dollars (\$250). The fines and costs for a violation of subsection (2) or (3) of KRS 189.459 shall be collected and disposed of in accordance with KRS 24A.180. Once deposited into the State Treasury, ninety percent (90%) of the fine collected under this subsection shall immediately be forwarded to the personal care assistance program under KRS 205.900 to 205.920. Ten percent (10%) of the fine collected under this subsection shall annually be returned to the county where the violation occurred and distributed equally to all law enforcement agencies within the county.

Section 3. KRS 189.993 is amended to read as follows:

- (1) Any person who violates KRS 189.045 shall be fined not less than one hundred dollars (\$100) nor more than one thousand dollars (\$1,000).
- (2) Any person convicted of violating any of the provisions of KRS 189.095 shall be fined sixty dollars (\$60) and costs of prosecution.
- (3) Any person who violates any provision of KRS 189.205 shall be fined not less than twenty dollars (\$20) nor more than one hundred dollars (\$100).
- (4) Any person who violates any provision of KRS 189.375 shall be fined not less than twenty dollars (\$20) nor more than one hundred dollars (\$100).
- (5) Any person who violates KRS 189.505 shall be fined not less than sixty dollars (\$60) nor more than two hundred dollars (\$200) or be imprisoned for not more than thirty (30) days, or both.
- (6) Any person found violating any provision of KRS 189.820 or 189.830 is guilty of a misdemeanor and shall be fined not less than twenty dollars (\$20) nor more than thirty-five dollars (\$35).
- (7) Any person who violates KRS 189.920 shall be fined not less than one hundred dollars (\$100) nor more than one thousand dollars (\$1,000), or imprisoned in the county jail for not more than thirty (30) days, or both. In the case of a private vehicle, all lighting and other equipment used in violation of KRS 189.910 to 189.950 shall be confiscated and forfeited to the county in which the offense occurred.
- (8) Any person who violates KRS 189.930 shall be fined not less than sixty dollars (\$60) nor more than five hundred dollars (\$500), or be imprisoned in the county jail for not more than thirty (30) days, or both.
- (9) Any person who violates KRS 189.940 shall be fined not less than sixty dollars (\$60) nor more than one thousand dollars (\$1,000) or be imprisoned in the county jail for not more than six (6) months, or both. In the case of a private vehicle, all lighting and other equipment used in violation of KRS 189.910 to 189.950 shall be confiscated and forfeited to the county in which the offense occurred.
- (10) If a member of a regular or volunteer fire department, ambulance service, or rescue squad violates any provisions of subsection (6) of KRS 189.940, he shall, in addition to any other penalty provided under KRS 189.990 or this section, be immediately dismissed from his membership or employment with the fire department, ambulance service, or rescue squad and shall be disqualified from being employed by or being a member of any fire department, ambulance service, or rescue squad in the Commonwealth for a period of three (3) years. Upon conviction of a second offense he shall be permanently barred from employment or membership in any fire department, ambulance service, rescue squad, police department, or sheriff's office in the Commonwealth, nor shall he be permitted to operate any public safety vehicle as defined in KRS 189.910.
- (11) Any person who violates KRS 189.950 shall be fined not less than one hundred dollars (\$100) nor more than one thousand dollars (\$1,000) or be imprisoned in the county jail for not more than thirty (30) days, or both. In the case of a privately owned vehicle, all lighting and other equipment used or installed in violation of KRS 189.910 to 189.950 shall be confiscated and forfeited to the county in which the offense occurred.
- (12) Any person who violates any provision of this chapter for which no penalty is otherwise provided shall, upon conviction, be fined not less than twenty dollars (\$20) nor more than one hundred dollars (\$100) for each offense, *except that no penalty shall be assessed for a violation of KRS 189.580(1)(b) or (6)(b).*
- (13) No producer or processor of natural resources shall allow the transporting of natural resources over the highways of the Commonwealth in excess of the weight limits without possessing a resource recovery road hauling permit. Violation for hauling in excess of prescribed limits without possession of a permit or transporting natural resources over prescribed limits of the resource recovery road hauling permit shall be not less than five hundred dollars (\$500) nor more than one thousand dollars (\$1,000) for each violation and shall be deposited in the resource recovery road fund.

Approved March 30, 2006

## CHAPTER 110

(SB 44)

AN ACT relating to highways.

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



Section 1. KRS 189.580 is amended to read as follows:

- (1) (a) The operator of any vehicle, whose vehicle, vehicle load, or vehicle equipment which is involved in an accident resulting in injury to or death of any person or resulting only in damage to a vehicle or other property which is driven or attended by any person shall immediately stop and ascertain the extent of the injury or damage and render reasonable assistance, including the carrying, or making of arrangements for the carrying, of such person to a physician, surgeon, or hospital for medical or surgical treatment if it is apparent that such treatment is necessary, or if such carrying is requested by the injured person. The operator or person having or assuming authority of the operator, or ownership of the vehicle, shall give the occupant of the vehicle, or person struck, if requested, the registration number of the vehicle, if any, and also the names and addresses of the owner, the occupants and operator. The total names need not exceed five (5) in number.
  - (b) *If an accident that occurs on an interstate highway or parkway or any on-ramp or off-ramp thereto does not involve death, known or visible injury, or the transportation of hazardous material, the operator shall move the vehicle off the roadway to a place as close to the accident scene as practicable without obstructing traffic as soon as the vehicle can be moved without the risk of further injury or damage. The operator or person having or assuming authority of the operator, or ownership of the vehicle, shall give any other person involved in the accident, if requested, the registration number of the vehicle, if any, and also the names and addresses of the owner, the occupants, and the operator of his or her vehicle, and insurance information for the vehicle.*
- (2) The operator of any vehicle which collides with or is involved in an accident with any vehicle or other property which is unattended resulting in any damage to such other vehicle or property shall immediately stop *as close to the accident scene as possible without obstructing traffic* and shall then and there either locate and notify the operator or owner of such vehicle or other property of his name, address, and the registration number of the vehicle he is driving or shall attach securely in a conspicuous place in or on such vehicle or other property a written notice giving his name, address, and the registration number of the vehicle he is driving, or shall file a report with the local police department.
- (3) *If the operator of a vehicle is unable to move a vehicle off the roadway under the provisions of subsections (1) and (2) of this section, the operator or owner may permit any person who possesses a valid operator's license or proper class of commercial driver's license to move the vehicle as provided in this section.*
- (4) *Except as provided for in subsection (5) of this section, a peace officer or safety officer may remove or cause to be removed from the roadway of an interstate highway or parkway or any on-ramp or off-ramp thereto, without consent of the owner or operator, any vehicle, cargo, or other property which is obstructing the roadway, creating or aggravating an emergency situation, or otherwise endangering public safety. Any vehicle, cargo, or other property obstructing the roadway of an interstate highway or parkway shall be removed by the most expeditious means available to clear the obstruction, giving due regard to the protection of the property removed.*
- (5)
  - (a) *In accidents that involve fatalities or known or visible injuries, the removal provisions of subsection (4) of this section shall apply only after all medical assistance, fire supervision, and site investigation have been completed.*
  - (b) *The removal provisions of subsection (4) of this section shall not apply if an accident involves, or is believed to involve, a release of hazardous materials.*
- (6)
  - (a) *The operator of a vehicle involved in an accident on a highway in this state which results in a fatality or a known or visible injury to a person or damage to a vehicle which renders the vehicle inoperable shall immediately notify a public safety answering point, law enforcement agency, or law enforcement officer having jurisdiction if the operator is physically capable of doing so and has in his or her possession a functioning communications device with which to do so.*
  - (b) *In the event an operator fails to notify or is incapable of notifying a public safety answering point, law enforcement agency, or law enforcement officer having jurisdiction, the responsibility for reporting the accident within a reasonable amount of time shall rest with the owner of the vehicle or any occupant of the vehicle at the time of the accident if the owner or occupant is physically capable of doing so, has in his or her possession a functioning communications device with which to do so, and, in the case of the owner, knows of the motor vehicle accident. A law enforcement officer having*

***jurisdiction shall investigate the accident and file a written report of the accident with the officer's agency.***

- (7) The operator of a vehicle involved in an accident ***on a highway in this state***~~in subsection (1) or (2) above~~ resulting in injury to or death of any person or in which total property damage of five hundred dollars (\$500) or more is sustained, ***and in which an investigation is not conducted by a law enforcement officer***, shall ***file a written report of the accident with the Department of State Police***~~+~~ within ten (10) days ***of the occurrence of the accident upon forms provided by the department***~~report the matter in writing to the Justice Cabinet~~.
- (8) ***Any agency, including the Commonwealth, that removes property from the roadway may intervene in any civil action arising from the accident to recover any costs expended. An owner of real property shall not be liable for the costs of removal under this section of trees, fences, structures, or other debris which fall into the roadway as a result of fire, severe weather, or other casualty.***

Section 2. KRS 189.990 is amended to read as follows:

- (1) Any person who violates any of the provisions of KRS 189.020 to 189.040, subsections (1), (2), and (5) of KRS 189.050, KRS 189.060 to 189.080, subsections (1) to (3) of KRS 189.090, KRS 189.100, 189.110, 189.130 to 189.160, subsections (2) to (4) of KRS 189.190, KRS 189.200, 189.285, 189.290, 189.300 to 189.360, KRS 189.380, KRS 189.400 to 189.430, KRS 189.450 to 189.458, KRS 189.4595 to 189.480, subsection (1) of KRS 189.520, KRS 189.540, KRS 189.570 to 189.630, except subsection (1)(b), ***or (6)(b)*** of KRS 189.580, KRS 189.345, subsection (4) of KRS 189.456, and 189.960 shall be fined not less than twenty dollars (\$20) nor more than one hundred dollars (\$100) for each offense. Any person who violates subsection (1)(a) of KRS 189.580 shall be fined not less than twenty dollars (\$20) nor more than two thousand dollars (\$2,000) or imprisoned in the county jail for not more than one (1) year, or both. Any person who violates paragraph (c) of subsection (5) of KRS 189.390 shall be fined not less than eleven dollars (\$11) nor more than thirty dollars (\$30). Neither court costs nor fees shall be taxed against any person violating paragraph (c) of subsection (5) of KRS 189.390.
- (2) (a) Any person who violates the weight provisions of KRS 189.212, 189.221, 189.222, 189.226, 189.230, or 189.270 shall be fined two cents (\$0.02) per pound for each pound of excess load when the excess is five thousand (5,000) pounds or less. When the excess exceeds five thousand (5,000) pounds the fine shall be two cents (\$0.02) per pound for each pound of excess load, but the fine levied shall not be less than one hundred dollars (\$100) and shall not be more than five hundred dollars (\$500).
- (b) Any person who violates the provisions of KRS 189.271 and is operating on a route designated on the permit shall be fined one hundred dollars (\$100); otherwise, the penalties in paragraph (a) of this subsection shall apply.
- (c) Any person who violates any provision of subsections (3) and (4) of KRS 189.050, subsection (4) of KRS 189.090, KRS 189.221 to 189.230, 189.270, 189.280, 189.490, or the dimension provisions of KRS 189.212, for which another penalty is not specifically provided shall be fined not less than ten dollars (\$10) nor more than five hundred dollars (\$500).
- (d) Nothing in this subsection or in KRS 189.221 to 189.228 shall be deemed to prejudice or affect the authority of the Department of Vehicle Regulation to suspend or revoke certificates of common carriers, permits of contract carriers, or drivers' or chauffeurs' licenses, for any violation of KRS 189.221 to 189.228 or any other act applicable to motor vehicles, as provided by law.
- (3) (a) Any person who violates subsection (1) of KRS 189.190 shall be fined not more than fifteen dollars (\$15).
- (b) Any person who violates subsection (5) of KRS 189.190 shall be fined not less than thirty-five dollars (\$35) nor more than two hundred dollars (\$200).
- (4) (a) Any person who violates subsection (1) of KRS 189.210 shall be fined not less than twenty-five dollars (\$25) nor more than one hundred dollars (\$100).
- (b) Any peace officer who fails, when properly informed, to enforce KRS 189.210 shall be fined not less than twenty-five dollars (\$25) nor more than one hundred dollars (\$100).
- (c) All fines collected under this subsection, after payment of commissions to officers entitled thereto, shall go to the county road fund if the offense is committed in the county, or to the city street fund if committed in the city.

- (5) Any person who violates KRS 189.370 shall for the first offense be fined not less than one hundred dollars (\$100) nor more than two hundred dollars (\$200) or imprisoned not less than thirty (30) days nor more than sixty (60) days, or both. For each subsequent offense occurring within three (3) years, the person shall be fined not less than three hundred dollars (\$300) nor more than five hundred dollars (\$500) or imprisoned not less than sixty (60) days nor more than six (6) months, or both. The minimum fine for this violation shall not be subject to suspension. A minimum of six (6) points shall be assessed against the driving record of any person convicted.
- (6) Any person who violates KRS 189.500 shall be fined not more than fifteen dollars (\$15) in excess of the cost of the repair of the road.
- (7) Any person who violates KRS 189.510 or KRS 189.515 shall be fined not less than twenty dollars (\$20) nor more than fifty dollars (\$50).
- (8) Any peace officer who violates subsection (2) of KRS 189.520 shall be fined not less than thirty-five dollars (\$35) nor more than one hundred dollars (\$100).
- (9)
  - (a) Any person who violates KRS 189.530(1) shall be fined not less than thirty-five dollars (\$35) nor more than one hundred dollars (\$100), or imprisoned not less than thirty (30) days nor more than twelve (12) months, or both.
  - (b) Any person who violates KRS 189.530(2) shall be fined not less than thirty-five dollars (\$35) nor more than one hundred dollars (\$100).
- (10) Any person who violates any of the provisions of KRS 189.550 shall be guilty of a Class B misdemeanor.
- (11) Any person who violates subsection (2) of KRS 189.560 shall be fined not less than thirty dollars (\$30) nor more than one hundred dollars (\$100) for each offense.
- (12) The fines imposed by paragraph (a) of subsection (3) and subsections (6) and (7) of this section shall, in the case of a public highway, be paid into the county road fund, and, in the case of a privately owned road or bridge, be paid to the owner. These fines shall not bar an action for damages for breach of contract.
- (13) Any person who violates any of the provisions of KRS 189.120 shall be fined not less than twenty dollars (\$20) nor more than one hundred dollars (\$100) for each offense.
- (14) Any person who violates any provision of KRS 189.575 shall be fined not less than twenty dollars (\$20) nor more than twenty-five dollars (\$25).
- (15) Any person who violates subsection (2) of KRS 189.231 shall be fined not less than twenty dollars (\$20) nor more than one hundred dollars (\$100) for each offense.
- (16) Any person who violates restrictions or regulations established by the secretary of transportation pursuant to subsection (3) of KRS 189.231 shall, upon first offense, be fined one hundred dollars (\$100) and, upon subsequent convictions, be fined not less than one hundred dollars (\$100) nor more than five hundred dollars (\$500) or imprisoned for thirty (30) days, or both.
- (17)
  - (a) Any person who violates any of the provisions of KRS 189.565 shall be guilty of a Class B misdemeanor.
  - (b) In addition to the penalties prescribed in paragraph (a) of this subsection, in case of violation by any person in whose name the vehicle used in the transportation of inflammable liquids or explosives is licensed, the person shall be fined not less than one hundred dollars (\$100) nor more than five hundred dollars (\$500). Each violation shall constitute a separate offense.
- (18) Any person who abandons a vehicle upon the right-of-way of a state highway for three (3) consecutive days shall be fined not less than thirty-five dollars (\$35) nor more than one hundred dollars (\$100), or imprisoned for not less than ten (10) days nor more than thirty (30) days.
- (19) Every person violating KRS 189.393 shall be guilty of a Class B misdemeanor, unless the offense is being committed by a defendant fleeing the commission of a felony offense which the defendant was also charged with violating and was subsequently convicted of that felony, in which case it is a Class A misdemeanor.
- (20) Any law enforcement agency which fails or refuses to forward the reports required by KRS 189.635 shall be subject to the penalties prescribed in KRS 17.157.

- (21) A person who elects to operate a bicycle in accordance with any regulations adopted pursuant to KRS 189.287 and who willfully violates a provision of a regulation shall be fined not less than ten dollars (\$10) nor more than one hundred dollars (\$100). A person who operates a bicycle without complying with any regulations adopted pursuant to KRS 189.287 or vehicle safety statutes shall be prosecuted for violation of the latter.
- (22) Any person who violates KRS 189.860 shall be fined not more than five hundred dollars (\$500) or imprisoned for not more than six (6) months, or both.
- (23) Any person who violates KRS 189.754 shall be fined not less than twenty-five dollars (\$25) nor more than three hundred dollars (\$300).
- (24) Any person who violates the provisions of KRS 189.125(3) shall be fined fifty dollars (\$50).
- (25) Any person who violates the provisions of KRS 189.125(6) shall be fined an amount not to exceed twenty-five dollars (\$25).
- (26) Fines levied pursuant to this chapter shall be assessed in the manner required by KRS 534.020, in amounts consistent with this chapter. Nonpayment of fines shall be governed by KRS 534.060.
- (27) A licensed driver under the age of eighteen (18) charged with a moving violation pursuant to this chapter as the driver of a motor vehicle may be referred, prior to trial, by the court to a diversionary program. The diversionary program under this subsection shall consist of one (1) or both of the following:
  - (a) Execution of a diversion agreement which prohibits the driver from operating a vehicle for a period not to exceed forty-five (45) days and which allows the court to retain the driver's operator's license during this period; and
  - (b) Attendance at a driver improvement clinic established pursuant to KRS 186.574. If the person completes the terms of this diversionary program satisfactorily the violation shall be dismissed.
- (28) A person who violates the provisions of subsection (2) or (3) of KRS 189.459 shall be fined two hundred fifty dollars (\$250). The fines and costs for a violation of subsection (2) or (3) of KRS 189.459 shall be collected and disposed of in accordance with KRS 24A.180. Once deposited into the State Treasury, ninety percent (90%) of the fine collected under this subsection shall immediately be forwarded to the personal care assistance program under KRS 205.900 to 205.920. Ten percent (10%) of the fine collected under this subsection shall annually be returned to the county where the violation occurred and distributed equally to all law enforcement agencies within the county.

Section 3. KRS 189.993 is amended to read as follows:

- (1) Any person who violates KRS 189.045 shall be fined not less than one hundred dollars (\$100) nor more than one thousand dollars (\$1,000).
- (2) Any person convicted of violating any of the provisions of KRS 189.095 shall be fined sixty dollars (\$60) and costs of prosecution.
- (3) Any person who violates any provision of KRS 189.205 shall be fined not less than twenty dollars (\$20) nor more than one hundred dollars (\$100).
- (4) Any person who violates any provision of KRS 189.375 shall be fined not less than twenty dollars (\$20) nor more than one hundred dollars (\$100).
- (5) Any person who violates KRS 189.505 shall be fined not less than sixty dollars (\$60) nor more than two hundred dollars (\$200) or be imprisoned for not more than thirty (30) days, or both.
- (6) Any person found violating any provision of KRS 189.820 or 189.830 is guilty of a misdemeanor and shall be fined not less than twenty dollars (\$20) nor more than thirty-five dollars (\$35).
- (7) Any person who violates KRS 189.920 shall be fined not less than one hundred dollars (\$100) nor more than one thousand dollars (\$1,000), or imprisoned in the county jail for not more than thirty (30) days, or both. In the case of a private vehicle, all lighting and other equipment used in violation of KRS 189.910 to 189.950 shall be confiscated and forfeited to the county in which the offense occurred.
- (8) Any person who violates KRS 189.930 shall be fined not less than sixty dollars (\$60) nor more than five hundred dollars (\$500), or be imprisoned in the county jail for not more than thirty (30) days, or both.

- (9) Any person who violates KRS 189.940 shall be fined not less than sixty dollars (\$60) nor more than one thousand dollars (\$1,000) or be imprisoned in the county jail for not more than six (6) months, or both. In the case of a private vehicle, all lighting and other equipment used in violation of KRS 189.910 to 189.950 shall be confiscated and forfeited to the county in which the offense occurred.
- (10) If a member of a regular or volunteer fire department, ambulance service, or rescue squad violates any provisions of subsection (6) of KRS 189.940, he shall, in addition to any other penalty provided under KRS 189.990 or this section, be immediately dismissed from his membership or employment with the fire department, ambulance service, or rescue squad and shall be disqualified from being employed by or being a member of any fire department, ambulance service, or rescue squad in the Commonwealth for a period of three (3) years. Upon conviction of a second offense he shall be permanently barred from employment or membership in any fire department, ambulance service, rescue squad, police department, or sheriff's office in the Commonwealth, nor shall he be permitted to operate any public safety vehicle as defined in KRS 189.910.
- (11) Any person who violates KRS 189.950 shall be fined not less than one hundred dollars (\$100) nor more than one thousand dollars (\$1,000) or be imprisoned in the county jail for not more than thirty (30) days, or both. In the case of a privately owned vehicle, all lighting and other equipment used or installed in violation of KRS 189.910 to 189.950 shall be confiscated and forfeited to the county in which the offense occurred.
- (12) Any person who violates any provision of this chapter for which no penalty is otherwise provided shall, upon conviction, be fined not less than twenty dollars (\$20) nor more than one hundred dollars (\$100) for each offense, ***except that no penalty shall be assessed for a violation of KRS 189.580(1)(b) or (6)(b).***
- (13) No producer or processor of natural resources shall allow the transporting of natural resources over the highways of the Commonwealth in excess of the weight limits without possessing a resource recovery road hauling permit. Violation for hauling in excess of prescribed limits without possession of a permit or transporting natural resources over prescribed limits of the resource recovery road hauling permit shall be not less than five hundred dollars (\$500) nor more than one thousand dollars (\$1,000) for each violation and shall be deposited in the resource recovery road fund.

**Approved March 30, 2006**

## CHAPTER 111

### (HB 94)

AN ACT relating to mobile and recreational vehicle parks.

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

Section 1. KRS 219.410 is amended to read as follows:

- (1) Nothing in KRS 219.310 to 219.410 shall be construed to include manufactured homes, mobile homes, or recreational vehicles maintained by any persons on their own premises and used exclusively to house their own farm labor.
- (2)
  - (a) ***Nothing in KRS 219.310 to 219.410 shall be construed to apply to manufactured home parks, mobile home parks, or recreational vehicle parks owned and operated on a temporary or seasonal basis by a city, county, charter county, urban-county, or consolidated local government or its agencies.***
  - (b) ***Nothing in KRS 219.310 to 219.410 shall be construed to apply to festivals lasting not more than thirty (30) days that are organized and operated by a city, county, charter county, urban-county, or consolidated local government or its agencies.***
  - (c) ***All installations of manufactured homes and mobile homes shall be performed by an installer certified under the provisions of KRS 227.560 in accordance with the manufacturer's instructions, if available, or ANSI 225.1 Manufactured Home Installations.***

**Became law April 4, 2006, without Governor's signature.**

## CHAPTER 112

## (HB 232)

AN ACT relating to funeral establishments.

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

Section 1. KRS 316.010 is amended to read as follows:

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

- (1) "Apprentice" means a person engaged in learning the practice of embalming or funeral directing who is under the instruction and personal supervision of a Kentucky-licensed embalmer or a Kentucky-licensed funeral director;
- (2) "Board" means the Kentucky Board of Embalmers and Funeral Directors;
- (3) *"Direct burial" means the pick-up, transport, and interment of dead human body or body parts without a funeral;*
- (4) "Embalmer" means a person who preserves, restores, and disinfects dead human bodies by the application of chemical substances either externally or internally, or both;
- (5) *"Embalming service establishment" means a place of business where dead human bodies are embalmed or otherwise prepared or held for burial, including the transportation of the bodies. An embalming service establishment shall not arrange or conduct a funeral or direct burial. An embalming service establishment may arrange for and transport dead human bodies for direct cremation purposes only under the following circumstances:*
  - (a) *On behalf of a full service funeral establishment;*
  - (b) *On behalf of a visitation and ceremonial funeral establishment; or*
  - (c) *At the direction of a coroner;*
- (6) *"Funeral" means the ceremonies or services related to the final disposition and interment of a human body or body parts;*
- (7) *"Full service funeral establishment" means a place of business where dead human bodies may be embalmed or otherwise prepared and held for burial and where funeral services may be arranged, provided, and conducted;*
- (8)~~(4)~~ "Funeral director" means a person who, for profit, engages in or represents himself *or herself* as engaged in the supervision, direction, and arrangement of funeral services, transportation, burials, and disposals of dead human bodies;
- (9)~~(5)~~ "Funeral establishment" *or "establishment"* means:
  - (a) *A full service funeral establishment;*
  - (b) *An embalming service establishment; or*
  - (c) *A visitation and ceremonial funeral service establishment*~~[a place of business where dead human bodies are embalmed or otherwise prepared or held for burial or where funerals are provided];~~
- (10) *"Memorial service" means a ceremony or service held in honor of a deceased human being at which there are no human remains as defined in KRS 367.97501(13) present, and for which no license is required;*
- (11)~~(6)~~ "Person" as used in this chapter includes, but is not limited to, an individual, partnership, firm, association, or corporation;
- (12)~~(7)~~ "In use" means that funeral directing or embalming is taking place in a funeral establishment;
- (13)~~(8)~~ "Courtesy card" means a card that is issued by the board to a funeral director or an embalmer from another state that gives the director or embalmer permission to receive and transport a dead human body to and from Kentucky for a funeral and to conduct funeral services and burials in Kentucky; and

- (14)(9) "Supervision" means responsibility for the professional activities of the funeral establishment that requires a Kentucky-licensed funeral director or a Kentucky-licensed embalmer, as appropriate, to be on the premises when the funeral establishment is in use. If the Kentucky-licensed funeral director or the Kentucky-licensed embalmer is unable to be on the premises due to a reasonable circumstance, then the Kentucky-licensed funeral director or the Kentucky-licensed embalmer shall be within a reasonable proximity to the funeral establishment so that upon contact the funeral director or embalmer is able to immediately return to the funeral establishment.
- (15) *"Visitation and ceremonial funeral service establishment" means a location from which a funeral establishment may provide all services except embalming within either the same or adjoining county as that served by an affiliated full service funeral establishment. The visitation and ceremonial funeral service establishment shall be owned in whole or in part by the affiliated full service funeral establishment, and shall be located sufficiently close to the full service funeral establishment to share administration and services in a manner that renders it unnecessary for the visitation and ceremonial funeral service establishment to independently meet the minimum licensure requirements for a full service funeral establishment. A full service funeral establishment may own and operate more than one visitation and ceremonial funeral service establishment.*

Section 2. KRS 316.125 is amended to read as follows:

- (1) No person shall operate a **full service funeral establishment, a visitation and ceremonial funeral service establishment, or an embalming service establishment** in the Commonwealth of Kentucky without first obtaining **the applicable**~~the applicable~~ establishment license issued by the board.
- (2) The board shall issue **the appropriate**~~the appropriate~~ establishment license to an applicant who:
  - (a) Has paid to the board an establishment license fee, not to exceed two hundred dollars (\$200), as set out in administrative regulations promulgated by the board; and
  - (b) Has filed with the board a sworn statement that sets out the following:
    1. Name of the funeral establishment;
    2. Address of the funeral establishment;
    3. **Type of funeral establishment;**
    4. Owners of the funeral establishment, indicating which owners are licensed by the board; and
    - 5.~~4.~~ Name and address of the Kentucky-licensed embalmer ~~or~~~~and~~ the Kentucky-licensed funeral director who will supervise the funeral establishment pursuant to subsection (4) of this section.
- (3) Each funeral establishment shall be licensed separately from any other funeral establishment.
- (4) Each funeral establishment, when in use, shall be under the supervision of a Kentucky-licensed embalmer or a Kentucky-licensed funeral director.
- (5) A Kentucky-licensed embalmer ~~or~~~~and~~ a Kentucky-licensed funeral director shall not supervise more than one (1) funeral establishment at the same time.
- (6) The funeral establishment shall display in a public place in the establishment its establishment license and the ~~license~~~~licenses~~ of the embalmer ~~or~~~~and~~ funeral director who **supervises**~~supervise~~ the establishment pursuant to subsection (4) of this section.

SECTION 3. A NEW SECTION OF KRS CHAPTER 316 IS CREATED TO READ AS FOLLOWS:

- (1) *A funeral establishment licensed on the effective date of this Act that meets the definition of a full service funeral establishment shall be issued a license as a full service funeral establishment. This license shall be effective until the date that the funeral establishment's former license would have expired. The funeral establishment shall be required to make an application for renewal under this chapter as a full service funeral establishment.*
- (2) *A funeral establishment licensed on the effective date of this Act that meets the definition of an embalming service establishment shall be issued a license for an embalming service establishment. This license shall be effective until the date that the funeral establishment's former license would have expired. The funeral*

*establishment shall be required to make an application for renewal under this chapter as an embalming service establishment.*

- (3) *A funeral establishment licensed on the effective date of this Act that does not meet the definition of a full service funeral establishment or embalming service establishment shall be issued a license for a visitation and ceremonial funeral service establishment. This license shall be renewable as a visitation and ceremonial funeral service establishment license for the entire time of the establishment's existence, subject to the restrictions of subsection (4) of this section, or until the board approves the establishment's application for another type of establishment license.*
- (4) *A visitation and ceremonial funeral service establishment that is licensed as a funeral establishment prior to the effective date of this Act shall be exempt from the requirement of ownership in whole or in part by an affiliated full service funeral establishment. This exemption shall lapse if the visitation and ceremonial funeral service establishment is sold, ceases to exist, or engages in any activity that changes its license.*

**Approved April 3, 2006.**

## **CHAPTER 113**

### **(HB 273)**

AN ACT relating to the Firefighters Foundation Program fund.

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

Section 1. KRS 95A.250 is amended to read as follows:

- (1) Beginning July 1, 1982, an eligible local government shall be entitled to receive annually a supplement of two thousand seven hundred fifty dollars (\$2,750) for each qualified professional firefighter it employs, and beginning on July 1, 1999, an annual supplement of three thousand dollars (\$3,000) for each qualified professional firefighter it employs, plus an amount equal to the required employer's contribution on the supplement to the defined benefit pension plan, or to a plan qualified under Section 401(a) or Section 457 of the Internal Revenue Code of 1954 as amended, provided that the employer's contribution on the supplement to any of these plans shall not exceed that amount which is required of employers under the County Employees Retirement System pursuant to KRS Chapter 78, to which the officer belongs, but no more than the required employer's contribution to the County Employees Retirement System hazardous duty category. In the case of County Employees Retirement System membership, the pension contribution on the supplement shall be paid whether the officer enters the system under hazardous duty coverage or nonhazardous coverage. The local unit of government shall pay the amount received for retirement coverage to the appropriate retirement system to cover the required employer contribution on the pay supplement. Should the foundation program funds be insufficient to pay employer contributions to the system, then the total amount available for pension payments shall be prorated to each eligible government so that each receives the same percentage of required pension costs attributable to the cash salary supplement.
- (2) Each qualified professional firefighter, whose local government receives a supplement pursuant to subsection (1) of this section, shall be paid by that local government the supplement which his qualifications brought to the local government. The supplement paid each qualified firefighter shall be in addition to his regular salary.
- (3) ***Beginning July 1, 2006:***
  - (a) *The Kentucky Community and Technical College System shall be entitled to receive annually a supplement equal to the amount determined in subsection (1) of this section for each Kentucky fire and rescue training coordinator employed by the Kentucky Community and Technical College System who meets the qualifications for individual firefighters required in KRS 95A.230, plus an amount equal to the required employer's contribution on the supplement to the defined benefit pension plan; and*
  - (b) *The Department of Military Affairs shall be entitled to receive annually a supplement equal to the amount determined in subsection (1) of this section for each civilian firefighter employed by the Department of Military Affairs who meets the qualifications for individual firefighters required in KRS 95A.230, plus an amount equal to the required employer's contribution on the supplement to the defined benefit pension plan.*



*Each fire and rescue training coordinator employed by the Kentucky Community and Technical College System and each civilian firefighter employed by the Department of Military Affairs, whose employer receives a supplement pursuant to this subsection, shall be paid by that employer the supplement which his or her qualifications brought to the employer. The supplements paid shall be in addition to his or her regular salary.*

Section 2. KRS 95A.262 is amended to read as follows:

- (1) The Commission on Fire Protection Personnel Standards and Education shall, in cooperation with the Cabinet for Health and Family Services, develop and implement a continuing program to inoculate every paid and volunteer firefighter in Kentucky against hepatitis B. The program shall be funded from revenues allocated to the Firefighters Foundation Program fund pursuant to KRS 136.392 and 42.190. Any fire department which has inoculated its personnel during the period of July 1, 1991 to July 14, 1992, shall be reimbursed from these revenues for its costs incurred up to the amount allowed by the Cabinet for Human Resources for hepatitis B inoculations.
- (2) Except as provided in subsection (3) of this section, the Commission on Fire Protection Personnel Standards and Education shall allot on an annual basis a share of the funds accruing to and appropriated for volunteer fire department aid to volunteer fire departments in cities of all classes, fire protection districts organized pursuant to KRS Chapter 75, county districts established under authority of KRS 67.083, and volunteer fire departments created as nonprofit corporations pursuant to KRS Chapter 273. The commission shall allot eight thousand dollars (\$8,000) annually to each qualifying department, and beginning on July 1, 2001, the commission shall allot eight thousand two hundred fifty dollars (\$8,250) annually to each qualifying department. Any qualifying department which fails to participate satisfactorily in the Kentucky fire incident reporting system as described in KRS 304.13-380 shall forfeit annually five hundred dollars (\$500) of its allotment. If two (2) or more qualified volunteer fire departments, as defined in KRS 95A.500 to 95A.560, merge after January 1, 2000, then the allotment shall be in accordance with the provisions of KRS 95A.500 to 95A.560. The commission shall recommend to the executive director of the Office of Housing, Buildings and Construction the promulgation of administrative regulations in accordance with the provisions of KRS Chapter 13A to define satisfactory participation in the Kentucky fire incident reporting system. Administrative regulations for determining qualifications shall be based on the number of both paid firefighters and volunteer firemen within a volunteer fire department, the amount of equipment, housing facilities available, and such other matters or standards as will best effect the purposes of the volunteer fire department aid law. A qualifying department shall include at least twelve (12) firefighters, a chief, and at least one (1) operational fire apparatus or one (1) on order. Fifty percent (50%) of the firefighters shall have completed at least one-half (1/2) of one hundred fifty (150) training hours toward certification within the first six (6) months of the first year of the department's application for certification, and there shall be a plan to complete the one hundred fifty (150) training hours within the second year. These personnel, equipment, and training requirements shall not be made more stringent by the promulgation of administrative regulations. No allotment shall exceed the total value of the funds, equipment, lands, and buildings made available to the local fire units from any source whatever for the year in which the allotment is made. A portion of the funds provided for above may be used to purchase group or blanket health insurance and shall be used to purchase workers' compensation insurance, and the remaining funds shall be distributed as set forth in this section.
- (3) There shall be allotted two hundred thousand dollars (\$200,000) of the insurance premium surcharge proceeds accruing to the Firefighters Foundation Program fund that shall be allocated each fiscal year of the biennium to the firefighters training center fund, which is hereby created and established, for the purposes of constructing new or upgrading existing training centers for firefighters. If any moneys in the training center fund remain uncommitted, unobligated, or unexpended at the close of the first fiscal year of the biennium, then such moneys shall be carried forward to the second fiscal year of the biennium, and shall be reallocated to and for the use of the training center fund, in addition to the second fiscal year's allocation of two hundred thousand dollars (\$200,000). Prior to funding any project pursuant to this subsection, a proposed project shall be approved by the Commission on Fire Protection Personnel Standards and Education as provided in subsection (4) of this section and shall comply with state laws applicable to capital construction projects.
- (4) Applications for funding low-interest loans and firefighters' training centers shall be submitted to the Commission on Fire Protection Personnel Standards and Education for their recommendation, approval, disapproval, or modification. The commission shall review applications periodically, and shall, subject to

funds available, recommend which applications shall be funded and at what levels, together with any terms and conditions the commission deems necessary.

- (5) Any department or entity eligible for and receiving funding pursuant to this section shall have a minimum of fifty percent (50%) of its personnel certified as recognized by the Commission on Fire Protection Personnel Standards and Education.
- (6) Upon the written request of any department, the Commission on Fire Protection Personnel Standards and Education shall make available a certified training program in a county of which such department is located.
- (7) The amount of reimbursement for any given year for costs incurred by the Kentucky Community and Technical College System for administering these funds, including, but not limited to, the expenses and costs of commission operations, shall be determined by the commission and shall not exceed five percent (5%) of the total amount of moneys accruing to the Firefighters Foundation Program fund which are allotted for the purposes specified in this section during any fiscal year.
- (8) The commission shall withhold from the general distribution of funds under subsection (2) of this section an amount which it deems sufficient to reimburse volunteer fire departments for equipment lost or damaged beyond repair due to hazardous material incidents.
- (9) Moneys withheld pursuant to subsection (8) of this section shall be distributed only under the following terms and conditions:
  - (a) A volunteer fire department has lost or damaged beyond repair items of personal protective clothing or equipment due to that equipment having been lost or damaged as a result of an incident in which a hazardous material (as defined in any state or federal statute or regulation) was the causative agent of the loss;
  - (b) The volunteer fire department has made application in writing to the commission for reimbursement in a manner approved by the commission and the loss and the circumstances thereof have been verified by the commission;
  - (c) The loss of or damage to the equipment has not been reimbursed by the person responsible for the hazardous materials incident or by any other person;
  - (d) The commission has determined that the volunteer fire department does not have the fiscal resources to replace the equipment;
  - (e) The commission has determined that the equipment sought to be replaced is immediately necessary to protect the lives of the volunteer firefighters of the fire department;
  - (f) The fire department has agreed in writing to subrogate all claims for and rights to reimbursement for the lost or damaged equipment to the Commonwealth to the extent that the Commonwealth provides reimbursement to the department; and
  - (g) The department has shown to the satisfaction of the commission that it has made reasonable attempts to secure reimbursement for its losses from the person responsible for the hazardous materials incident and has been unsuccessful in the effort.
- (10) If a volunteer fire department has met all of the requirements of subsection (9) of this section, the commission may authorize a reimbursement of equipment losses not exceeding ten thousand dollars (\$10,000) or the actual amount of the loss, whichever is less.
- (11) Moneys which have been withheld during any fiscal year which remain unexpended at the end of the fiscal year shall be distributed in the normal manner required by subsection (2) of this section during the following fiscal year.
- (12) No volunteer fire department may receive funding for equipment losses more than once during any fiscal year.
- (13) The commission shall make reasonable efforts to secure reimbursement from the responsible party for any moneys awarded to a fire department pursuant to this section.
- (14) There shall be allotted each year of the 1992-93 biennium one million dollars (\$1,000,000), and each year of the 1994-95, 1996-97, 1998-99, and 2000-01 bienniums one million dollars (\$1,000,000) of the insurance premium surcharge proceeds accruing to the Firefighters Foundation Program fund for the purpose of creating a revolving low-interest loan fund, which shall thereafter be self-sufficient and derive its operating revenues

from principal and interest payments. The commission, in accordance with the procedures in subsection (4) of this section, may make low-interest loans, and the interest thereon shall not exceed three percent (3%) annually or the amount needed to sustain operating expenses of the loan fund, whichever is less, to volunteer fire departments for the purposes of major equipment purchases and facility construction. Loans shall be made to departments which achieve the training standards necessary to qualify for volunteer fire department aid allotted pursuant to subsection (2) of this section, and which do not have other sources of funds at rates which are favorable given their financial resources. The proceeds of loan payments shall be returned to the loan fund for the purpose of providing future loans. If a department does not make scheduled loan payments, the commission may withhold any grants payable to the department pursuant to subsection (2) of this section until the department is current on its payments. Money in the low-interest loan fund shall be used only for the purposes specified in this subsection. Any funds remaining in the fund at the end of a fiscal year shall be carried forward to the next fiscal year for the purposes of the fund.

- (15) For fiscal year 2004-2005 and each fiscal year thereafter, there is allotted one million dollars (\$1,000,000) from the fund established in KRS 95A.220 to be used by the commission to conduct training-related activities.
- (16) *If funding is available from the fund established in KRS 95A.220, the Commission on Fire Protection Personnel Standards and Education may implement the following:*
  - (a) *A program to prepare emergency service personnel for handling potential man-made and non-man-made threats. The commission shall work in conjunction with the fire marshal's office and other appropriate agencies and associations to identify and make maps of gas transmission and hazardous liquids pipelines in the state;*
  - (b) *A program to provide and maintain a mobile test facility in each training region established by the Commission on Fire Protection Personnel Standards and Education with equipment to administer Comprehensive Physical Aptitude Tests (CPAT) to ascertain a firefighter's ability to perform the physical requirements necessary to be an effective and safe firefighter;*
  - (c) *A program to provide defensive driving training tactics to firefighters. The commission shall purchase, instruct in the use of, and maintain mobile equipment in each of the training regions, and fund expenses related to equipment replacement;*
  - (d) *A program to annually evaluate equipment adequacy and to provide for annual physical examinations for instructors, adequate protective clothing and personal equipment to meet NFPA guidelines and to establish procedures for replacing this equipment as needed;*
  - (e) *A program to establish a rotational expansion and replacement program for mobile fleet equipment currently used for training and recertification of fire departments;*
  - (f) *A program to expand and update current EMS, first responder, EMT, and paramedic training and certification instruction; and*
  - (g) *A program to purchase thermal vision devices to comply with the provisions of KRS 95A.400 to 95A.440.*

Section 3. KRS 95A.280 is amended to read as follows:

Each eligible local government, *the Kentucky Community and Technical College System, and the Department of Military Affairs* shall submit reports to the commission on fire protection on June 30, September 30, December 31, and March 31 of each year containing information relative to number, rank, education, training and compensation of firefighters *and fire and rescue training coordinators* in their jurisdictions and the disposition made of any state or other funds received pursuant to KRS 95A.200 to 95A.300.

Approved April 3, 2006.

## CHAPTER 114

(HB 568)

AN ACT relating to cooperatives.

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

Section 1. KRS 279.020 is amended to read as follows:

Any three (3) or more individuals, partnerships, associations or private corporations a majority of whom are citizens of Kentucky, may ***by executing, filing, and recording articles of incorporation as provided in KRS 279.030 and 279.040*** organize to conduct ~~a[an electric generation, transmission, distribution or service]~~ nonprofit cooperative corporation ***for the:***

- (1) ***Primary purpose of generating, purchasing, selling, transmitting, or distributing electric energy to any individual or entity, and providing any good or service related to generating, purchasing, selling, transmitting, or distributing electric energy to any individual or entity; and***
- (2) ***If the cooperative desires, for the secondary purpose of engaging in any other lawful business or activity provided that any nonregulated business or activity is conducted through an affiliate, except for any business or activity which does not involve the sale of a product that is conducted pursuant to a contract with a federal military installation or a contract for administrative services which does not involve the sale of a product requested by a local, state or federal government***~~[to produce, transmit, distribute or furnish energy to any person or corporation and/or to provide electrical devices, wiring and equipment and any services that are requested or deemed advisable or desirable to operate a utility, by executing, filing and recording articles of incorporation as provided in KRS 279.030 and 279.040].~~

Section 2. KRS 279.110 is amended to read as follows:

Any corporation created under this chapter may:

- (1) Acquire and hold any property necessary or incidental to the proper conduct of its business, including preferred stock and common stock or other corporations whether formed under this chapter or not, and the stock of any federal agency, and may pay for any such property in cash, property or on credit, or both, and secure and procure payment of all or any part of the purchase price thereof on such terms and conditions as its board of directors determines.
- (2) Acquire, own, operate, maintain and improve one or more systems.
- (3) Pledge all or part of its revenue or mortgage or encumber all or any part of its property for the purpose of securing the payment of the principal and interest of any of its obligations.
- (4) Have and exercise the right of eminent domain in the manner provided in the Eminent Domain Act of Kentucky.
- (5) Construct, own, lease, operate and control any facilities across, along or under any street or public highway, and over any lands belonging to this state or to any county, city or political subdivision of this state, but shall restore any such street or highway to its former condition as nearly as possible and shall not use it in such a manner as to impair unnecessarily its usefulness.
- (6) Accept gifts and grants of money or property from this state, any county, city or political subdivision of this state, any federal agency, or any other person, and accept voluntary and uncompensated services.
- (7) Make any contract necessary or convenient for the full exercise of the powers granted by this chapter, or for any other corporate purpose, subject to any limitations imposed by this chapter.
- (8) Sell, lease or dispose of all or any part of its property, subject to the provisions of KRS 279.140.
- (9) Contract debts, borrow money without limitation as to the amount of corporate indebtedness or liability, and issue or assume obligations.
- (10) Fix and collect reasonable rates and charges for services, subject to the provisions of KRS Chapter 278.
- (11) Assist its members in wiring their premises for the use of electric energy and in purchasing electrical equipment, appliances and supplies, and in financing such activities.
- (12) (a) ***Establish affiliates to engage in nonregulated businesses or activities as provided for in Section 1 of this Act.***  
 (b) ***A cooperative formed under this chapter shall annually report, to its member-owners, the nature of the nonregulated business or activity, its financial status and future expectations, as well as any other information deemed appropriate by its board of directors. The cooperative shall file with the Public Service Commission a balance sheet and income statement for each nonregulated business or***

*activity, if the cooperative has established a separate affiliate to engage in nonregulated business or activity.*

- (c) *If the cooperative's nonregulated activities are conducted within the cooperative pursuant to a contract with a federal military installation or a local, state, or federal government as provided for in Section 1 of this Act, a balance sheet and statement of revenues and expenses for each nonregulated business or activity shall be filed with the Public Service Commission.*
  - (d) *The information to be filed with the Public Service Commission shall be filed simultaneously with the Public Service Commission annual report. The cooperative may request confidentiality for any information it provides as required in this subsection that it deems proprietary or competitive.*
- (13) Do anything not specifically set forth in this section that is reasonably deemed necessary, proper or convenient for the accomplishment of the purposes of the corporation and is not prohibited by law.

Section 3. KRS 278.2215 is amended to read as follows:

The provisions of KRS 278.2201 to 278.2213 and KRS 278.2215 and 278.2219 shall not apply to telecommunications utilities, telecommunications services, nonprofit water or sewer utilities, or water districts. ~~Utilities organized under KRS Chapter 279 shall be exempt from KRS 278.2213.~~

**Approved April 3, 2006.**

## CHAPTER 115

(HB 55)

AN ACT relating to smoking.

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

Section 1. KRS 61.165 is amended to read as follows:

- (1) Except as otherwise specified for the Capitol and Capitol Annex in KRS 61.167, a policy for smoking in governmental office buildings or workplaces ~~shall~~~~may~~ be adopted by state *government. This policy shall apply to all state-owned or operated office buildings, workplaces, and facilities, including but not limited to state-operated hospitals and residential facilities for the mentally retarded, state-operated veterans' nursing homes and health facilities, and any correctional facility owned, operated, or under the jurisdiction of the state*~~county, municipal, special district, or urban-county governments~~.
- (2)~~(1)~~ Except as otherwise specified for the Capitol and Capitol Annex in KRS 61.167, any policy relating to smoking in state office buildings or workplaces shall~~be~~
  - ~~(a)~~ be by executive order of the Governor or action of the General Assembly, *and shall:*
    - (a) ~~1. (b)~~ Require the governmental authority to provide accessible indoor smoking areas in any buildings where smoking is otherwise restricted; and
    - ~~2. (c)~~ Favor allowing smoking in open public areas where ventilation and air exchange are adequate and there are no restrictions otherwise placed on the area by the state fire marshal or other similar authority; *or*
  - (b) *Prohibit indoor smoking.*
- (3)~~(2)~~ *Except as otherwise specified for the Capitol and Capitol Annex in KRS 61.167, a policy for smoking in governmental office buildings or workplaces may be adopted by county, municipal, special district, urban-county, charter county, or consolidated local governments. Any policy adopted under this subsection may apply to any office buildings, workplaces, or facilities that are owned, operated, or under the jurisdiction of that government, including but not limited to jails and detention facilities. Any policy relating to smoking in governmental office buildings or workplaces of counties, municipalities, special districts,*~~or urban-county governments~~*, charter county governments, or consolidated local governments shall*~~be~~
  - ~~(a)~~ be adopted *in writing* by the legislative body of the government *and shall:*
    - (a) ~~1. (b)~~ *Be in writing;*

- ~~(e)}~~ Require the government authority to provide accessible indoor smoking areas in any buildings where smoking is otherwise restricted; and
- 2.~~[(d)]~~ Favor allowing smoking in open public areas where ventilation and air exchange are adequate and there are no restrictions otherwise placed on the area by the state fire marshal or other similar authority; *or*
- (b) *Prohibit indoor smoking.*
- (4) *Each board of regents or trustees for each of the state postsecondary education institutions shall adopt a written policy relating to smoking in all buildings owned, operated, or under the jurisdiction of the state postsecondary education institutions that shall:*
  - (a) 1. *Provide accessible indoor smoking areas in any buildings where smoking is otherwise restricted; and*
  - 2. *Favor allowing smoking in open public areas where ventilation and air exchange are adequate and there are no restrictions otherwise placed on the area by the state fire marshal or other similar authority; or*
  - (b) *Prohibit indoor smoking.*
- ~~[(3)] This section shall not apply to state universities, state operated hospitals and residential facilities for the mentally ill and the mentally retarded, state operated veterans' nursing homes and health facilities, and jails or detention facilities.]~~

Approved April 4, 2006.

## CHAPTER 116

(HB 67)

AN ACT relating to substances in the body.

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

SECTION 1. A NEW SECTION OF KRS CHAPTER 72 IS CREATED TO READ AS FOLLOWS:

*The Division of Kentucky State Medical Examiners Office and its laboratory services shall prepare an annual report to the secretary of the Justice Cabinet which includes the number of drug-related deaths, the counties in which those deaths occurred, and the major categories or generic names of the drugs involved.*

Section 2. KRS 189A.105 is amended to read as follows:

- (1) A person's refusal to submit to tests under KRS 189A.103 shall result in revocation of his driving privilege as provided in this chapter.
- (2) (a) At the time a breath, blood, or urine test is requested, the person shall be informed:
  - 1. That, if the person refuses to submit to such tests, the fact of this refusal may be used against him in court as evidence of violating KRS 189A.010 and will result in revocation of his driver's license, and if the person refuses to submit to the tests and is subsequently convicted of violating KRS 189A.010(1) then he will be subject to a mandatory minimum jail sentence which is twice as long as the mandatory minimum jail sentence imposed if he submits to the tests, and that if the person refuses to submit to the tests he will be unable to obtain a hardship license; and
  - 2. That, if a test is taken, the results of the test may be used against him in court as evidence of violating KRS 189A.010(1), and that if the results of the test are 0.18 or above and the person is subsequently convicted of violating KRS 189A.010(1), then he will be subject to a sentence that is twice as long as the mandatory minimum jail sentence imposed if the results are less than 0.18; and
  - 3. That if the person first submits to the requested alcohol and substance tests, the person has the right to have a test or tests of his blood performed by a person of his choosing described in KRS 189A.103 within a reasonable time of his arrest at the expense of the person arrested.

- (b) Nothing in this subsection shall be construed to prohibit a judge of a court of competent jurisdiction from issuing a search warrant or other court order requiring a blood or urine test, or a combination thereof, of a defendant charged with a violation of KRS 189A.010, or other statutory violation arising from the incident, when a person is killed or suffers physical injury, as defined in KRS 500.080, as a result of the incident in which the defendant has been charged. ***However, if the incident involves a motor vehicle accident in which there was a fatality, the investigating peace officer shall seek such a search warrant for blood, breath, or urine testing unless the testing has already been done by consent. If testing done pursuant to a warrant reveals the presence of alcohol or any other substance that impaired the driving ability of a person who is charged with and convicted of an offense arising from the accident, the sentencing court shall require, in addition to any other sentencing provision, that the defendant make restitution to the state for the cost of the testing.***
- (3) During the period immediately preceding the administration of any test, the person shall be afforded an opportunity of at least ten (10) minutes but not more than fifteen (15) minutes to attempt to contact and communicate with an attorney and shall be informed of this right. Inability to communicate with an attorney during this period shall not be deemed to relieve the person of his obligation to submit to the tests and the penalties specified by KRS 189A.010 and 189A.107 shall remain applicable to the person upon refusal. Nothing in this section shall be deemed to create a right to have an attorney present during the administration of the tests, but the person's attorney may be present if the attorney can physically appear at the location where the test is to be administered within the time period established in this section.
- (4) Immediately following the administration of the final test requested by the officer, the person shall again be informed of his right to have a test or tests of his blood performed by a person of his choosing described in KRS 189A.103 within a reasonable time of his arrest at the expense of the person arrested. He shall then be asked "Do you want such a test?" The officer shall make reasonable efforts to provide transportation to the tests.

**Approved April 4, 2006.**

## **CHAPTER 117**

### **(HB 112)**

AN ACT relating to establishment of an interstate compact to regulate designated insurance products.

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

SECTION 1. SUBTITLE 50 OF KRS CHAPTER 304 IS ESTABLISHED AND A NEW SECTION THEREOF IS CREATED TO READ AS FOLLOWS:

#### ***Interstate Insurance Product Regulation Compact***

***Pursuant to terms and conditions of this Act, the Commonwealth of Kentucky seeks to join with other states and establish the Interstate Insurance Product Regulation Compact, and thus become a member of the Interstate Insurance Product Regulation Commission. The commissioner of insurance, or his or her designee, is hereby designated to serve as the representative of this state to the commission.***

#### **ARTICLE I**

***The purposes of this compact are, through means of joint and cooperative action among the compacting states:***

- (1) To promote and protect the interest of consumers of individual and group annuity, life insurance, disability income, and long-term care insurance products;***
- (2) To develop uniform standards for insurance products covered under the compact;***
- (3) To establish a central clearinghouse to receive and provide prompt review of insurance products covered under the compact and, in certain cases, advertisements related thereto, submitted by insurers authorized to do business in one or more compacting states;***
- (4) To give appropriate regulatory approval to those product filings and advertisements satisfying the applicable uniform standard;***

- (5) *To improve coordination of regulatory resources and expertise between state insurance departments regarding the setting of uniform standards and review of insurance products covered under the compact;*
- (6) *To create the Interstate Insurance Product Regulation Commission; and*
- (7) *To perform these and such other related functions as may be consistent with the state regulation of the business of insurance.*

## ARTICLE II

*For purposes of this compact:*

- (1) *"Advertisement" means any material designed to create public interest in a product, or induce the public to purchase, increase, modify, reinstate, borrow on, surrender, replace, or retain a policy, as more specifically defined in the rules and operating procedures of the commission;*
- (2) *"Bylaws" mean those bylaws established by the commission for its governance, or for directing or controlling the commission's actions or conduct;*
- (3) *"Compacting state" means any state which has enacted this compact legislation and which has not withdrawn pursuant to Article XIV, Section (1), or been terminated pursuant to Article XIV, Section (2);*
- (4) *"Commission" means the Interstate Insurance Product Regulation Commission established by this compact;*
- (5) *"Commissioner" means the chief insurance regulatory official of a state including, but not limited to commissioner, superintendent, director, or administrator;*
- (6) *"Domiciliary state" means the state in which an insurer is incorporated or organized; or, in the case of an alien insurer, its state of entry;*
- (7) *"Insurer" means any entity licensed by a state to issue contracts of insurance for any of the lines of insurance covered by this Act;*
- (8) *"Member" means the person chosen by a compacting state as its representative to the commission, or his or her designee;*
- (9) *"Non-compacting state" means any state which is not at the time a compacting state;*
- (10) *"Operating procedures" mean procedures promulgated by the commission implementing a rule, uniform standard or a provision of this compact;*
- (11) *"Product" means the form of a policy or contract, including any application, endorsement, or related form which is attached to and made a part of the policy or contract, and any evidence of coverage or certificate, for an individual or group annuity, life insurance, disability income, or long-term care insurance product that an insurer is authorized to issue;*
- (12) *"Rule" means a statement of general or particular applicability and future effect promulgated by the commission, including a uniform standard developed pursuant to Article VII of this compact, designed to implement, interpret, or prescribe law or policy or describing the organization, procedure, or practice requirements of the commission, which shall have the force and effect of law in the compacting states;*
- (13) *"State" means any state, district, or territory of the United States of America;*
- (14) *"Third-party filer" means an entity that submits a product filing to the commission on behalf of an insurer; and*
- (15) *"Uniform standard" means a standard adopted by the commission for a product line, pursuant to Article VII of this compact, and shall include all of the product requirements in aggregate; provided, that each uniform standard shall be construed, whether express or implied, to prohibit the use of any inconsistent, misleading or ambiguous provisions in a product and the form of the product made available to the public shall not be unfair, inequitable, or against public policy as determined by the commission.*

## ARTICLE III

- (1) *The compacting states hereby create and establish a joint public agency known as the Interstate Insurance Product Regulation Commission. Pursuant to Article IV, the commission will have the power to develop uniform standards for product lines, receive and provide prompt review of products filed therewith, and give approval to those product filings satisfying applicable uniform standards; provided, it is not intended for the*



*commission to be the exclusive entity for receipt and review of insurance product filings. Nothing herein shall prohibit any insurer from filing its product in any state wherein the insurer is licensed to conduct the business of insurance; and any such filing shall be subject to the laws of the state where filed.*

- (2) *The commission is a body corporate and politic, and an instrumentality of the compacting states.*
- (3) *The commission is solely responsible for its liabilities except as otherwise specifically provided in this compact.*
- (4) *Venue is proper and judicial proceedings by or against the commission shall be brought solely and exclusively in a court of competent jurisdiction where the principal office of the commission is located.*

#### ARTICLE IV

*The commission shall have the following powers:*

- (1) *To promulgate rules, pursuant to Article VII of this compact, which shall have the force and effect of law and shall be binding in the compacting states to the extent and in the manner provided in this compact;*
- (2) *To exercise its rule-making authority and establish reasonable uniform standards for products covered under the compact, and advertisement related thereto, which shall have the force and effect of law and shall be binding in the compacting states, but only for those products filed with the commission, provided, that a compacting state shall have the right to opt out of such uniform standard pursuant to Article VII, to the extent and in the manner provided in this compact, and, provided further, that any uniform standard established by the commission for long-term care insurance products may provide the same or greater protections for consumers as, but shall not provide less than, those protections set forth in the National Association of Insurance Commissioners' (NAIC) Long-Term Care Insurance Model Act and Long-Term Care Insurance Model Regulation, respectively, adopted as of 2001. The commission shall consider whether any subsequent amendments to the National Association of Insurance Commissioners' Long-Term Care Insurance Model Act or Long-Term Care Insurance Model Regulation adopted by the National Association of Insurance Commissioners require amending of the uniform standards established by the commission for long-term care insurance products;*
- (3) *To receive and review in an expeditious manner products filed with the commission, and rate filings for disability income and long-term care insurance products, and give approval of those products and rate filings that satisfy the applicable uniform standard, where such approval shall have the force and effect of law and be binding on the compacting states to the extent and in the manner provided in the compact;*
- (4) *To receive and review in an expeditious manner advertisement relating to long-term care insurance products for which uniform standards have been adopted by the commission, and give approval to all advertisement that satisfies the applicable uniform standard. For any product covered under this compact, other than long-term care insurance products, the commission shall have the authority to require an insurer to submit all or any part of its advertisement with respect to that product for review or approval prior to use, if the commission determines that the nature of the product is such that an advertisement of the product could have the capacity or tendency to mislead the public. The actions of commission as provided in this section shall have the force and effect of law and shall be binding in the compacting states to the extent and in the manner provided in the compact;*
- (5) *To exercise its rule-making authority and designate products and advertisement that may be subject to a self-certification process without the need for prior approval by the commission;*
- (6) *To promulgate operating procedures, pursuant to Article VII of this compact, which shall be binding in the compacting states to the extent and in the manner provided in this compact;*
- (7) *To bring and prosecute legal proceedings or actions in its name as the commission; provided, that the standing of any state insurance department to sue or be sued under applicable law shall not be affected;*
- (8) *To issue subpoenas requiring the attendance and testimony of witnesses and the production of evidence;*
- (9) *To establish and maintain offices;*
- (10) *To purchase and maintain insurance and bonds;*
- (11) *To borrow, accept or contract for services of personnel, including, but not limited to, employees of a compacting state;*

- (12) *To hire employees, professionals, or specialists, and elect or appoint officers, and to fix their compensation, define their duties, and give them appropriate authority to carry out the purposes of the compact, and determine their qualifications; and to establish the commission's personnel policies and programs relating to, among other things, conflicts of interest, rates of compensation, and qualifications of personnel;*
- (13) *To accept any and all appropriate donations, and grants of money, equipment, supplies, materials, and services, and to receive, utilize, and dispose of the same; provided that at all times the commission shall strive to avoid any appearance of impropriety;*
- (14) *To lease, purchase, accept appropriate gifts or donations of, or otherwise to own, hold, improve or use, any property, real, personal or mixed; provided that at all times the commission shall strive to avoid any appearance of impropriety;*
- (15) *To sell, convey, mortgage, pledge, lease, exchange, abandon, or otherwise dispose of any property, real, personal or mixed;*
- (16) *To remit filing fees to compacting states as may be set forth in the bylaws, rules, or operating procedures;*
- (17) *To enforce compliance by compacting states with rules, uniform standards, operating procedures, and bylaws;*
- (18) *To provide for dispute resolution among compacting states;*
- (19) *To advise compacting states on issues relating to insurers domiciled or doing business in non-compacting jurisdictions, consistent with the purposes of this compact;*
- (20) *To provide advice and training to those personnel in state insurance departments responsible for product review, and to be a resource for state insurance departments;*
- (21) *To establish a budget and make expenditures;*
- (22) *To borrow money;*
- (23) *To appoint committees, including advisory committees comprising members, state insurance regulators, state legislators or their representatives, insurance industry and consumer representatives, and such other interested persons as may be designated in the bylaws;*
- (24) *To provide and receive information from, and to cooperate with, law enforcement agencies;*
- (25) *To adopt and use a corporate seal; and*
- (26) *To perform such other functions as may be necessary or appropriate to achieve the purposes of this compact consistent with the state regulation of the business of insurance.*

#### ARTICLE V

##### (1) *Membership, Voting and Bylaws.*

- (a) *Each compacting state shall have and be limited to one (1) member. Each member shall be qualified to serve in that capacity pursuant to applicable law of the compacting state. Any member may be removed or suspended from office as provided by the law of the state from which he or she shall be appointed. Any vacancy occurring in the commission shall be filled in accordance with the laws of the compacting state wherein the vacancy exists. Nothing herein shall be construed to affect the manner in which a compacting state determines the election or appointment and qualification of its own commissioner.*
- (b) *Each member shall be entitled to one (1) vote and shall have an opportunity to participate in the governance of the commission in accordance with the bylaws. Notwithstanding any provision herein to the contrary, no action of the commission with respect to the promulgation of a uniform standard shall be effective unless two-thirds (2/3) of the members vote in favor thereof.*
- (c) *The commission shall, by a majority of the members, prescribe bylaws to govern its conduct as may be necessary or appropriate to carry out the purposes, and exercise the powers, of the compact, including, but not limited to:*
  - 1. *Establishing the fiscal year of the commission;*
  - 2. *Providing reasonable procedures for appointing and electing members, as well as holding meetings, of the management committee;*

3. *Providing reasonable standards and procedures:*
    - a. *For the establishment and meetings of other committees; and*
    - b. *Governing any general or specific delegation of any authority or function of the commission;*
  4. *Providing reasonable procedures for calling and conducting meetings of the commission that consists of a majority of commission members, ensuring reasonable advance notice of each such meeting and providing for the right of citizens to attend each such meeting with enumerated exceptions designed to protect the public's interest, the privacy of individuals, and insurers' proprietary information, including trade secrets. The commission may meet in camera only after a majority of the entire membership votes to close a meeting in total or in part. As soon as practicable, the commission must make public:*
    - a. *A copy of the vote to close the meeting revealing the vote of each member with no proxy votes allowed; and*
    - b. *Votes taken during such meeting;*
  5. *Establishing the titles, duties and authority and reasonable procedures for the election of the officers of the commission;*
  6. *Providing reasonable standards and procedures for the establishment of the personnel policies and programs of the commission. Notwithstanding any civil service or other similar laws of any compacting state, the bylaws shall exclusively govern the personnel policies and programs of the commission;*
  7. *Promulgating a code of ethics to address permissible and prohibited activities of commission members and employees; and*
  8. *Providing a mechanism for winding up the operations of the commission and the equitable disposition of any surplus funds that may exist after the termination of the compact after the payment and/or reserving of all of its debts and obligations.*
- (d) *The commission shall publish its bylaws in a convenient form and file a copy thereof and a copy of any amendment thereto, with the appropriate agency or officer in each of the compacting states.*
- (2) *Management Committee, Officers and Personnel.*
- (a) *A management committee comprising no more than fourteen (14) members shall be established as follows:*
    1. *One (1) member from each of the six (6) compacting states with the largest premium volume for individual and group annuities, life, disability income and long-term care insurance products, determined from the records of the National Association of Insurance Commissioners for the prior year;*
    2. *Four (4) members from those compacting states with at least two percent (2%) of the market based on the premium volume described above, other than the six (6) compacting states with the largest premium volume, selected on a rotating basis as provided in the bylaws; and*
    3. *Four (4) members from those compacting states with less than two percent (2%) of the market, based on the premium volume described above, with one (1) selected from each of the four (4) zone regions of the National Association of Insurance Commissioners as provided in the bylaws.*
  - (b) *The management committee shall have such authority and duties as may be set forth in the bylaws, including but not limited to:*
    1. *Managing the affairs of the commission in a manner consistent with the bylaws and purposes of the commission;*
    2. *Establishing and overseeing an organizational structure within, and appropriate procedures for, the commission to provide for the creation of uniform standards and other rules, receipt and review of product filings, administrative and technical support functions, review of*

*decisions regarding the disapproval of a product filing, and the review of elections made by a compacting state to opt out of a uniform standard; provided that a uniform standard shall not be submitted to the compacting states for adoption unless approved by two-thirds (2/3) of the members of the management committee;*

3. *Overseeing the offices of the commission; and*
  4. *Planning, implementing, and coordinating communications and activities with other state, federal, and local government organizations in order to advance the goals of the commission.*
- (c) *The commission shall elect annually officers from the management committee, with each having such authority and duties, as may be specified in the bylaws.*
  - (d) *The management committee may, subject to the approval of the commission, appoint or retain an executive director for such period, upon such terms and conditions and for such compensation as the commission may deem appropriate. The executive director shall serve as secretary to the commission, but shall not be a member of the commission. The executive director shall hire and supervise such other staff as may be authorized by the commission.*
- (3) *Legislative and Advisory Committees.*
- (a) *A legislative committee comprising state legislators or their designees shall be established to monitor the operations of, and make recommendations to, the commission, including the management committee; provided that the manner of selection and term of any legislative committee member shall be as set forth in the bylaws. Prior to the adoption by the commission of any uniform standard, revision to the bylaws, annual budget or other significant matter as may be provided in the bylaws, the management committee shall consult with and report to the legislative committee.*
  - (b) *The commission shall establish two (2) advisory committees, one (1) of which shall comprise consumer representatives independent of the insurance industry, and the other comprising insurance industry representatives.*
  - (c) *The commission may establish additional advisory committees as its bylaws may provide for the carrying out of its functions.*
- (4) *Corporate Records of the Commission. The commission shall maintain its corporate books and records in accordance with the bylaws.*
- (5) *Qualified Immunity, Defense and Indemnification.*
- (a) *The members, officers, executive director, employees, and representatives of the commission shall be immune from suit and liability, either personally or in their official capacity, for any claim for damage to or loss of property or personal injury or other civil liability caused by or arising out of any actual or alleged act, error, or omission that occurred, or that the person against whom the claim is made had a reasonable basis for believing occurred within the scope of commission employment, duties, or responsibilities; provided, that nothing in this paragraph shall be construed to protect any such person from suit or liability for any damage, loss, injury, or liability caused by the intentional or willful and wanton misconduct of that person.*
  - (b) *The commission shall defend any member, officer, executive director, employee, or representative of the commission in any civil action seeking to impose liability arising out of any actual or alleged act, error, or omission that occurred within the scope of commission employment, duties, or responsibilities, or that the person against whom the claim is made had a reasonable basis for believing occurred within the scope of commission employment, duties, or responsibilities; provided, that nothing herein shall be construed to prohibit that person from retaining his or her own counsel; and provided further, that the actual or alleged act, error, or omission did not result from that person's intentional or willful and wanton misconduct.*
  - (c) *The commission shall indemnify and hold harmless any member, officer, executive director, employee, or representative of the commission for the amount of any settlement or judgment obtained against that person arising out of any actual or alleged act, error, or omission that occurred within the scope of commission employment, duties, or responsibilities, or that such person had a reasonable basis for believing occurred within the scope of commission employment, duties, or responsibilities; provided, that the actual or alleged act, error, or omission did not result from the intentional or willful and wanton misconduct of that person.*

## ARTICLE VI

- (1) *The commission shall meet and take such actions as are consistent with the provisions of this compact and the bylaws.*
- (2) *Each member of the commission shall have the right and power to cast a vote to which that compacting state is entitled and to participate in the business and affairs of the commission. A member shall vote in person or by such other means as provided in the bylaws. The bylaws may provide for members' participation in meetings by telephone or other means of communication.*
- (3) *The commission shall meet at least once during each calendar year. Additional meetings shall be held as set forth in the bylaws.*

## ARTICLE VII

- (1) *Rulemaking Authority. The commission shall promulgate reasonable rules, including uniform standards, and operating procedures in order to effectively and efficiently achieve the purposes of this compact. Notwithstanding the foregoing, in the event the commission exercises its rulemaking authority in a manner that is beyond the scope of the purposes of this Act, or the powers granted hereunder, then such an action by the commission shall be invalid and have no force and effect.*
- (2) *Rulemaking Procedure, Rules, and Operating Procedures. Rulemaking procedure, rules, and operating procedures shall be made pursuant to a rulemaking process that conforms to the Model State Administrative Procedure Act of 1981 as amended, as may be appropriate to the operations of the commission. Before the commission adopts a uniform standard, the commission shall give written notice to the relevant state legislative committee in each compacting state responsible for insurance issues of its intention to adopt the uniform standard. The commission in adopting a uniform standard shall consider fully all submitted materials and issue a concise explanation of its decision.*
- (3) *Effective Date and Opt Out of a Uniform Standard. A uniform standard shall become effective ninety (90) days after its promulgation by the commission or such later date as the commission may determine; provided, however, that a compacting state may opt out of a uniform standard as provided in this article. "Opt out" shall be defined as any action by a compacting state to decline to adopt or participate in a promulgated uniform standard. All other rules and operating procedures, and amendments thereto, shall become effective as of the date specified in each rule, operating procedure or amendment.*
- (4) *Opt Out Procedure. A compacting state may opt out of a uniform standard, either by legislation or regulation duly promulgated by the insurance department under the compacting state's administrative procedure act. If a compacting state elects to opt out of a uniform standard by regulation, it must give written notice to the commission no later than ten (10) business days after the uniform standard is promulgated, or at the time the state becomes a compacting state, and find that the uniform standard does not provide reasonable protections to the citizens of the state, given the conditions in the state. The commissioner shall make specific findings of fact and conclusions of law, based on a preponderance of the evidence, detailing the conditions in the state which warrant a departure from the uniform standard and determining that the uniform standard would not reasonably protect the citizens of the state. The commissioner must consider and balance the following factors and find that the conditions in the state and needs of the citizens of the state outweigh:*
  - (a) *The intent of the legislature to participate in, and the benefits of, an interstate agreement to establish national uniform consumer protections for the products subject to this Act; and*
  - (b) *The presumption that a uniform standard adopted by the commission provides reasonable protections to consumers of the relevant product.*

*Notwithstanding the foregoing, a compacting state may, at the time of its enactment of this compact, prospectively opt out of all uniform standards involving long-term care insurance products by expressly providing for such opt out in the enacted compact, and such an opt out shall not be treated as a material variance in the offer or acceptance of any state to participate in this compact. Such an opt out shall be effective at the time of enactment of this compact by the compacting state and shall apply to all existing uniform standards involving long-term care insurance products and those subsequently promulgated.*

- (5) *Effect of Opt Out. If a compacting state elects to opt out of a uniform standard, the uniform standard shall remain applicable in the compacting state electing to opt out until such time the opt out legislation is*

*enacted into law or the regulation opting out becomes effective. Once the opt out of a uniform standard by a compacting state becomes effective as provided under the laws of that state, the uniform standard shall have no further force and effect in that state unless and until the legislation or regulation implementing the opt out is repealed or otherwise becomes ineffective under the laws of the state. If a compacting state opts out of a uniform standard after the uniform standard has been made effective in that state, the opt out shall have the same prospective effect as provided under Article XIV for withdrawals.*

- (6) *Stay of Uniform Standard. If a compacting state has formally initiated the process of opting out of a uniform standard by regulation, and while the regulatory opt out is pending, the compacting state may petition the commission, at least fifteen (15) days before the effective date of the uniform standard, to stay the effectiveness of the uniform standard in that state. The commission may grant a stay if it determines the regulatory opt out is being pursued in a reasonable manner and there is a likelihood of success. If a stay is granted or extended by the commission, the stay or extension thereof may postpone the effective date by up to ninety (90) days, unless affirmatively extended by the commission; provided, a stay may not be permitted to remain in effect for more than one (1) year unless the compacting state can show extraordinary circumstances which warrant a continuance of the stay, including, but not limited to, the existence of a legal challenge which prevents the compacting state from opting out. A stay may be terminated by the commission upon notice that the rule-making process has been terminated.*
- (7) *Not later than thirty (30) days after a rule or operating procedure is promulgated, any person may file a petition for judicial review of the rule or operating procedure; provided, that the filing of such a petition shall not stay or otherwise prevent the rule or operating procedure from becoming effective unless the court finds that the petitioner has a substantial likelihood of success. The court shall give deference to the actions of the commission consistent with applicable law and shall not find the rule or operating procedure to be unlawful if the rule or operating procedure represents a reasonable exercise of the commission's authority.*

#### ARTICLE VIII

- (1) *The commission shall promulgate rules establishing conditions and procedures for public inspection and copying of its information and official records, except such information and records involving the privacy of individuals and insurers' trade secrets. The commission may promulgate additional rules under which it may make available to federal and state agencies, including law enforcement agencies, records, and information otherwise exempt from disclosure, and may enter into agreements with such agencies to receive or exchange information or records subject to nondisclosure and confidentiality provisions.*
- (2) *Except as to privileged records, data, and information, the laws of any compacting state pertaining to confidentiality or nondisclosure shall not relieve any compacting state commissioner of the duty to disclose any relevant records, data, or information to the commission; provided, that disclosure to the commission shall not be deemed to waive or otherwise affect any confidentiality requirement; and further provided, that, except as otherwise expressly provided in this Act, the commission shall not be subject to the compacting state's laws pertaining to confidentiality and nondisclosure with respect to records, data, and information in its possession. Confidential information of the commission shall remain confidential after such information is provided to any commissioner.*
- (3) *The commission shall monitor compacting states for compliance with duly adopted bylaws, rules, including uniform standards, and operating procedures. The commission shall notify any non-complying compacting state in writing of its noncompliance with commission bylaws, rules, or operating procedures. If a non-complying compacting state fails to remedy its noncompliance within the time specified in the notice of noncompliance, the compacting state shall be deemed to be in default as set forth in Article XIV.*
- (4) *The commissioner of any state in which an insurer is authorized to do business, or is conducting the business of insurance, shall continue to exercise his or her authority to oversee the market regulation of the activities of the insurer in accordance with the provisions of the state's law. The commissioner's enforcement of compliance with the compact is governed by the following provisions:*
  - (a) *With respect to the commissioner's market regulation of a product or advertisement that is approved or certified to the commission, the content of the product or advertisement shall not constitute a violation of the provisions, standards, or requirements of the compact except upon a final order of the commission, issued at the request of a commissioner after prior notice to the insurer and an opportunity for hearing before the commission;*
  - (b) *Before a commissioner may bring an action for violation of any provision, standard, or requirement of the compact relating to the content of an advertisement not approved or certified to the*

*commission, the commission, or an authorized commission officer or employee, must authorize the action. However, authorization pursuant to this paragraph does not require notice to the insurer, opportunity for hearing, or disclosure of requests for authorization or records of the commission's action on such requests.*

#### ARTICLE IX

*The commission shall attempt, upon the request of a member, to resolve any disputes or other issues that are subject to this compact and which may arise between two (2) or more compacting states, or between compacting states and non-compacting states, and the commission shall promulgate an operating procedure providing for resolution of such disputes.*

#### ARTICLE X

- (1) Insurers and third-party filers seeking to have a product approved by the commission shall file the product with, and pay applicable filing fees to, the commission. Nothing in this Act shall be construed to restrict or otherwise prevent an insurer from filing its product with the insurance department in any state wherein the insurer is licensed to conduct the business of insurance, and such filing shall be subject to the laws of the states where filed.*
- (2) The commission shall establish appropriate filing and review processes and procedures pursuant to commission rules and operating procedures. Notwithstanding any provision herein to the contrary, the commission shall promulgate rules to establish conditions and procedures under which the commission will provide public access to product filing information. In establishing such rules, the commission shall consider the interests of the public in having access to such information, as well as protection of personal medical and financial information and trade secrets, that may be contained in a product filing or supporting information.*
- (3) Any product approved by the commission may be sold or otherwise issued in those compacting states for which the insurer is legally authorized to do business.*

#### ARTICLE XI

- (1) Not later than thirty (30) days after the commission has given notice of a disapproved product or advertisement filed with the commission, the insurer or third-party filer whose filing was disapproved may appeal the determination to a review panel appointed by the commission. The commission shall promulgate rules to establish procedures for appointing such review panels and provide for notice and hearing. An allegation that the commission, in disapproving a product or advertisement filed with the commission, acted arbitrarily, capriciously, or in a manner that is an abuse of discretion or otherwise not in accordance with the law, is subject to judicial review in accordance with Article III, Section (4).*
- (2) The commission shall have authority to monitor, review, and reconsider products and advertisement subsequent to their filing or approval upon a finding that the product does not meet the relevant uniform standard. Where appropriate, the commission may withdraw or modify its approval after proper notice and hearing, subject to the appeal process in Section (1) above.*

#### ARTICLE XII

- (1) The commission shall pay or provide for the payment of the reasonable expenses of its establishment and organization. To fund the cost of its initial operations, the commission may accept contributions and other forms of funding from the National Association of Insurance Commissioners, compacting states, and other sources. Contributions and other forms of funding from other sources shall be of such a nature that the independence of the commission concerning the performance of its duties shall not be compromised.*
- (2) The commission shall collect a filing fee from each insurer and third-party filer filing a product with the commission to cover the cost of the operations and activities of the commission and its staff in a total amount sufficient to cover the commission's annual budget.*
- (3) The commission's budget for a fiscal year shall not be approved until it has been subject to notice and comment as set forth in Article VII of this compact.*
- (4) The commission shall be exempt from all taxation in and by the compacting states.*
- (5) The commission shall not pledge the credit of any compacting state, except by and with the appropriate legal authority of that compacting state.*

- (6) *The commission shall keep complete and accurate accounts of all its internal receipts, including grants and donations, and disbursements of all funds under its control. The internal financial accounts of the commission shall be subject to the accounting procedures established under its bylaws. The financial accounts and reports including the system of internal controls and procedures of the commission shall be audited annually by an independent certified public accountant. Upon the determination of the commission, but no less frequently than every three (3) years, the review of the independent auditor shall include a management and performance audit of the commission. The commission shall make an annual report to the Governor and legislature of the compacting states, which shall include a report of the independent audit. The commission's internal accounts shall not be confidential and such materials may be shared with the commissioner of any compacting state upon request; provided, however, that any work papers related to any internal or independent audit and any information regarding the privacy of individuals and insurers' proprietary information, including trade secrets, shall remain confidential.*
- (7) *No compacting state shall have any claim to or ownership of any property held by or vested in the commission or to any commission funds held pursuant to the provisions of this compact.*

#### ARTICLE XIII

- (1) *Any state is eligible to become a compacting state.*
- (2) *The compact shall become effective and binding upon legislative enactment of the compact into law by two (2) compacting states; provided, the commission shall become effective for purposes of adopting uniform standards for, reviewing, and giving approval or disapproval of, products filed with the commission that satisfy applicable uniform standards only after twenty-six (26) states are compacting states or, alternatively, by states representing greater than forty percent (40%) of the premium volume for life insurance, annuity, disability income, and long-term care insurance products, based on records of the National Association of Insurance Commissioners for the prior year. Thereafter, it shall become effective and binding as to any other compacting state upon enactment of the compact into law by that state.*
- (3) *Amendments to the compact may be proposed by the commission for enactment by the compacting states. No amendment shall become effective and binding upon the commission and the compacting states unless and until all compacting states enact the amendment into law.*

#### ARTICLE XIV

- (1) *Withdrawal.*
  - (a) *Once effective, the compact shall continue in force and remain binding upon each and every compacting state; provided, that a compacting state may withdraw from the compact ("withdrawing state") by enacting a statute specifically repealing the statute which enacted the compact into law.*
  - (b) *The effective date of withdrawal is the effective date of the repealing statute. However, the withdrawal shall not apply to any product filings approved or self-certified, or any advertisement of such products, on the date the repealing statute becomes effective, except by mutual agreement of the commission and the withdrawing state, unless the approval is rescinded by the withdrawing state as provided in paragraph (e) of this section.*
  - (c) *The commissioner of the withdrawing state shall immediately notify the management committee in writing upon the introduction of legislation repealing this compact in the withdrawing state.*
  - (d) *The commission shall notify the other compacting states of the introduction of such legislation within ten (10) days after its receipt of notice thereof.*
  - (e) *The withdrawing state is responsible for all obligations, duties, and liabilities incurred through the effective date of withdrawal, including any obligations, the performance of which extend beyond the effective date of withdrawal, except to the extent those obligations may have been released or relinquished by mutual agreement of the commission and the withdrawing state. The commission's approval of products and advertisement prior to the effective date of withdrawal shall continue to be effective and be given full force and effect in the withdrawing state, unless formally rescinded by the withdrawing state in the same manner as provided by the laws of the withdrawing state for the prospective disapproval of products or advertisement previously approved under state law.*
  - (f) *Reinstatement following withdrawal of any compacting state shall occur upon the effective date of the withdrawing state reenacting the compact.*



(2) *Default.*

- (a) *If the commission determines that any compacting state has at any time defaulted ("defaulting state") in the performance of any of its obligations or responsibilities under this compact, the bylaws, or duly promulgated rules or operating procedures, then, after notice and hearing as set forth in the bylaws, all rights, privileges, and benefits conferred by this compact on the defaulting state shall be suspended from the effective date of default as fixed by the commission. The grounds for default include, but are not limited to, failure of a compacting state to perform its obligations or responsibilities, and any other grounds designated in commission rules. The commission shall immediately notify the defaulting state in writing of the defaulting state's suspension pending a cure of the default. The commission shall stipulate the conditions and the time period within which the defaulting state must cure its default. If the defaulting state fails to cure the default within the time period specified by the commission, the defaulting state shall be terminated from the compact and all rights, privileges, and benefits conferred by this compact shall be terminated from the effective date of termination.*
- (b) *Product approvals by the commission or product self-certifications, or any advertisement in connection with such product, that are in force on the effective date of termination shall remain in force in the defaulting state in the same manner as if the defaulting state had withdrawn voluntarily pursuant to Section (1) of this article.*
- (c) *Reinstatement following termination of any compacting state requires a reenactment of the compact.*

(3) *Dissolution of Compact.*

- (a) *The compact dissolves effective upon the date of the withdrawal or default of the compacting state which reduces membership in the compact to one (1) compacting state.*
- (b) *Upon the dissolution of this compact, the compact becomes null and void and shall be of no further force or effect, and the business and affairs of the commission shall be wound up and any surplus funds shall be distributed in accordance with the bylaws.*

## ARTICLE XV

- (1) *The provisions of this compact shall be severable; and if any phrase, clause, sentence, or provision is deemed unenforceable, the remaining provisions of the compact shall be enforceable.*
- (2) *The provisions of this compact shall be liberally construed to effectuate its purposes.*

## ARTICLE XVI

(1) *Other Laws.*

- (a) *Nothing herein prevents the enforcement of any other law of a compacting state, except as provided in paragraph (b) of this section.*
- (b) *For any product approved or certified to the commission, the rules, uniform standards, and any other requirements of the commission shall constitute the exclusive provisions applicable to the content, approval, and certification of such products. For advertisement that is subject to the commission's authority, any rule, uniform standard, or other requirement of the commission which governs the content of the advertisement shall constitute the exclusive provision that a commissioner may apply to the content of the advertisement. Notwithstanding the foregoing, no action taken by the commission shall abrogate or restrict:*
  - 1. *The access of any person to state courts;*
  - 2. *Remedies available under state law related to breach of contract, tort, or other laws not specifically directed to the content of the product;*
  - 3. *State law relating to the construction of insurance contracts; or*
  - 4. *The authority of the attorney general of the state, including but not limited to maintaining any actions or proceedings, as authorized by law.*
- (c) *All insurance products filed with individual states shall be subject to the laws of those states.*

(2) ***Binding Effect of This Compact.***

- (a) *All lawful actions of the commission, including all rules and operating procedures promulgated by the commission, are binding upon the compacting states.*
- (b) *All agreements between the commission and the compacting states are binding in accordance with their terms.*
- (c) *Upon the request of a party to a conflict over the meaning or interpretation of commission actions, and upon a majority vote of the compacting states, the commission may issue advisory opinions regarding the meaning or interpretation in dispute.*
- (d) *In the event any provision of this compact exceeds the constitutional limits imposed on the legislature of any compacting state, the obligations, duties, powers, or jurisdiction sought to be conferred by that provision upon the commission shall be ineffective as to that compacting state, and those obligations, duties, powers, or jurisdiction shall remain in the compacting state and shall be exercised by the agency thereof to which those obligations, duties, powers, or jurisdiction are delegated by law in effect at the time this compact becomes effective.*

Approved April 4, 2006.

## CHAPTER 118

### (HB 193)

AN ACT relating to inmates.

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

Section 1. KRS 454.415 is amended to read as follows:

- (1)~~{(a)}~~ No action shall be brought by *or on behalf of* an inmate, with respect to a prison disciplinary proceeding or challenges to a sentence calculation or challenges to custody credit *or to prison conditions*, until administrative remedies as set forth in Department of Corrections policies and procedures are exhausted.
- (2)~~{(b)}~~ Administrative remedies shall be exhausted even if the remedy the inmate seeks is unavailable.
- (3)~~{(c)}~~ The inmate shall attach to any complaint filed documents verifying that administrative remedies have been exhausted.
- ~~{(2)} In any civil action brought by an inmate, the court may continue the action for a period of time not to exceed one hundred and eighty (180) days in order to require the inmate to exhaust any plain, speedy, and effective administrative remedies available, if the court believes that such a requirement would be appropriate and in the interests of justice.}~~

Approved April 4, 2006.

## CHAPTER 119

### (HB 197)

AN ACT relating to end-of-course examinations.

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

SECTION 1. A NEW SECTION OF KRS CHAPTER 158 IS CREATED TO READ AS FOLLOWS:

(1) ***As used in this section:***

- (a) *"Core course" means any course offered in the middle grades or high school grades that is a specific high school graduation requirement or a course that may be used to fulfill a minimum graduation requirement in the content areas of language arts, mathematics, science, and social studies as specified in administrative regulation promulgated by the Kentucky Board of Education under the provisions of KRS 156.160;*

- (b) *"End-of-course examination or end-of-course exam" means a test that measures a student's knowledge and skills upon completion of a core content course.*
- (2) *The Kentucky Department of Education shall coordinate the development of end-of-course exams.*
  - (a) *The development process shall initially include end-of-course exams for Algebra I, Algebra II, and Geometry.*
  - (b) *Content teachers in the core courses, postsecondary faculty including subject matter specialists as well as teacher educators, curriculum specialists, and other appropriate practitioners shall be involved in the development and review of items for the exams. Content teachers shall comprise the majority of the developers and reviewers of the test items.*
  - (c) *The department shall ensure that each end-of-course exam:*
    - 1. *Aligns with the standards, content, goals, and academic expectations relevant to the course;*
    - 2. *Requires student demonstration of knowledge, comprehension, application, and higher order cognitive skills;*
    - 3. *Provides reliable and valid test items;*
    - 4. *Is available to schools in an on-line format if resources are available; and*
    - 5. *Provides individual student scores; test item analyses; aggregate comparisons of student data at the school, district, and state levels; and disaggregated data by student subpopulations at the school district and state levels.*
  - (d) *The department shall make available a parallel form for each exam.*
  - (e) *The initial end-of-course exam developed as required in paragraph (a) of this subsection shall be available and piloted in selected school districts no later than the end of the 2007-2008 school year.*
- (3) *The department may contract for services as deemed necessary to fulfill its duties under this section.*
- (4) *The Kentucky Department of Education shall conduct a study of the end-of-course examinations and the processes used during the pilot of the exams.*
  - (a) *Following the initial use of the end-of-course exams in Algebra I, Algebra II, and Geometry, the department, with assistance from the developers identified in subsection (2)(b) of this section, shall determine whether the exams meet the requirements in subsection (2)(c) of this section. The determination shall be based on an analysis of individual test items, analyses of student results on the exams, pilot teachers' input, and review of other data gathered during the pilot year.*
  - (b) *The department shall consult with the Education Assessment and Accountability Review Subcommittee, the National Technical Advisory Panel on Assessment and Accountability, and the School Curriculum, Assessment, and Accountability Council regarding the implications for statewide implementation and shall advise the Kentucky Board of Education of its findings and recommendations.*
  - (c) *Following the consultations and discussions required in paragraphs (a) and (b) of this subsection, the commissioner of education shall report the findings of the pilot project and policy options to the Interim Joint Committee on Education.*
- (5) *End-of-course exams in the pilot period shall not be used as a criterion for formally evaluating or compensating teachers. Student results may be discussed during the formative evaluation stage in compliance with KRS 156.557.*
- (6) *The department shall develop the test procedures, including testing accommodations for students with special needs, re-test provisions, reporting requirements, and other procedures as necessary to implement the provisions of this section.*
- (7) *A teacher shall use a student's score on any end-of-course exam that is administered in calculating the student's final grade in accordance with policies of the local board of education and the school-based decision making council.*

- (8) *The commissioner of education or a designee shall provide a written status report regarding implementation of this section to the Interim Joint Committee on Education and the Education Assessment and Accountability Review Subcommittee by December 1, 2007, and July 1, 2008.*
- (9) *The Kentucky Department of Education and local school districts shall use end-of-course exams to promote increased student accountability. The department and local school districts shall also use test results to determine the need for technical assistance, professional development, and other resources to improve instruction.*

Section 2. KRS 158.647 is amended to read as follows:

- (1) A permanent subcommittee of the Legislative Research Commission to be known as the Education Assessment and Accountability Review Subcommittee is hereby created. The subcommittee shall be composed of eight (8) members appointed as follows: three (3) members of the Senate appointed by the President of the Senate; one (1) member of the minority party in the Senate appointed by the Minority Floor Leader in the Senate; three (3) members of the House of Representatives appointed by the Speaker of the House of Representatives; and one (1) member of the minority party in the House of Representatives appointed by the Minority Floor Leader in the House of Representatives. Members of the subcommittee shall serve for terms of two (2) years, and the members appointed from each chamber shall elect one (1) member from their chamber to serve as co-chair. The co-chairs shall have joint responsibilities for subcommittee meeting agendas and presiding at subcommittee meetings. A majority of the entire membership of the Education Assessment and Accountability Review Subcommittee shall constitute a quorum, and all actions of the subcommittee shall be by vote of a majority of its entire membership. Any vacancy that may occur in the membership of the subcommittee shall be filled by the same appointing authority who made the original appointment.
- (2) The subcommittee shall review administrative regulations and advise the Kentucky Board of Education concerning the implementation of the state system of assessment and accountability, established in KRS 158.6453, 158.6455, and 158.782, *and for any administrative regulation promulgated under provisions of Section 1 of this Act.*
- (3) The subcommittee shall advise and monitor the Office of Education Accountability in the performance of its duties according to the provisions of KRS 7.410.
- (4) On an alternating basis, each co-chair shall have the first option to set the monthly meeting date. A monthly meeting may be canceled by agreement of both co-chairs. The members of the subcommittee shall be compensated for attending meetings as provided in KRS 7.090.
- (5) Any professional, clerical, or other employees required by the subcommittee shall be provided in accordance with the provisions of KRS 7.090.

**Approved April 4, 2006.**

## CHAPTER 120

### (HB 206)

AN ACT relating to emergency procedures in public schools.

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

SECTION 1. A NEW SECTION OF KRS CHAPTER 158 IS CREATED TO READ AS FOLLOWS:

- (1) *As used in this section, "building lockdown" means to restrict the mobility of building occupants to maintain their safety and care.*
- (2) *Each local board of education shall require the school council, or if none exists, the principal in each public school building in its jurisdiction to establish procedures to perform a building lockdown, including protective measures to be taken during and immediately following the lockdown.*
- (3) *Students, parents, guardians, certified staff, and classified staff shall be informed annually of building lockdown procedures.*
- (4) *A building lockdown practice shall be held at least once during each school year.*

**Approved April 4, 2006.**

**CHAPTER 121****(HB 238)**

AN ACT relating to the refund of unearned insurance premiums.

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

SECTION 1. A NEW SECTION OF KRS 304.14-500 TO 304.14-550 IS CREATED TO READ AS FOLLOWS:

*If an individually marketed individual Medicare supplement insurance policy issued, delivered, or renewed on or after the effective date of this Act is canceled, the insurer shall return promptly the unearned portion of any premium paid beyond the month in which the cancellation is effective. Cancellation shall be without prejudice to any claim originating prior to the effective date of this Act.*

SECTION 2. A NEW SECTION OF KRS 304.14-600 TO 304.14-625 IS CREATED TO READ AS FOLLOWS:

*If an individually marketed individual long-term care insurance policy issued, delivered, or renewed on or after the effective date of this Act is canceled, the insurer shall return promptly the unearned portion of any premium paid beyond the month in which the cancellation is effective. Cancellation shall be without prejudice to any claim originating prior to the effective date of this Act.*

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

*If an individually marketed individual health insurance policy issued, delivered, or renewed on or after the effective date of this Act is canceled, the insurer shall return promptly the unearned portion of any premium paid beyond the month in which the cancellation is effective. Cancellation shall be without prejudice to any claim originating prior to the effective date of this Act.*

**Approved April 4, 2006.**

**CHAPTER 122****(HB 266)**

AN ACT relating to agriculture.

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

Section 1. The following KRS sections are repealed:

248.650 Agricultural Diversification and Development Council -- Members -- Authority for administrative regulations.

248.652 Agricultural diversification and development fund -- Source of moneys -- Administration.

248.656 Entities eligible to receive moneys from the agricultural diversification and development fund.

248.658 Authorization for council to distribute grant and loan funds from the agricultural diversification and development fund.

248.660 Permissible uses for funds distributed to the Kentucky Department of Agriculture.

248.662 Permissible uses for funds distributed to the University of Kentucky and Kentucky State University Extension Service programs and the University of Kentucky College of Agriculture.

**Approved April 4, 2006.**

**CHAPTER 123****(HB 268)**

AN ACT relating to fertilizers and pesticides.

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

Section 1. KRS 217B.050 is amended to read as follows:

- (1) The department shall administer and enforce the provisions of this chapter and promulgate administrative regulations to carry out the provisions of this chapter and in the administrative regulations may prescribe methods to be used in the storage of fertilizers ~~and pesticides~~, **and the storage** and application of pesticides. Where the department finds that the administrative regulations are necessary to carry out the purpose and intent of this chapter, the administrative regulations may relate to the time, place, manner, and method of storage and application of the pesticides and storage of fertilizers ~~and pesticides~~, may restrict or prohibit use of pesticides in designated areas during specified periods of time, and shall encompass all reasonable factors which the department deems necessary to prevent damage or injury by drift or misapplication to:
  - (a) Plants, including forage plants, on adjacent or nearby lands;
  - (b) Wildlife in the adjoining or nearby areas;
  - (c) Fish and other aquatic life in waters in reasonable proximity to the area to be treated; and
  - (d) Pollinating insects, animals, or persons.
- (2) In promulgating the administrative regulations, the department shall give consideration to pertinent research findings and recommendations of other agencies of this state and of the federal government.
- (3) The department may by administrative regulation adopt a list of "restricted use pesticides" for the state or for designated areas within the state if it finds that the characteristics of the pesticides require restricting their use to prevent injury on lands other than the land to which they are applied, or to persons, animals, crops, or pests or vegetation other than the pests or vegetation which they are intended to destroy. For the purpose of uniformity of requirements between the states and the federal government, the department may adopt the list of "restricted use pesticides" as established by the Environmental Protection Agency or other federal or state agencies.
- (4) The department may establish additional classifications of applicator or operator licenses as required for conformance with the Federal Environmental Pesticide Control Act of 1972. The classifications may include private farmer applicators, commercial establishment applicators, and government employee applicators not specifically mentioned in this chapter. The administrative regulations may specify licensing conditions, procedures, and fees not to exceed those fees specified for other licensees under this chapter.
- (5) ***In addition to the fees authorized in subsection (4) of this section, the department may, by administrative regulation, establish fees for carrying out the provisions required or authorized by this chapter, but shall not establish fees exceeding those specified under this chapter.***

**Approved April 4, 2006.**

**CHAPTER 124****(HB 388)**

AN ACT relating to workers' compensation and declaring an emergency.

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

Section 1. 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 Department of Labor, 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 self-insured group operating under the provisions of KRS 342.350(4) and Chapter 304, 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 ~~June 30~~ ~~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 self-insured group operating under the provisions of KRS 342.350(4) and Chapter 304, and against the premium, as defined in KRS 342.0011, of every employer carrying his own risk. ***On or before October 1 of each year, the commission shall notify each insurance carrier writing workers' compensation insurance in the Commonwealth, every group of self-insured employers, and each employer carrying his or her own risk, of the rates which shall become effective on January 1 of each year, unless modified by the General Assembly.***
  - (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 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 self-insured group 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 self-insured group.
- (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 self-insured group 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 self-insured group 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 self-insured group 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, self-insured group, or insurance carrier shall provide any information and submit any reports the Department of Revenue 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 self-insured group operating under the provision of KRS 342.350(4) and Chapter 304, and against the premium, as defined in KRS 342.0011, of every employer carrying his own risk.

Section 2. KRS 342.1242 is amended to read as follows:

- (1) There is created the Kentucky coal workers' pneumoconiosis fund which shall have one-half (1/2) of the liability for income benefits, including retraining benefits, payable for claims brought under KRS 342.732 for last exposure incurred on or after December 12, 1996. Income benefit payments by the Kentucky coal workers' pneumoconiosis fund shall be made contemporaneous with the payments made by the employer, except that the employer shall make all payments due under a final award or approved settlement until the liability of the Kentucky coal workers' pneumoconiosis fund is established under subsection (2) of this section and the coal workers' pneumoconiosis fund shall reimburse the employer for such payments to the extent of its liability.
- (2) The employer shall defend any claim brought under KRS 342.732 and upon conclusion shall seek participation in payment of the final award or settlement by the Kentucky coal workers' pneumoconiosis fund by making written request upon the director in the manner prescribed by administrative regulation to be promulgated by the executive director of the Office of Workers' Claims.
- (3) (a) For the purpose of funding and prefunding the liabilities of the Kentucky coal workers' pneumoconiosis fund and financing the administration and operation of the Kentucky coal workers' pneumoconiosis fund, as reflected in the budget of the Commonwealth enacted by the General Assembly, a Kentucky coal workers' pneumoconiosis fund assessment at the rate of three percent (3%) is hereby imposed 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 and by every self-insured group operating under the provisions of KRS 342.350(4) and Chapter 304, from employers engaged in the severance or processing of coal. Likewise, on and after January 1, 1997, through December 31, 1997, an assessment at the rate of three percent (3%) of premium shall be paid by every employer engaged in the severance or processing of coal who is carrying his or her own risk.

- (b) In addition to the assessment imposed in paragraph (a) of this subsection, an additional Kentucky coal workers' pneumoconiosis fund assessment at the rate of two and one-half cents (\$0.025) per ton is hereby imposed upon the total annual amount of tons of coal severed on or after January 1, 1997, through December 31, 1997, by every entity engaged in the severance of coal as required pursuant to KRS Chapter 143.
- (c) As of **June 30, 2006**~~September 1, 1997~~, and each year thereafter, the funding commission shall determine the assets of the fund and the claim and administrative expense liability incurred by the fund for all previous years and shall establish the rates under the provisions of paragraphs (a) and (b) of this subsection necessary as of January 1 of the next year to fully fund and prefund all claim liabilities and administrative expenses through December 31 of the next year of operations. The assessment rate authorized by this section for premiums received and tons of coal severed shall be set so as to receive fifty percent (50%) of the needed revenue from each assessment. Notice of any rate changes shall be provided no later than **October 1**~~December 1~~ of the year preceding the rate change.
- (4) All assessments imposed by this section shall be paid to the Kentucky Workers' Compensation Funding Commission and shall be credited to a separate account within the benefit reserve fund within the Kentucky Workers' Compensation Funding Commission. In addition, the powers and responsibilities of the Kentucky Workers' Compensation Funding Commission including its fiduciary duties and responsibilities relating to assessments collected for the special fund pursuant to KRS 342.122, 342.1222, 342.1223, 342.1226, 342.1229, and 342.1231 shall apply to assessments collected for the Kentucky coal workers' pneumoconiosis fund created pursuant to this section. Each entity subject to assessments for the Kentucky coal workers' pneumoconiosis fund shall provide any and all information requested by the Kentucky Workers' Compensation Funding Commission necessary to carry out its powers and responsibilities relating thereto.
- (5) 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 or the coal is processed or severed. Receipt shall be considered timely through actual physical receipt or by postmark by 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. Penalty and interest penalties imposed pursuant to KRS 342.1221 and the authority of the Kentucky Workers' Compensation Funding Commission to waive part or all of the penalty shall apply to assessments for the Kentucky coal workers' pneumoconiosis fund in the same manner and amount as they are imposed on assessments for the special fund under KRS 342.122.
- (6) 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.
- (7) Claims for benefits by reason of the development of coal workers' pneumoconiosis shall be maintained pursuant to KRS 342.732, and the Kentucky coal workers' pneumoconiosis fund shall be liable for payment of a part of the liability only for employees of employers engaged in the severance or processing of coal as defined in KRS 342.0011(23)(a) and (b).

Section 3. 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 Environmental and Public Protection Cabinet or a designee**~~commissioner of the Department of Labor~~, the secretary of the Cabinet for Economic Development or a designee, the secretary of the Finance and Administration 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 the Environmental and Public Protection Cabinet**~~commissioner of the Department 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 4. Whereas the date changes set forth in Section 1 and 2 of this Act require the Kentucky Workers' Compensation Funding Commission to take action prior to the regular effective date of legislation created during the 2006 Regular Session of the General assembly, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming law.

**Approved April 4, 2006.**

## **CHAPTER 125**

**(HB 408)**

AN ACT relating to environmental protection.

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

Section 1. KRS 224.20-300 is amended to read as follows:

For the purpose of adopting the Asbestos Hazard Emergency Response Act, called AHERA, Public Law (99-519), as amended, the ~~cabinet~~ [Department of Environmental Protection, Division for Air Quality], may develop, adopt, and maintain a comprehensive statewide asbestos assessment and response program and an accreditation program that shall replicate the federal environmental protection agency model plan issued April 30, 1987 and the provisions of Title 40 of the Code of Federal Regulations, Part 763, Subpart E. The programs shall include, but not be limited to:

- (1) Identifying and controlling asbestos hazards in public and private schools, grades K-12;
- (2) Providing for accreditation of asbestos inspectors, management planners, abatement project designers, abatement contractors, supervisors, and abatement workers;
- (3) Reviewing training courses to determine if they are approvable under the criteria established in the April 30, 1987 model plan and any other criteria adopted by the ~~cabinet~~ [Division for Air Quality]; and
- (4) Reviewing school asbestos management plans and inspecting school buildings for compliance with this section.

Section 2. KRS 224.01-526 is amended to read as follows:

- (1) Upon full performance of an approved corrective action plan, the applicant shall submit for the cabinet's review, by the deadline agreed upon by the parties, a corrective action completion report, and shall certify therein that the applicant has successfully completed remediation in compliance with the approved corrective action plan.
- (2) The cabinet shall review the corrective action completion report in the same manner as it reviewed the corrective action plan.
- (3) The cabinet may conduct its own investigation, including, but not limited to, its own characterization to verify that remediation has been completed in compliance with the approved corrective action plan. The reasonable actual and necessary costs of this verification shall be considered oversight costs reimbursable under KRS 224.01-518(2)(c). Any confirmatory sampling by the cabinet shall be completed within the deadline agreed to by the parties.
- (4) If the cabinet determines that no further remediation is required under the approved corrective action plan, and upon the applicant's payment of the cabinet's costs for review and oversight of the remediation, the cabinet shall issue the applicant a covenant not to sue.
- (5) With respect to the releases identified in the corrective action plan, the covenant not to sue shall preclude **any suit or claim by the Commonwealth for** the ~~cabinet's~~ prosecution of civil or administrative enforcement action against the applicant for failure to perform remediation under KRS 224.01-400, 224.01-405, any administrative regulations promulgated under these statutes, or the Federal Comprehensive Environmental Response Compensation and Liability Act as amended, 42 U.S.C. sec. 9601 et seq., for injunctive relief, lien assertion, reimbursement of costs, or civil penalties imposed under KRS 224.99-010 for failure to perform remediation under KRS 224.01-400 or 224.01-405 and any administrative regulations promulgated under these statutes.
- (6) The covenant not to sue shall be in recordable form, and shall be recorded by the applicant, along with all deed restrictions and institutional controls approved by the cabinet, among the real estate records in the office of the county clerk where the property is located, within thirty (30) days of issuance by the cabinet. The cabinet shall have the authority and duty to enforce any restrictive covenants or institutional controls with respect to the applicant and all subsequent landowners. The covenant shall not be effective until it is recorded and a certified copy of the record instrument is delivered to the cabinet. The covenant shall not be effective with respect to any assignees, transferees, or successors until the requirements of the agreed order and the corrective action plan are incorporated as restrictions in the deed or other transfer instrument that is recorded and a certified copy of the record instrument is delivered to the cabinet.
- (7) The covenant not to sue shall not apply to:
  - (a) Releases other than those expressly identified in the corrective action plan;
  - (b) Claims based on the failure of the applicant, or the failure of any successive landowner as applicable, to comply with a requirement of KRS 224.01-510 to 224.01-532, the agreed order, the approved corrective action plan, or the approved corrective action completion report, including any required land use restrictions and engineering or institutional controls;

- (c) Liability resulting from the applicant's exacerbation of the releases identified in the corrective action plan;
  - (d) Criminal liability;
  - (e) Petroleum storage tanks;
  - (f) Claims or liability based on or resulting from misrepresentations or intentional omissions by the applicant;
  - (g) Liability for any conditions at the site that were not known to the cabinet when the cabinet approved the corrective action plan or the corrective action completion report, provided those conditions prevent the remediation from being protective of human health, safety, and the environment;
  - (h) Claims based on changes in the development of scientific knowledge, as reflected in published peer-reviewed health or environmental standards, that indicate that the remediation is no longer protective of human health, safety, and the environment;
  - (i) An environmental emergency as defined in KRS 224.01-400;
  - (j) Any cabinet action for damages for injury to, destruction of, or loss of natural resources, including the reasonable costs of assessing such injury, destruction, or loss resulting from such a release pursuant to the Federal Comprehensive Environmental Response Compensation and Liability Act as amended, 42 U.S.C. sec. 9601 et seq.; and
  - (k) Any administrative or civil action by the cabinet not expressly identified in subsection (5) of this section.
- (8) *Subject to subsection (7) of this section, the issuance of a covenant not to sue for a brownfield site, as defined in 42 U.S.C. sec. 9601(39), shall preclude any suit or claim under state law to compel the performance of remediation in excess of that required in the approved corrective action plan.*
- (9) *Subsection (8) of this section shall not be construed to limit:*
- (a) *Appeals of final cabinet orders and determinations as provided for in this chapter;*
  - (b) *Actions against the cabinet to compel compliance with the terms of the corrective action plan; or*
  - (c) *The availability of remedies to persons, other than the cabinet, for injury to property or person.*

Approved April 4, 2006.

## CHAPTER 126

### (HB 424)

AN ACT relating to the protection of personal identifiers in domestic relation cases.

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

SECTION 1. A NEW SECTION OF KRS CHAPTER 403 IS CREATED TO READ AS FOLLOWS:

- (1) *If another section of this chapter or KRS 407.5311 or 407.5602 requires the provision of a personal identifier in a pleading, document, or exhibit filed with the court, the party making the filing shall provide the personal identifier in accordance with the Kentucky Rules of Civil Procedure.*
- (2) *The clerk of the court shall allow the unredacted sealed copy of the pleading, document, or exhibit containing personal identifiers to be accessed only by a party to the case, an attorney of record in the case, a judge of the court or other authorized court personnel, a duly authorized employee or agent of the Cabinet for Health and Family Services involved in child support matters attendant to the case, or a person authorized to view the copy by specific order of the court.*
- (3) *As used in this section, "personal identifier" means a Social Security number, name of minor child, date of birth, or financial account number.*

Section 2. KRS 403.150 is amended to read as follows:

- (1) All proceedings under this chapter are commenced in the manner provided by the Rules of Civil Procedure.

- (2) The verified petition in a proceeding for dissolution of marriage or legal separation shall allege the marriage is irretrievably broken and shall set forth:
  - (a) The age, occupation, Social Security number, and residence of each party, *provided in accordance with Section 1 of this Act*, and his length of residence in this state. If domestic violence and abuse, as defined in KRS 403.720, is alleged by either party, the party filing the petition shall certify the existence and status of any domestic violence protective orders. The party filing the petition and alleging the abuse may substitute the party's attorney's address as the address of the party and any minor children;
  - (b) The date of the marriage and the place at which it was registered;
  - (c) That the parties are separated and the date on which the parties separated;
  - (d) The names, ages, Social Security numbers, and addresses, *provided in accordance with Section 1 of this Act*, of any living infant children of the marriage, and whether the wife is pregnant;
  - (e) Any arrangements as to custody, visitation, and support of the children and the maintenance of a spouse; and
  - (f) The relief sought.
- (3) Either or both parties to the marriage may initiate the proceeding.
- (4) If a proceeding is commenced by one of the parties, the other party must be served in the manner provided by the Rules of Civil Procedure and may file a verified response.
- (5) Previously existing defenses to divorce and legal separation, including but not limited to condonation, connivance, collusion, recrimination, insanity, and lapse of time, are abolished.
- (6) The court may join additional parties proper for the exercise of its authority to implement this chapter.
- (7) When the wife is pregnant at the time the petition is filed, the court may continue the case until the pregnancy is terminated.

Section 3. KRS 403.160 is amended to read as follows:

- (1) In a proceeding for dissolution of marriage or for legal separation, or in a proceeding for disposition of property or for maintenance or support following dissolution of the marriage by a court which lacked personal jurisdiction over the absent spouse, either party may move for temporary maintenance. The motion shall be accompanied by an affidavit setting forth the factual basis for the motion and the amounts requested.
- (2)
  - (a) In a proceeding for dissolution of marriage, legal separation, or child support, either party, with notice to the opposing party, may move for temporary child support. The motion shall be accompanied by an affidavit setting forth the number of children of the marriage and the information required to calculate the combined adjusted parental gross income set forth in KRS 403.212(2)(g), and the Social Security numbers, *provided in accordance with Section 1 of this Act*, of all parties subject to the motion. The court shall, within fourteen (14) days from the filing of said motion, order an amount of temporary child support based upon the child support guidelines as provided by law, and the ordered child support shall be retroactive to the date of the filing of the motion unless otherwise ordered by the court.
  - (b) Upon a showing of good cause, either party may move the court to enter an order for temporary child support without written or oral notice to the adverse party. After reviewing the affidavit required by paragraph (a) of this subsection, the court may issue a temporary child support order based upon the child support guidelines. The order shall provide that the order becomes effective seven (7) days following service of the order and movant's affidavit upon the adverse party unless the adverse party, within the seven (7) day period, files a motion for a hearing before the court. The motion for hearing shall be accompanied by the affidavit required by paragraph (a) of this subsection. Pending the hearing, the adverse party shall pay child support in an amount based upon the guidelines and the adverse party's affidavit. The child support order entered following the hearing shall be retroactive to the date of the filing of the motion for temporary support unless otherwise ordered by the court.
- (3) As part of a motion for temporary maintenance or support or by independent motion accompanied by affidavit, either party may request the court to issue a temporary injunction or restraining order pursuant to the Rules of Civil Procedure.

- (4) If the court or agent of the court is made aware that there is reasonable evidence of domestic violence or child abuse, the court shall determine whether disclosure to any other person of the information could be harmful to the parent or child, and if the court determines that disclosure to any person could be harmful, the court and its agents shall not make the disclosure.
- (5) On the basis of the showing made and in conformity with KRS 403.200, the court may issue a temporary injunction or restraining order and an order for temporary maintenance in amounts and on terms just and proper in the circumstances.
- (6) A temporary order or temporary injunction:
  - (a) Does not prejudice the rights of the parties or the child which are to be adjudicated at subsequent hearings in the proceeding;
  - (b) May be revoked or modified before final decree on a showing of the facts necessary to revocation or modification under the circumstances; and
  - (c) Terminates when the final decree is entered or when the petition for dissolution or legal separation is voluntarily dismissed.

Section 4. KRS 403.211 is amended to read as follows:

- (1) An action to establish or enforce child support may be initiated by the parent, custodian, or agency substantially contributing to the support of the child. The action may be brought in the county in which the child resides or where the defendant resides.
- (2) At the time of initial establishment of a child support order, whether temporary or permanent, or in any proceeding to modify a support order, the child support guidelines in KRS 403.212 shall serve as a rebuttable presumption for the establishment or modification of the amount of child support. Courts may deviate from the guidelines where their application would be unjust or inappropriate. Any deviation shall be accompanied by a written finding or specific finding on the record by the court, specifying the reason for the deviation.
- (3) A written finding or specific finding on the record that the application of the guidelines would be unjust or inappropriate in a particular case shall be sufficient to rebut the presumption and allow for an appropriate adjustment of the guideline award if based upon one (1) or more of the following criteria:
  - (a) A child's extraordinary medical or dental needs;
  - (b) A child's extraordinary educational, job training, or special needs;
  - (c) Either parent's own extraordinary needs, such as medical expenses;
  - (d) The independent financial resources, if any, of the child or children;
  - (e) Combined monthly adjusted parental gross income in excess of the Kentucky child support guidelines;
  - (f) The parents of the child, having demonstrated knowledge of the amount of child support established by the Kentucky child support guidelines, have agreed to child support different from the guideline amount. However, no such agreement shall be the basis of any deviation if public assistance is being paid on behalf of a child under the provisions of Part D of Title IV of the Federal Social Security Act; and
  - (g) Any similar factor of an extraordinary nature specifically identified by the court which would make application of the guidelines inappropriate.
- (4) "Extraordinary" as used in this section shall be determined by the court in its discretion.
- (5) When a party has defaulted or the court is otherwise presented with insufficient evidence to determine gross income, the court shall order child support based upon the needs of the child or the previous standard of living of the child, whichever is greater. An order entered by default or due to insufficient evidence to determine gross income may be modified upward and arrearages awarded from the date of the original order if evidence of gross income is presented within two (2) years which would have established a higher amount of child support pursuant to the child support guidelines set forth in KRS 403.212.
- (6) The court shall allocate between the parents, in proportion to their combined monthly adjusted parental gross income, reasonable and necessary child care costs incurred due to employment, job search, or education leading to employment, in addition to the amount ordered under the child support guidelines.

- (7) (a) If health care insurance coverage is reasonable and available at the time the request for coverage is made, the court shall allocate between the parents, in proportion to their combined monthly adjusted parental gross income, the cost of health care insurance coverage for the child, in addition to the support ordered under the child support guidelines.
- (b) A parent, who has one hundred percent (100%) of the combined monthly adjusted parental gross income, shall be entitled to a reduction in gross income of the entire amount of premiums incurred and paid.
- (c) The court shall order the cost of health care of the child to be paid by either or both parents of the child regardless of who has physical custody. The court order shall include:
1. A judicial directive designating which parent shall have financial responsibility for providing health care for the dependent child, which shall include, but not be limited to, insurance coverage, payments of necessary health care deductibles or copayments; and
  2. A statement providing that if the designated parent's health care coverage provides for covered services for dependent children beyond the age of majority, then any unmarried children up to twenty-five (25) years of age who are full-time students enrolled in and attending an accredited educational institution and who are primarily dependent on the insured parent for maintenance and support shall be covered.
- (d) If health care insurance coverage is not reasonable and available at the time the request for the coverage is made, the court order shall provide for health care insurance coverage at the time it becomes reasonable and available.
- (8) The cost of extraordinary medical expenses shall be allocated between the parties in proportion to their combined monthly adjusted parental gross incomes. "Extraordinary medical expenses" means uninsured expenses in excess of one hundred dollars (\$100) per child per calendar year. "Extraordinary medical expenses" includes, but is not limited to, the costs that are reasonably necessary for medical, surgical, dental, orthodontal, optometric, nursing, and hospital services; for professional counseling or psychiatric therapy for diagnosed medical disorders; and for drugs and medical supplies, appliances, laboratory, diagnostic, and therapeutic services.
- (9) The court order shall include the Social Security numbers, *provided in accordance with Section 1 of this Act*, of all parties subject to a support order.
- (10) In any case administered by the Cabinet for Health and Family Services, if the parent ordered to provide health care coverage is enrolled through an insurer but fails to enroll the child under family coverage, the other parent or the Cabinet for Health and Family Services may, upon application, enroll the child.
- (11) In any case administered by the cabinet, information received or transmitted shall not be published or be open for public inspection, including reasonable evidence of domestic violence or child abuse if the disclosure of the information could be harmful to the custodial parent or the child of the parent. Necessary information and records may be furnished as specified by KRS 205.175.
- (12) In the case in which a noncustodial parent provides health care coverage, and changes employment, and the new employer provides health care coverage, the Cabinet for Health and Family Services shall transfer notice of the provision for coverage for the child to the employer, which shall operate to enroll this child in the noncustodial parent's health plan, unless the noncustodial parent contests the notice as specified by KRS Chapter 13B.
- (13) Notwithstanding any other provision of this section, any wage or income shall not be exempt from attachment or assignment for the payment of current child support or owed or to-be-owed child support.
- (14) A payment of money received by a child as a result of a parental disability shall be credited against the child support obligation of the parent. A payment shall not be counted as income to either parent when calculating a child support obligation. An amount received in excess of the child support obligation shall be credited against a child support arrearage owed by the parent that accrued subsequent to the date of the parental disability, but shall not be applied to an arrearage that accrued prior to the date of disability. The date of disability shall be as determined by the paying agency.

Section 5. KRS 407.5311 is amended to read as follows:

- (1) A petitioner seeking to establish or modify a support order or to determine parentage in a proceeding under KRS 407.5101 to 407.5902 must verify the petition. Unless otherwise ordered under KRS 407.5312, the petition or accompanying documents must provide, so far as known, the name, residential address, and Social Security numbers of the obligor and the obligee, and the name, sex, residential address, Social Security number, and date of birth of each child for whom support is sought, *with the obligor's, obligee's, and children's personal identifiers provided in accordance with Section 1 of this Act*. The petition must be accompanied by a certified copy of any support order in effect. The petition may include any other information that may assist in locating or identifying the respondent.
- (2) The petition must specify the relief sought. The petition and accompanying documents must conform substantially with the requirements imposed by the forms mandated by federal law for use in cases filed by a support enforcement agency.

Section 6. KRS 407.5602 is amended to read as follows:

- (1) A support order or income-withholding order of another state may be registered in this state by sending the following documents and information to the Cabinet for Health and Family Services or the appropriate tribunal within this state wherein the obligor resides, works, or owns property:
  - (a) A letter of transmittal to the tribunal requesting registration and enforcement;
  - (b) Two (2) copies, including one (1) certified copy, of all orders to be registered, including any modification of an order;
  - (c) A sworn statement by the party seeking registration or a certified statement by the custodian of the records showing the amount of any arrearage;
  - (d) The name of the obligor and, if known;
    1. The obligor's address and *the obligor's* Social Security number *provided in accordance with Section 1 of this Act*;
    2. The name and address of the obligor's employer and any other source of income of the obligor; and
    3. A description and the location of property of the obligor in this state not exempt from execution; and
  - (e) The name and address of the obligee and, if applicable, the agency or person to whom support payments are to be remitted.
- (2) On receipt of a request for registration, the registering tribunal shall cause the order to be filed as a foreign judgment, together with one (1) copy of the documents and information, regardless of their form.
- (3) A petition or comparable pleading seeking a remedy that must be affirmatively sought under other law of this state may be filed at the same time as the request for registration or later. The pleading shall specify the grounds for the remedy sought.

**Approved April 4, 2006.**

## CHAPTER 127

### (HB 451)

AN ACT relating to fish and wildlife resources.

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

Section 1. KRS 56.491 is amended to read as follows:

- (1) No state agency shall have power or authority to make plans and specifications, provide public notice of invitations for bids, let contracts, or incur any financing commitments, either in the way of a charge against public funds or in the way of negotiations for issuance of revenue bonds, for any capital construction projects involving the improvement of lands or the construction, alteration, reconstruction, or major repair of any building or other structure, or sewage disposal or water supply system, requiring the expenditure of more than



two hundred thousand dollars (\$200,000) without first securing the approval of the Finance and Administration Cabinet.

- (2) The state agency seeking the approval shall submit to the Finance and Administration Cabinet a general description of the proposed project, with the detailed information the cabinet may require. Review of construction plans for conformance with the Uniform State Building Code shall be conducted by the Office of Housing, Buildings and Construction. The Finance and Administration Cabinet shall not approve any project requiring its approval in any instance if it finds that: the project is not needed; the proposed method of financing is not sound; the project will exceed the amount of the funds available therefor; the work contemplated will be insufficient to accomplish the purpose of the project; or after providing for the ordinary recurring expenses of government and debt service and for payments under existing allotments for extraordinary expenses and capital outlay, cash will not be available in the State Treasury to promptly pay for the work during the biennium, or except as provided in subsection (5) of this section, that the work is to be done by employees of the agency.
- (3) The finding of the Finance and Administration Cabinet shall be final, except in cases where the issuance and sale of bonds is proposed, in which cases the cabinet shall submit its findings to the commission for final approval, modification, or disapproval.
- (4) Any capital construction project, the total cost of completion of which the Finance and Administration Cabinet determines will exceed two hundred thousand dollars (\$200,000), shall be contracted for on a competitive bid basis, and the execution of the contracts shall be approved and authorized by the cabinet. When a capital construction project has been approved as provided in this section, in whole or in part, the cabinet shall prepare the plans and specifications, provide public notice of invitations for bids, award the contracts, supervise the construction, and handle the financial negotiations on behalf of the requesting state agency; or with prior written approval, the cabinet may authorize a state agency to do so with delegated authority of the cabinet.
- (5) A capital construction project, the total cost of completion of which the Finance and Administration Cabinet determines will not exceed two hundred thousand dollars (\$200,000), may be performed by the employees of the requesting agency or by individuals hired specifically for the project who shall be exempt from the requirements of KRS Chapter 18A, if the project is approved and authorized by the cabinet. Necessary materials and supplies shall be procured in accordance with the standard purchasing procedures and policies of the cabinet as defined in KRS Chapter 45A.
- (6) This section shall not apply to capital outlays to the Department of Highways for roads and bridges.
- (7) This section shall not apply to capital outlays by the Justice Cabinet for repair, maintenance, improvement, or expansion of present correctional facilities on which projects inmates are used. Any capital construction project to be performed by the Justice Cabinet shall be approved and authorized by the Finance and Administration Cabinet.
- (8) ***This section shall not apply to surveys capable of being performed by employees of the Department of Fish and Wildlife Resources. Boundary surveys or surveys involving property lines shall be performed by or under the supervision of an employee possessing a professional land surveyor license.***

Section 2. KRS 150.025 is amended to read as follows:

- (1) In carrying out the provisions of this chapter the department may, by administrative regulations promulgated under the provisions of KRS 13A:
  - (a) Fix, close, terminate, shorten or divide open season, or make open seasons conditional;
  - (b) Regulate bag or creel limits and possession limits;
  - (c) Regulate buying, selling, or transporting;
  - (d) Regulate the size or type of any device used for taking, and regulate any method of taking;
  - (e) Regulate or restrict the places where taking is permitted;
  - (f) Regulate taking, or the opening or closing of seasons, in waters in which the department is conducting experiments or making improvements for the purpose of promoting the conservation of wildlife and increasing the supply thereof;
  - (g) Make administrative regulations apply to a limited area or to the entire state;

- (h) Promulgate any other administrative regulations reasonably necessary to implement or carry out the purposes of this chapter.
- (2) The commissioner shall cause the text of every administrative regulation to be published immediately after filing, once in two (2) newspapers having statewide circulation. ~~[- The commissioner shall also mail two (2) copies to the county clerk of each county in which the administrative regulation is applicable, one (1) copy of which shall be posted on the courthouse door or bulletin board.]~~ The commissioner shall also cause to be prepared news releases concerning all administrative regulations for distribution to radio, television and newspaper media.
- (3) This section shall apply to KRS Chapter 150 and no other KRS chapter pertaining to this subject shall apply to KRS Chapter 150.

Section 3. KRS 150.177 is amended to read as follows:

In addition to the game permits issued under KRS 150.175, the commission may issue a special permit to an incorporated nonprofit wildlife conservation organization. ***The commission shall promulgate administrative regulations governing the number of special permits to be issued per year*** ~~[In a license year, no more than two (2) special permits may be issued]~~ per species for which a game permit is required. The commission may also promulgate regulations allowing the issuance of cooperator permits to individuals or entities who enroll land with the department for public hunting and meet all applicable regulatory requirements. An organization or cooperator that receives a special permit issued under this section may sell and transfer the permit if all proceeds of the sale are used in Kentucky for wildlife management.

Section 4. KRS 150.180 is amended to read as follows:

- (1) Except as otherwise provided for in this chapter, and subject to regulations adopted under this chapter, no person, for himself or as the agent or employee of another shall buy, or sell, or attempt to buy, or sell, barter, exchange, or trade, or have in possession for the purpose of selling, bartering, or trading any protected wildlife or part thereof, raw fur or processed wildlife, no matter where or when caught or killed, whether caught or killed in this state or in any other state or other country.
- (2) Mussels and fishes, other than sport fishes as designated by departmental regulations, and all fishes, regardless of species, raised by licensed propagation permittees may be bought, sold and transported, if in legal possession.
- (3) Raw furs, if in legal possession, may be sold, transported, or shipped, by a licensed trapper or licensed hunter to a licensed fur buyer (resident or nonresident), and by a licensed fur buyer to a licensed fur processor or to another fur buyer if in legal possession. ~~[- Raw furs may be held in possession by a trapper or hunter twenty (20) days and a fur buyer for thirty (30) days following the close of the season.]~~ A fur processor may hold raw furs or sell to another licensed fur processor at any time.
- (4) Subject to regulations adopted under this chapter, a person who has been issued a license under this chapter and who has the license on his person may transport anywhere as a part of his personal baggage any protected wildlife legally taken by him under such license, not in excess of the number that the law or regulation permits him to have in possession at any one (1) time.
- (5) A person who has legally taken any protected wildlife in another state and who has in his possession the license which authorizes such taking may, if the same be dead, transport the same in this state, as part of his personal baggage at any time during the open season for the particular species in the state in which taken or within ten (10) days after the close of such season. Any person may ship dead game or dead fish so taken subject to the provisions of the laws of the state in which the same was taken and the laws and regulations of the United States relating thereto.
- (6) No person shall import or transport into the State of Kentucky or receive shipment in the state from without the state, any live fish or wildlife without first procuring from the department a written fish transportation permit or wildlife transportation permit. If it is determined upon inspection that such fish or wildlife would not constitute a menace to the state and are free from disease and other undesirable physical characteristics, the commissioner shall issue a permit for a fee to be determined by the Fish and Wildlife Commission by administrative regulation, pursuant to KRS Chapter 13A. A fish transportation permit shall be valid for one (1) year from the date of issuance, and a wildlife transportation permit shall be valid for specific dates as indicated on the permit.
- (7) No person may at any time stock any species of fish secured from any source into the public waters of the Commonwealth without first securing a permit from the commissioner.

- (8) This section shall not in any way interfere with the transportation of any fish or wildlife by authorized personnel of the department.
- (9) Federal and state regulations shall govern the transportation of all migratory wild birds.

Section 5. KRS 150.320 is amended to read as follows:

- (1) No person shall take any wild bird except game birds or live raptors for which there is an open season, either under the laws of Kentucky and the regulations of the department or the laws of the United States, except those birds mentioned in subsection (2) of this section.
- (2) This chapter does not protect or in any way limit the taking of ~~the crow,~~ the starling~~,~~ or the English sparrow, but any persons taking any of them must have a hunting license.
- (3) No person shall take, disturb or destroy the nest or eggs of any wild birds except for raptors as prescribed by regulation.

Section 6. KRS 150.370 is amended to read as follows:

- (1) No person shall take any wildlife except during the open season for the particular species as prescribed by the department.
- (2) Subsection (1) of this section shall not apply to persons who hunt red fox at night with dogs for sport and not to kill; and who during daylight or night hours exercise and train rabbit dogs, raccoon dogs, bird dogs and retrievers, but not to kill. The department may, however:
  - (a) Regulate training seasons for rabbit dogs, raccoon dogs, bird dogs, and retrievers in such manner as not to discriminate against one (1) type of animal over any other nor as to unduly limit such activities; and
  - (b) Permit rabbit dog, raccoon dog, bird dog, fox dog, and retriever meets held by organized clubs, regardless of any hunting season, with the prior approval of the department provided said approval was requested at least thirty (30) days prior to the meet.

~~[(3) The possession of any raw fur when the season is not open for the particular species shall be prima facie evidence that the animal was taken out of open season, but this presumption shall not apply to possession of any fur by a trapper or hunter during the open season as prescribed by the department and twenty (20) days thereafter, or by a fur buyer during the open season and thirty (30) days thereafter.]~~

Section 7. KRS 150.412 is amended to read as follows:

- (1) ***While providing the services of a commercial guide, a guide already possessing the applicable sport hunting licenses and permits may participate in the taking of wildlife protected by this chapter up to***~~[No commercial guide shall participate in the taking of wildlife protected by this chapter beyond]~~ ***the bag limit set forth in administrative regulations***~~[or creel limit of the person or persons he is guiding].~~
- (2) ***While providing the services of a commercial guide, a guide already possessing the applicable sport fishing licenses and permits may participate in the taking of fish protected by this chapter up to the creel limit set forth in administrative regulations.***

**Approved April 4, 2006.**

## **CHAPTER 128**

### **(HB 470)**

AN ACT relating to administrative hearings and declaring an emergency.

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

Section 1. KRS 224.10-440 is amended to read as follows:

- (1) All hearings under this chapter shall be held before a qualified hearing officer, who may be a full-time employee of the cabinet, serve by contract, or be paid on a per diem basis in the discretion of the cabinet. After the conclusion of the hearing, the hearing officer shall ~~within thirty (30) days~~ make to the secretary a report and recommended order which shall contain a finding of fact and a conclusion of law. ~~[If the secretary finds upon written request of the hearing officer that additional time is needed, the secretary may grant an extension.]~~

The hearing officer shall serve a copy of his report and recommended order upon all parties of record to the proceeding, and they shall be granted the right to file within fourteen (14) days of receipt exceptions thereto. The secretary shall consider the report, exceptions, and recommended order and decide the case *within ninety (90) days. The secretary, for good cause, may take no more than an additional forty-five (45) days provided the secretary gives the parties written notice stating the good cause within the original ninety (90) day period.* The *secretary's* decision shall be served by mail upon all parties and shall be a final order of the cabinet.

- (2) Any party to a hearing under this subsection may be represented by counsel, may make oral or written argument, offer testimony, cross-examine witnesses, or take any combination of these actions. *The secretary may promulgate administrative regulations to require that direct testimony be filed in writing prior to the hearing, either for all or some categories of cases.* The record of the hearing shall be open to public inspection, and copies thereof shall be made available to any person upon payment of the actual cost of reproducing the original except as provided in KRS 224.10-210.
- (3) *Unless all parties to the case agree in writing otherwise, the hearing officer shall conduct the hearing, complete the report and recommended order, and transmit the report and recommended order to the secretary no later than one hundred eighty (180) days after service of the written notice described in KRS 224.10-420(1) upon all named parties or service of the petition and demand for hearing pursuant to KRS 224.10-420(2) upon all named parties, whichever is applicable. Upon written request of the hearing officer or any party to the hearing, the secretary or secretary's designee, for good cause shown, may extend this deadline for a period not to exceed ninety (90) days. The secretary shall grant no more than two (2) ninety (90) day extensions under this subsection, unless the secretary and all parties to the case agree to the contrary in writing.*
- (4) *The secretary may promulgate administrative regulations to establish procedures and deadlines for submitting a written request for an extension pursuant to subsection (3) of this section. The secretary shall require that any written request for extension include a proposed date certain by which the hearing or report and recommended order, or both, will be completed.*
- (5) *Upon the failure of the hearing officer to make a report and recommended order to the secretary within the deadline set forth in subsection (3) of this section, including any extensions granted by the secretary pursuant to subsections (3) and (4) of this section, the secretary shall remove the case from the hearing officer. The secretary shall then:*
  - (a) *Decide the case within ninety (90) days after allowing the parties to supplement the record, if necessary; or*
  - (b) *Transfer the case to another qualified hearing officer for completion of the hearing or report and recommended order, or both, by a new deadline set by the secretary. The secretary shall make no more than one (1) transfer pursuant to this subsection.*
- (6) All hearings conducted pursuant to this chapter shall be open to the public except as provided in KRS 224.10-210.

Section 2. Whereas the timely disposition of administrative hearings is of utmost urgency and importance to the parties, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming law.

Approved April 4, 2006.

## CHAPTER 129

(HB 475)

AN ACT related to information about meningococcal meningitis disease.

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

SECTION 1. A NEW SECTION OF KRS CHAPTER 158 IS CREATED TO READ AS FOLLOWS:

- (1) *If, at the beginning of a school year, a board of education for a local school district provides information on immunizations, infectious disease, medications, or other school health issues to parents and guardians*

*of students in grades six (6) through twelve (12), then the following information about meningococcal meningitis disease and its vaccine shall be included:*

- (a) *A description of causes, symptoms, and means of transmission;*
  - (b) *A list of sources for additional information; and*
  - (c) *Related recommendations issued by the National Centers for Disease Control and Prevention.*
- (2) *The Department of Education, in cooperation with the Department for Public Health, shall develop and make available the information about meningococcal meningitis disease and its vaccine to local school districts as required under subsection (1) of this section in an efficient manner that shall include posting the information on its Web site.*

**Approved April 4, 2006.**

## **CHAPTER 130**

**(HB 479)**

AN ACT relating to pupil attendance policies.

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

Section 1. KRS 159.080 is amended to read as follows:

- (1) Each superintendent of a local school district shall appoint a director of pupil personnel and assistants as are deemed necessary. Salaries of directors and assistants shall be fixed by the board of education.
- (2) Directors of pupil personnel ~~and assistants~~ shall have the general qualifications of teachers and, in addition, shall hold a valid certificate issued in accordance with the administrative regulations of the Education Professional Standards Board. Certificates valid on January 1, 1956, for attendance officer shall hereafter be valid for the positions of director of pupil personnel. Certificates shall be reissued or renewed in accordance with the terms of the administrative regulations of the Education Professional Standards Board in effect at the time of application for reissuance or renewal.
- (3) Directors of pupil personnel and assistants shall be allowed their necessary and authorized expenses incurred in the performance of their duties. Each board shall bear the expense of its directors of pupil personnel and assistants incurred in its district.
- (4) The office of the superintendent of schools shall be the office of the director of pupil personnel and suitable space shall be provided therein or adjacent thereto for him **or her**.

Section 2. KRS 159.140 is amended to read as follows:

- (1) The director of pupil personnel, **or an assistant appointed under Section 1 of this Act**, shall:
  - (a) Devote his **or her** entire time to the duties of ~~the his~~ office except as provided in subsection (2) of this section;
  - (b) Enforce the compulsory attendance and census laws in the attendance district he **or she** serves;
  - (c) Acquaint the school with the home conditions of **a habitual truant as described in KRS 159.150(3)** ~~the student~~ and the home with the work and advantages of the school;
  - (d) Ascertain the causes of irregular attendance and truancy, **through documented contact with the custodian of the student**, and seek the elimination of these causes;
  - (e) Secure the enrollment in school of all students who should be enrolled and keep all enrolled students in reasonably regular attendance;
  - (f) **Attempt to** visit the homes of students who are ~~absent from school or who are~~ reported to be in need of books, clothing, or parental care;
  - (g) Provide for the interviewing of students and the parents of those students who quit school to determine the reasons for the decision. The interviews shall be conducted in a location that is nonthreatening for

the students and parents and according to procedures and interview questions established by an administrative regulation promulgated by the Kentucky Board of Education. The questions shall be designed to provide data that can be used for local district and statewide research and decision-making. Data shall be reported annually to the local board of education and the Department of Education.

- (h) Report to the superintendent of schools in the district in which the student resides the number and cost of books and school supplies needed by any student whose parent, guardian, or custodian does not have sufficient income to furnish the ~~student~~~~child~~ with the necessary books and school supplies;
  - (i) Keep the records and make the reports that are required by law, by regulation of the Kentucky Board of Education, and by the superintendent and board of education.
- (2) A local school district superintendent may waive the requirement that a director of pupil personnel devote his or her entire time to his or her duties. The superintendent shall report the decision to the commissioner of education.
- (3) *In any action brought to enforce compulsory attendance laws, the director of pupil personnel or an assistant shall document the home conditions of the student, and the intervention strategies attempted.*

Approved April 4, 2006.

### CHAPTER 131

(HB 512)

AN ACT relating to Transportation Engineering Assistant I experience requirements.

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

SECTION 1. A NEW SECTION OF KRS CHAPTER 18A IS CREATED TO READ AS FOLLOWS:

*Beginning on the effective date of this Act, the requirement of two (2) years of experience related to one (1) or more transportation engineering programs for the job classification of Transportation Engineering Assistant I shall not apply as an experience requirement for the classification. Any applicant who has obtained a high school diploma, equivalency certificate, or a passing score on the General Educational Development (GED) examination shall be deemed to have met the educational requirements necessary for the Transportation Engineering Assistant I classification and shall be allowed to take the relevant written examination for the classification.*

Approved April 4, 2006.

### CHAPTER 132

(HB 535)

AN ACT relating to motor vehicle registration.

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

Section 1. KRS 186.050 is amended to read as follows:

- (1) The annual registration fee for motor vehicles, including taxicabs, airport limousines, and U-Drive-Its, primarily designed for carrying passengers and having provisions for not more than nine (9) passengers, including the operator, and pickup trucks and passenger vans which are not being used on a for-hire basis shall be eleven dollars fifty cents (\$11.50).
- (2) Except as provided in KRS 186.041, the annual registration fee for each motorcycle shall be nine dollars (\$9), and for each sidecar attachment, seven dollars (\$7).
- (3) (a) All motor vehicles having a declared gross weight of vehicle and any towed unit of ~~ten~~~~six~~ thousand (~~10,000~~~~6,000~~) pounds or less, except those mentioned in subsections (1) and (2) of this section and those engaged in hauling passengers for hire, operating under certificates of convenience and necessity, are classified as commercial vehicles and the annual registration fee, except as provided in subsections (4) to (14) of this section, shall be eleven dollars and fifty cents (\$11.50).

- (b) All motor vehicles except those mentioned in subsections (1) and (2) of this section, and those engaged in hauling passengers for hire, operating under certificates of convenience and necessity, are classified as commercial vehicles and the annual registration fee, except as provided in subsections (3)(a) and (4) to (14) of this section, shall be as follows:

Declared Gross Weight of Vehicle and Any Towed Unit	Registration Fee
<del>6,001-10,000</del>	<del>\$24.00</del>
10,001-14,000	30.00
14,001-18,000	50.00
18,001-22,000	132.00
22,001-26,000	160.00
26,001-32,000	216.00
32,001-38,000	300.00
38,001-44,000	474.00
44,001-55,000	669.00
55,001-62,000	1,007.00
62,001-73,280	1,250.00
73,281-80,000	1,410.00

- (4) (a) Any farmer owning a truck having a gross weight of thirty-eight thousand (38,000) pounds or less may have it registered as a farmer's truck and obtain a license for eleven dollars and fifty cents (\$11.50). The applicant's signature upon the certificate of registration and ownership shall constitute a certificate that he is a farmer engaged in the production of crops, livestock, or dairy products, that he owns a truck of the gross weight of thirty-eight thousand (38,000) pounds or less, and that during the next twelve (12) months the truck shall not be used in for-hire transportation and may be used in transporting persons, food, provender, feed, machinery, livestock, material, and supplies necessary for his farming operation, and the products grown on his farm.
- (b) Any farmer owning a truck having a declared gross weight in excess of thirty-eight thousand (38,000) pounds shall not be required to pay the fee set out in subsection (3) of this section and, in lieu thereof, shall pay forty percent (40%) of the fee set out in subsection (3) of this section and shall be exempt from any fee charged under the provisions of KRS 281.752. The applicant's signature upon the registration receipt shall be considered to be a certification that he is a farmer engaged solely in the production of crops, livestock or dairy products, and that during the current registration year the truck will be used only in transporting persons, food, provender, feed, and machinery used in operating his farm and the products grown on his farm.
- (5) Any person owning a truck or bus used solely in transporting school children and school employees may have the truck or bus registered as a school bus and obtain a license for eleven dollars fifty cents (\$11.50) by filing with the county clerk, in addition to other information required, an affidavit stating that the truck or bus is used solely in the transportation of school children and persons employed in the schools of the district, that he has caused to be printed on each side of the truck or bus and on the rear door the words "School Bus" in letters at least six (6) inches high, and of a conspicuous color, and the truck or bus will be used during the next twelve (12) months only for the purpose stated.
- (6) Any church or religious organization owning a truck or bus used solely in transporting persons to and from a place of worship or for other religious work may have the truck or bus registered as a church bus and obtain a license for eleven dollars and fifty cents (\$11.50) by filing with the county clerk, in addition to other information required, an affidavit stating that the truck or bus will be used only for the transporting of persons to and from a place of worship, or for other religious work, and that there has been printed on the truck or bus in large letters the words "Church Bus," with the name of the church or religious organization owning and

using the truck or bus, and that during the next twelve (12) months the truck or bus will be used only for the purpose stated.

- (7) Any person owning a motor vehicle with a gross weight of fourteen thousand (14,000) pounds or less on which a wrecker crane or other equipment suitable for wrecker service has been permanently mounted may register the vehicle and obtain a license for eleven dollars fifty cents (\$11.50) by filing with the county clerk, in addition to other information required, an affidavit that a wrecker crane or other equipment suitable for wrecker service has been permanently mounted on such vehicle and that during the next twelve (12) months the vehicle will be used only in wrecker service. If the gross weight of the vehicle exceeds fourteen thousand (14,000) pounds, the vehicle shall be registered in accordance with subsection (3) of this section. The gross weight of a vehicle used in wrecker service shall not include the weight of the vehicle being towed by the wrecker.
- (8) Motor vehicles having a declared gross weight in excess of eighteen thousand (18,000) pounds, which when operated in this state are used exclusively for the transportation of property within the limits of the city named in the affidavit hereinafter required to be filed, or within ten (10) miles of the city limits of the city if it is a city of the first, second, third, or fourth class, or within five (5) miles of its limits if it is a city of the fifth or sixth class, or anywhere within a county containing an urban-county government, shall not be required to pay the fee as set out in subsection (3) of this section, and in lieu thereof shall pay seventy-five percent (75%) of the fee set forth in subsection (3) of this section and shall be exempt from any fee charged under the provisions of KRS 281.752. Nothing in this section shall be construed to limit any right of nonresidents to exemption from registration under any other provisions of the laws granting reciprocity to nonresidents. Operations outside of this state shall not be considered in determining whether or not the foregoing mileage limitations have been observed. When claiming the right to the reduced fee, the applicant's signature on the certificate of registration and ownership shall constitute a certification or affidavit stating that the motor vehicle when used within this state is used only for the transportation of property within the city to be named in the affidavit and the area above set out and that the vehicle will not be used outside of a city and the area above set out during the current registration period.
- (9) Motor vehicles having a declared gross weight in excess of eighteen thousand (18,000) pounds, which are used exclusively for the transportation of primary forest products from the harvest area to a mill or other processing facility, where such mill or processing facility is located at a point not more than fifty (50) air miles from the harvest area or which are used exclusively for the transportation of concrete blocks or ready-mixed concrete from the point at which such concrete blocks or ready-mixed concrete is produced to a construction site where such concrete blocks or ready-mixed concrete is to be used, where such construction site is located at a point not more than thirty (30) air miles from the point at which such concrete blocks or ready-mixed concrete is produced shall not be required to pay the fee as set out in subsection (3) of this section, and in lieu thereof, shall pay seventy-five percent (75%) of the fee set out in subsection (3) of this section and shall be exempt from any fee charged under the provisions of KRS 281.752. The applicant's signature upon the certificate of registration and ownership shall constitute a certification that the motor vehicle will not be used during the current registration period in any manner other than that for which the reduced fee is provided in this section.
- (10) Any owner of a commercial vehicle registered for a declared gross weight in excess of eighteen thousand (18,000) pounds, intending to transfer same and desiring to take advantage of the refund provisions of KRS 186.056(2), may reregister such vehicle and obtain a "For Sale" certificate of registration and ownership for one dollar (\$1). Title to a vehicle so registered may be transferred, but such registration shall not authorize the operation or use of the vehicle on any public highway. No refund may be made under the provisions of KRS 186.056(2) until such time as the title to such vehicle has been transferred to the purchaser thereof. Provided, however, that nothing herein shall be so construed as to prevent the seller of a commercial vehicle from transferring the registration of such vehicle to any purchaser thereof.
- (11) The annual registration fee for self-propelled vehicles containing sleeping or eating facilities shall be twenty dollars (\$20) and the multiyear license plate issued shall be designated "Recreational vehicle." The foregoing shall not include any motor vehicle primarily designed for commercial or farm use having temporarily attached thereto any sleeping or eating facilities, or any commercial vehicle having sleeping facilities.
- (12) The registration fee on any vehicle registered under this section shall be increased fifty percent (50%) when the vehicle is not equipped wholly with pneumatic tires.
- (13) (a) The Department of Vehicle Regulation is authorized to negotiate and execute an agreement or agreements for the purpose of developing and instituting proportional registration of motor vehicles



engaged in interstate commerce, or in a combination of interstate and intrastate commerce, and operating into, through or within the Commonwealth of Kentucky. The agreement or agreements may be made on a basis commensurate with, and determined by, the miles traveled on, and use made of, the highways of this Commonwealth as compared with the miles traveled on and use made of highways of other states, or upon any other equitable basis of proportional registration. Notwithstanding the provisions of KRS 186.020, the cabinet shall promulgate administrative regulations concerning the registration of motor vehicles under any agreement or agreements made under this section and shall provide for direct issuance by it of evidence of payment of any registration fee required under such agreement or agreements. Any proportional registration fee required to be collected under any proportional registration agreement or agreements shall be in accordance with the taxes established in this section.

- (b) Any owner of a commercial vehicle who is required to title his motor vehicle under this section shall first title such vehicle with the county clerk pursuant to KRS 186.020 for a state fee of one dollar (\$1). Title to such vehicle may be transferred; however title without proper registration shall not authorize the operation or use of the vehicle on any public highway. Any commercial vehicle properly titled in Kentucky may also be registered in Kentucky, and, upon payment of the required fees, the department may issue an apportioned registration plate to such commercial vehicle.
  - (c) Any commercial vehicle that is properly titled in a foreign jurisdiction, which vehicle is subject to apportioned registration, as provided in paragraph (a) of this subsection, may be registered in Kentucky, and, upon proof of proper title, and payment of the required fees, the department may issue an apportioned registration plate to the commercial vehicle. The department shall promulgate administrative regulations in accordance with this section.
- (14) Any person seeking to obtain a special license plate for an automobile that has been provided to him pursuant to an occupation shall meet both of the following requirements:
- (a) The automobile shall be provided for the full-time exclusive use of the applicant; and
  - (b) The applicant shall obtain permission in writing from the vehicle owner or lessee on a form provided by the cabinet to use the vehicle and for the vehicle to bear the special license plate.

**Approved April 4, 2006.**

## CHAPTER 133

**(HB 540)**

AN ACT relating to hepatitis C.

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

SECTION 1. A NEW SECTION OF KRS CHAPTER 214 IS CREATED TO READ AS FOLLOWS:

- (1) ***The Department of Public Health shall develop a statewide education, awareness, and information program on hepatitis C. The hepatitis C education, awareness, and information program may be incorporated into other existing health education programs. The Department for Public Health may make available on its Internet Web site protocols, guidelines, and materials for hepatitis C education, awareness, and information programs that increase the understanding of the disease among general and high-risk populations.***
- (2) ***The hepatitis C education, awareness, and information program may include material to specifically address individuals who may be at high risk of infection, including but not limited to law enforcement officials, corrections personnel, prisoners, veterans, individuals who received blood transfusions prior to 1992, hemophiliacs, students, and minority communities. The program may utilize education materials developed by health-related companies and community-based or national advocacy organizations. The program may include but not be limited to counseling, patient support groups, and existing hotlines for consumers.***
- (3) ***In developing the hepatitis C education, awareness, and information program, the department shall consult the University of Kentucky College of Medicine, the University of Louisville School of Medicine, the Pikeville College School of Osteopathic Medicine, the American Liver Foundation, the Centers for Disease***

*Control and Prevention, and any other scientific, medical, or advocacy organizations to develop the protocols and guidelines for the hepatitis C education, awareness, and information program. The protocols and guidelines may include, but are not limited to the following:*

- (a) The risk factors associated with hepatitis C acquisition and transmission;*
  - (b) The most recent scientific and medical information on hepatitis C prevention, detection, diagnosis, treatment, and therapeutic decision making;*
  - (c) Tracking and reporting of acute cases of hepatitis C by public health officials;*
  - (d) Protocols for public safety and health care workers who come in contact with hepatitis C patients; and*
  - (e) Surveillance programs to determine the prevalence of hepatitis C in ethnic and other high-risk populations.*
- (4) The Department for Public Health may coordinate with the Department of Veterans' Affairs and the Department of Corrections to establish specific recommendations for the hepatitis C education, awareness, and information program. The protocols and guidelines established by the Department of Public Health, the Department of Corrections, and the Department for Veterans' Affairs may include topics specified in subsection (3) of this section and may include, but are not limited to protocols within state agencies to enable departments to provide appropriate treatment for individuals with hepatitis C, protocols for the education of state agency officials and other employees who work with individuals with hepatitis C, and protocols within the Department of Corrections to provide written hepatitis C information to prisoners on the date of their probation, parole, or release.*
- (5) The Department for Public Health shall report on the hepatitis C education, awareness, and information program to the Interim Joint Committee on Health and Welfare by December 1, 2006, and every six (6) months thereafter, or upon request of the committee.*

**Approved April 4, 2006.**

## **CHAPTER 134**

### **(HB 550)**

AN ACT relating to the provision of broadband service.

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

Section 1. KRS 224A.011 is amended to read as follows:

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

- (1) "Administrative fee" means a fee assessed and collected by the authority from borrowers under assistance agreements, to be used for operational expenses of the authority.
- (2) "Applicable interest rate" means the rate of interest which shall be used as part of the repayment criteria for an assistance agreement between a governmental agency and the authority, and shall be determined by the authority pertinent to the source of funds from which the assistance agreement is funded.
- (3) "Assistance agreement" means the agreement to be made and entered into by and between a governmental agency and the authority, as authorized by this chapter, providing for a lease, loan, services, or grant to the governmental agency or for the purchase of obligations issued by the governmental agency, and for the repayment thereof to the authority by the governmental agency.
- (4) "Authority" means the Kentucky Infrastructure Authority, which is created by this chapter.
- (5) "Authority revenues" means the totality of all:
  - (a) Service charges;
  - (b) Utility tax receipts, to the extent not otherwise committed and budgeted by the authority during any fiscal period of the authority;
  - (c) Any gifts, grants, or loans received, to the extent not otherwise required to be applied;

- (d) Any and all appropriations made to the authority by the General Assembly of the Commonwealth of Kentucky, to the extent not otherwise required to be applied;
  - (e) All moneys received in repayment of and for interest on any loans made by the authority to a governmental agency, except as provided in KRS 224A.111, 224A.1115, and 224A.112, or as principal of and interest on any obligations issued by a governmental agency and purchased by the authority, or as receipts under any assistance agreement;
  - (f) The proceeds of bonds or long-term debt obligations of governmental agencies pledged to the payment of bond anticipation notes issued by the authority on behalf of the said governmental agency to provide interim construction financing; and
  - (g) Payments under agreements with any agencies of the state and federal government.
- (6) "Borrower or borrowing entity" means any agency of the state or its political subdivisions, any city, or any special district created under the laws of the state acting individually or jointly under interagency or interlocal cooperative agreements to enter into assistance agreements with the authority.
- (7) "Community flood damage abatement project" means any structural or nonstructural study, plan, design, construction, development, improvement, or other activity to provide for flood control.
- (8) "Construction" means and includes, but is not limited to:
- (a) Preliminary planning to determine the economic and engineering feasibility of infrastructure projects, the engineering, architectural, legal, fiscal, and economic investigations, and studies necessary thereto, and surveys, designs, plans, working drawings, specifications, procedures, and other actions necessary to the construction of infrastructure or solid waste projects;
  - (b) The erection, building, acquisition, alteration, remodeling, improvement, or extension of infrastructure or solid waste projects; and
  - (c) The inspection and supervision of the construction of infrastructure or solid waste projects and all costs incidental to the acquisition and financing of same. This term shall also relate to and mean any other physical devices or appurtenances in connection with, or reasonably attendant to, infrastructure or solid waste projects.
- (9) "Dams" means any artificial barrier, including appurtenant works, which does or can impound or divert water, and which either:
- (a) Is or will be twenty-five (25) feet or more in height from the natural bed of the stream or watercourse at the downstream toe of the barrier, as determined by the Environmental and Public Protection Cabinet; or
  - (b) Has or will have an impounding capacity at maximum water storage elevation of fifty (50) acre feet or more.
- (10) "Distribution facilities" means all or any part of any facilities, devices, and systems used and useful in obtaining, pumping, storing, treating, and distributing water for agricultural, industrial, commercial, recreational, public, and domestic use.
- (11) "Environmental and Public Protection Cabinet" means the Kentucky Environmental and Public Protection Cabinet, or its successor, said term being meant to relate specifically to the state agency which is designated as the water pollution agency for the Commonwealth of Kentucky, for purposes of the federal act.
- (12) "Federal act" means the Federal Clean Water Act (33 U.S.C. secs. 1251 et seq.) as said federal act may be amended from time to time in the future, or any other enactment of the United States Congress providing funds that may assist in carrying out the purposes of the authority.
- (13) "Federally assisted wastewater revolving fund" means that fund which will receive federal and state funds or the proceeds from the sale of revenue bonds of the authority for the purpose of providing loans to finance construction of publicly owned treatment works as defined in Section 212 of the federal act and for the implementation of a management program established under Section 319 of the federal act and for the development and implementation of a conservation and management plan under Section 320 of the federal act.

- (14) "Governmental agency" means any incorporated city or municipal corporation, or other agency, or unit of government within or a department or a cabinet of the Commonwealth of Kentucky, now having or hereafter granted, the authority and power to finance, acquire, construct, or operate infrastructure or solid waste projects. This definition shall specifically apply, but not by way of limitation, to incorporated cities; counties, including any counties containing a metropolitan sewer district; sanitation districts; water districts; water associations if these associations are permitted to issue interest-bearing obligations which interest would be excludable from gross income under Section 103 of the Internal Revenue Code of 1986 as amended; sewer construction districts; metropolitan sewer districts; sanitation taxing districts; and any other agencies, commissions, districts, or authorities (either acting alone, or in combination with one another in accordance with any regional or area compact, or intergovernmental cooperative agreements), now or hereafter established in accordance with the laws of the Commonwealth of Kentucky having and possessing the described powers described in this subsection.
- (15) "Industrial waste" means any liquid, gaseous, or solid waste substances resulting from any process of industry, manufacture, trade, or business, or from the mining or taking, development, processing, or recovery of any natural resources, including heat and radioactivity, together with any sewage as is present therein, which pollutes the waters of the state, and specifically, but not by way of limitation, means heat or thermal differentials created in the waters of the state by any industrial processing, generating, or manufacturing processes.
- (16) "Infrastructure project" means any construction or acquisition of treatment works, distribution facilities, or water resources projects instituted by a governmental agency or an investor-owned water utility which is approved by the authority and, if required, by the Environmental and Public Protection Cabinet, Public Service Commission, or other agency; solid waste projects; dams; storm water control and treatment systems; gas or electric utility; **broadband deployment project**; or any other public utility or public service project which the authority finds would assist in carrying out the purposes set out in KRS 224A.300.
- (17) "Infrastructure revolving fund" means that fund which will receive state funds, the proceeds from the sale of revenue bonds of the authority or other moneys earmarked for that fund for the purpose of providing loans or grants to finance construction or acquisition of infrastructure projects as defined in this section.
- (18) "Loan or grant" means moneys to be made available to governmental agencies by the authority for the purpose of defraying all or any part of the total costs incidental to construction or acquisition of any infrastructure project.
- (19) "Market interest rate" means the interest rate determined by the authority under existing market conditions at the time the authority shall provide financial assistance to a governmental agency.
- (20) "Obligation of a governmental agency" means a revenue bond, bond anticipation note, revenue anticipation note, lease, or other obligation issued by a governmental agency under KRS 58.010 et seq. or other applicable statutes.
- (21) "Person" means any individual, firm, partnership, association, corporation, or governmental agency.
- (22) "Pollution" means the placing of any noxious or deleterious substances ("pollutants"), including sewage and industrial wastes, in any waters of the state or affecting the properties of any waters of the state in a manner which renders the waters harmful or inimical to the public health or to animal or aquatic life, or to the use, present or future, of these waters for domestic water supply, industrial or agricultural purposes, or recreational purposes.
- (23) "Prioritization schedules" means the list of wastewater treatment works, distribution facilities and water resources projects which the Environmental and Public Protection Cabinet has evaluated and determined to be of priority for receiving financial assistance from the federally assisted wastewater revolving fund and the federally assisted drinking water revolving fund, or the list of infrastructure projects which the authority has evaluated and determined to be of priority for receiving financial aid from the infrastructure revolving fund. The evaluation by the authority of infrastructure projects for water systems shall be undertaken with input from the appropriate area development district. ***The evaluation by the authority of infrastructure for broadband deployment projects shall be undertaken with consideration given to input from Area Development Districts, telecommunications businesses, information services, technology industries, governmental entities, and Kentucky-based nonprofit organizations, including ConnectKentucky.***
- (24) "Solid waste project" means construction, renovation, or acquisition of a solid waste facility which shall be instituted and owned by a governmental agency.

- (25) "Recovered material" means those materials which have known current use, reuse, or recycling potential, which can be feasibly used, reused, or recycled, and which have been diverted or removed from the solid waste stream for sale, use, reuse, or recycling, whether or not requiring subsequent separation and processing but does not include materials diverted or removed for purposes of energy recovery or combustion except refuse-derived fuel (RDF), which shall be credited as a recovered material in an amount equal to that percentage of the municipal solid waste received on a daily basis at the processing facility and processed into RDF; but not to exceed fifteen percent (15%) of the total amount of the municipal solid waste received at the processing facility on a daily basis.
- (26) "Recovered material processing facility" means a facility engaged solely in the storage, processing, and resale or reuse of recovered material but does not mean a solid waste facility if solid waste generated by a recovered material processing facility is managed in accordance with KRS Chapter 224 and administrative regulations adopted by the cabinet.
- (27) "Revenue bonds" means special obligation bonds issued by the authority as provided by the provisions of this chapter, which are not direct or general obligations of the state, and which are payable only from a pledge of, and lien upon, authority revenues as provided in the resolution authorizing the issuance of the bonds, and shall include revenue bond anticipation notes.
- (28) "Service charge" means any monthly, quarterly, semiannual, or annual charge to be imposed by a governmental agency, or by the authority, for any infrastructure project financed by the authority, which service charge arises by reason of the existence of, and requirements of, any assistance agreement.
- (29) "Sewage" means any of the waste products or excrements, or other discharges from the bodies of human beings or animals, which pollute the waters of the state.
- (30) "Solid waste" means "solid waste" as defined by KRS 224.01-010(31)(a).
- (31) "Solid waste facility" means any facility for collection, handling, storage, transportation, transfer, processing, treatment, or disposal of solid waste, whether the facility is associated with facilities generating the waste or otherwise, but does not include a container located on property where the waste is generated and which is used solely for the purpose of collection and temporary storage of that solid waste prior to off-site disposal, or a recovered material processing facility.
- (32) "Solid waste revolving fund" means that fund which shall receive state funds, the proceeds from the sale of revenue bonds of the authority, or other moneys earmarked for the purpose of providing loans or grants to finance solid waste projects defined in this section.
- (33) "State" means the Commonwealth of Kentucky.
- (34) "System" means the system owned and operated by a governmental agency with respect to solid waste projects, treatment works, or infrastructure projects financed as provided by the assistance agreement between the governmental agency and the authority.
- (35) "Treatment works" or "wastewater treatment works" means all or any part of any facilities, devices, and systems used and useful in the storage, treatment, recycling, and reclamation of wastewater or the abatement of pollution, including facilities for the treatment, neutralization, disposal of, stabilization, collecting, segregating, or holding of wastewater, including without limiting the generality of the foregoing, intercepting sewers, outfall sewers, pumping power stations, and other equipment and their appurtenances; extensions, improvements, remodeling, additions, and alterations thereof, and any wastewater treatment works, including site acquisition of the land that will be an integral part of the wastewater treatment process, or is used for ultimate disposal of residues resulting from wastewater treatment, together with any other facilities which are deemed to be treatment works in accordance with the federal act.
- (36) "Variable rate revenue bonds" means revenue bonds the rate of interest on which fluctuates either automatically by reference to a predetermined formula or index or in accordance with the standards set forth in KRS 224A.120.
- (37) "Wastewater" means any water or liquid substance containing sewage, industrial waste, or other pollutants or contaminants derived from the prior use of these waters.

- (38) "Water resources" means all waters of the state occurring on the surface, in natural or artificial channels, lakes, reservoirs, or impoundments, and in subsurface aquifers, which are available, or which may be made available to agricultural, industrial, commercial, recreational, public, and domestic users.
- (39) "Water resources project" means any structural or nonstructural study, plan, design, construction, development, improvement, or any other activity including programs for management, intended to conserve and develop the water resources of the state and shall include all aspects of water supply, flood damage abatement, navigation, water-related recreation, and land conservation facilities and measures.
- (40) "Waters of the state" means all streams, lakes, watercourses, waterways, ponds, marshes, wells, springs, irrigation systems, drainage systems, and all other bodies or accumulations of water, surface and underground, natural or artificial, which are situated wholly or partly within, or border upon, this state, or are within its jurisdiction, except those private waters which do not combine or effect a junction with natural, surface, or underground waters.
- (41) "Utility tax" means the tax which may be imposed by the authority on every purchase of water or sewer service in the Commonwealth of Kentucky.
- (42) ***"Broadband deployment project" means the construction, provision, development, operation, maintenance, leasing, or improvement of broadband infrastructure, broadband services, or technologies that constitute a part of, or are related to, broadband infrastructure or broadband services, to provide for broadband service in unserved areas of the Commonwealth.***
- (43) ***"Unserved area" means any place where broadband service is not available.***

Section 2. KRS 224A.112 is amended to read as follows:

- (1) The infrastructure revolving fund shall be established in the State Treasury and shall be administered by the authority.
- (2) The fund shall be a dedicated fund, and all moneys in the fund shall be dedicated solely to providing financial assistance to governmental agencies, and investor-owned water systems as provided for in KRS 96.540, 224A.306, 224A.308, and 224A.310, for the construction or acquisition of infrastructure projects. The fund shall contain an account called the 2020 water service account. The 2020 water service account shall be managed by the authority as set out in this chapter. ***The fund shall contain an account called the broadband deployment account which shall be managed by the authority and for the purposes set forth in Section 3 of this Act.***
- (3) The financial assistance which may be provided to governmental agencies by the revolving fund shall be limited to:
  - (a) Making loans, on the condition that the loans are made at or below market interest rates, including interest free loans, at terms not to exceed thirty (30) years and that the fund will be credited with all payments of principal and interest on all loans;
  - (b) Purchasing or guaranteeing, or purchasing insurance for, local or state obligations when the action would improve credit market access or reduce interest rates;
  - (c) Providing a source of revenue or security for the payment of principal and interest on bonds or notes issued by the authority or other agencies of the state if the proceeds of the sale of the bonds will be deposited in the fund;
  - (d) Providing moneys with which to carry out the requirements of assistance agreements; and
  - (e) Making grants as funds specifically appropriated for grants or proceeds from the sale of the authority's revenue bonds are available.
- (4) The revolving fund shall be established, maintained, and credited with repayments and the fund balance shall be available in perpetuity for its stated purposes.
- (5) The authority may provide financial assistance from the fund to supplement assistance provided from the federally assisted wastewater revolving fund as created in KRS 224A.111.
- (6) The authority shall advise governmental agencies of the availability of the infrastructure revolving fund and how moneys may be obtained from the fund.

- (7) The authority may enter into any necessary or required agreement with federal or state agencies or persons to carry out the provisions of this section. All state agencies shall cooperate with the authority and share information with the authority as appropriate to accomplish the purposes set out in KRS 224A.300.

SECTION 3. A NEW SECTION OF KRS CHAPTER 224A IS CREATED TO READ AS FOLLOWS:

- (1) *The purpose of the broadband deployment account set forth in Section 2 of this Act shall be to assist governments and private sector entities to construct infrastructure for the deployment of broadband service to unserved areas of the Commonwealth. The authority shall manage the account and may accept and receive appropriations from the General Assembly or other funds or gifts from both public and private sources, including, but not limited to, local governments and federal agencies.*
- (2) *The authority shall establish an incentive program that allocates funds from the broadband deployment account in accordance with the provisions of this section. Incentives may be used by government or private sector entities for broadband deployment projects.*
- (3) *The incentive program shall be developed to give highest funding priority to those projects which most effectively provide broadband service to the greatest number of unserved Kentucky citizens and at the lowest cost. Funding shall not be used for projects with an intent to deploy broadband service to areas where broadband service already exists; however, the authority may consider funding for projects that, in providing broadband service for an unserved area, create an overlap in existing broadband coverage for less than twenty percent (20%) of households in the proposed coverage area.*
- (4) *The authority shall develop funding criteria and prioritization schedules for broadband deployment projects in accordance with this section and with consideration given to recommendations submitted by Area Development Districts, telecommunications businesses, information services, technology industries, governmental entities, and by Kentucky-based nonprofit organizations, including ConnectKentucky.*
- (5) *To carry out the purposes of this section, the authority shall promulgate administration regulations in accordance with the provisions of KRS Chapter 13A.*
- (6) *Projects receiving funding as provided by this section shall be completed within twelve (12) months of receiving the funds.*

Approved April 4, 2006.

## CHAPTER 135

(HB 553)

AN ACT relating to the receipt of payments by county governments.

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

Section 1. KRS 64.840 is amended to read as follows:

- (1) Except for taxes collected on behalf of the state for which standard receipt forms had been supplied by the state prior to 1974, all county officials shall, upon the receipt of any fine, forfeiture, tax, or fee, prepare a receipt that meets the specifications of the state local finance officer, if the fine, forfeiture, tax, or fee is paid:
  - (a) In cash;
  - (b) By a party appearing in person to pay; or
  - (c) By check, credit card, or debit card account received through the mail, if the party includes an addressed, postage-paid return envelope and a request for receipt.
- (2) One (1) copy of the receipt shall be given to the person paying the fine, forfeiture, tax, or fee and one (1) copy shall be retained by the official for his own records. One (1) copy of the receipt shall be retained by the official to be placed with the daily bank deposit.
- (3) A county government may, but shall not be required to, accept payment of any fine, forfeiture, tax, or fee by **check, draft, electronic funds transfer**, debit or credit card account, **or other similar means of payment**. If an individual chooses to pay a fine, forfeiture, tax, or fee by **any means other than cash** ~~debit or credit card account~~, the county government may recover ~~any~~ ~~the~~ transaction fee **that would otherwise be incurred by**

*the county for submitting or processing the transaction* ~~[charged by the issuer of the account]~~ as part of and in addition to the original amount of the fine, forfeiture, tax, or fee.

**Approved April 4, 2006.**

## **CHAPTER 136**

### **(HB 611)**

AN ACT relating to manufactured and mobile home community permit fees.

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

Section 1. KRS 219.340 is amended to read as follows:

- (1) The fee for a permit to operate a manufactured or mobile home community shall be assessed according to the following fee schedule:

Number of Spaces	Initial Fee	Maximum Fee
<del>10</del> <del>9</del> spaces or less	<del>\$50.00</del> <del>[\$107.00]</del>	<del>\$50.00</del> <del>[\$130.00]</del>
<del>11</del> <del>10</del> - 50 spaces	\$150.00	\$185.00
51 - 100 spaces	\$160.00	\$195.00
101 - 200 spaces	\$170.00	\$225.00
201 or more spaces	\$180.00	\$250.00

The cabinet may, by administrative regulation, beginning July 1, 2003, increase the annual fee to operate a manufactured or mobile home community by not more than five percent (5%) per year, not to exceed the maximum fee on the fee schedule. Upon receipt of an application for a permit to operate, accompanied by a permit fee, the cabinet shall issue a permit, provided the community meets the standards and requirements of KRS 219.310 to 219.410 and the regulations adopted by the secretary.

- (2) Each permit to operate, unless sooner suspended or revoked, shall expire on June 30 following its issuance, and be renewable annually, upon application and payment of a renewal fee established by the cabinet, provided the community is maintained and operated in compliance with KRS 219.310 to 219.410 and the administrative regulations adopted by the secretary.
- (3) Each permit to operate shall be issued only for the person and premises, including number of spaces, named in the application and shall not be transferable.
- (4) The person holding an operating permit shall post it conspicuously within the community or have it readily available for examination upon request by agents of the cabinet or prospective community occupants.

**Approved April 4, 2006.**

## **CHAPTER 137**

### **(HB 626)**

AN ACT relating to the Public Service Commission.

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

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

- (1) No person, partnership, public or private corporation, or combination thereof shall commence providing utility service to or for the public or begin the construction of any plant, equipment, property, or facility for furnishing to the public any of the services enumerated in KRS 278.010, except retail electric suppliers for service connections to electric-consuming facilities located within its certified territory and ordinary extensions of existing systems in the usual course of business, until that person has obtained from the Public Service Commission a certificate that public convenience and necessity require the service or construction. Upon the filing of an application for a certificate, and after any public hearing which the commission may in its discretion conduct for all interested parties, the commission may issue or refuse to issue the certificate, or issue



it in part and refuse it in part, except that the commission shall not refuse or modify an application submitted under KRS 278.023 without consent by the parties to the agreement. The commission, when considering an application for a certificate to construct a base load electric generating facility, may consider the policy of the General Assembly to foster and encourage use of Kentucky coal by electric utilities serving the Commonwealth. ***The commission, when considering an application for a certificate to construct an electric transmission line, may consider the interstate benefits expected to be achieved by the proposed construction or modification of electric transmission facilities in the Commonwealth.*** Unless exercised within one (1) year from the grant thereof, exclusive of any delay due to the order of any court or failure to obtain any necessary grant or consent, the authority conferred by the issuance of the certificate of convenience and necessity shall be void, but the beginning of any new construction or facility in good faith within the time prescribed by the commission and the prosecution thereof with reasonable diligence shall constitute an exercise of authority under the certificate.

- (2) For the purposes of this section, construction of any electric transmission line of one hundred thirty-eight (138) kilovolts or more and of more than five thousand two hundred eighty (5,280) feet in length shall not be considered an ordinary extension of an existing system in the usual course of business and shall require a certificate of public convenience and necessity. However, ordinary extensions of existing systems in the usual course of business not requiring such a certificate shall include:
  - (a) The replacement or upgrading of any existing electric transmission line; or
  - (b) The relocation of any existing electric transmission line to accommodate construction or expansion of a roadway or other transportation infrastructure; or
  - (c) An electric transmission line that is constructed solely to serve a single customer and that will pass over no property other than that owned by the customer to be served.
- (3) No utility shall exercise any right or privilege under any franchise or permit, after the exercise of that right or privilege has been voluntarily suspended or discontinued for more than one (1) year, without first obtaining from the commission, in the manner provided in subsection (1) of this section, a certificate of convenience and necessity authorizing the exercise of that right or privilege.
- (4) No utility shall apply for or obtain any franchise, license, or permit from any city or other governmental agency until it has obtained from the commission, in the manner provided in subsection (1) of this section, a certificate of convenience and necessity showing that there is a demand and need for the service sought to be rendered.
- (5) No person shall acquire or transfer ownership of, or control, or the right to control, any utility under the jurisdiction of the commission by sale of assets, transfer of stock, or otherwise, or abandon the same, without prior approval by the commission. The commission shall grant its approval if the person acquiring the utility has the financial, technical, and managerial abilities to provide reasonable service.
- (6) No individual, group, syndicate, general or limited partnership, association, corporation, joint stock company, trust, or other entity (an "acquirer"), whether or not organized under the laws of this state, shall acquire control, either directly or indirectly, of any utility furnishing utility service in this state, without having first obtained the approval of the commission. Any acquisition of control without prior authorization shall be void and of no effect. As used in this subsection, the term "control" means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of a utility, whether through the ownership of voting securities, by effecting a change in the composition of the board of directors, by contract or otherwise. Control shall be presumed to exist if any individual or entity, directly or indirectly, owns ten percent (10%) or more of the voting securities of the utility. This presumption may be rebutted by a showing that ownership does not in fact confer control. Application for any approval or authorization shall be made to the commission in writing, verified by oath or affirmation, and be in a form and contain the information as the commission requires. The commission shall approve any proposed acquisition when it finds that the same is to be made in accordance with law, for a proper purpose and is consistent with the public interest. The commission may make investigation and hold hearings in the matter as it deems necessary, and thereafter may grant any application under this subsection in whole or in part and with modification and upon terms and conditions as it deems necessary or appropriate. The commission shall grant, modify, refuse, or prescribe appropriate terms and conditions with respect to every such application within sixty (60) days after the filing of the application therefor, unless it is necessary, for good cause shown, to continue the application for up to sixty (60) additional days. The order continuing the application shall state fully the facts that make continuance necessary. In the absence of that action within that period of time, any proposed acquisition shall be deemed to be approved.

- (7) Subsection (6) of this section shall not apply to any acquisition of control of any:
- (a) Utility which derives a greater percentage of its gross revenue from business in another jurisdiction than from business in this state if the commission determines that the other jurisdiction has statutes or rules which are applicable and are being applied and which afford protection to ratepayers in this state substantially equal to that afforded such ratepayers by subsection (6) of this section;
  - (b) Utility by an acquirer who directly, or indirectly through one (1) or more intermediaries, controls, or is controlled by, or is under common control with, the utility, including any entity created at the direction of such utility for purposes of corporate reorganization; or
  - (c) Utility pursuant to the terms of any indebtedness of the utility, provided the issuance of indebtedness was approved by the commission.
- (8) In a proceeding on an application filed pursuant to this section, any interested person, including a person over whose property the proposed transmission line will cross, may request intervention, and the commission shall, if requested, conduct a public hearing in the county in which the transmission line is proposed to be constructed, or, if the transmission line is proposed to be constructed in more than one county, in one of those counties. The commission shall issue its decision no later than ninety (90) days after the application is filed, unless the commission extends this period, for good cause, to one hundred twenty (120) days. The commission may utilize the provisions of KRS 278.255(3) if, in the exercise of its discretion, it deems it necessary to hire a competent, qualified and independent firm to assist it in reaching its decision. The issuance by the commission of a certificate that public convenience and necessity require the construction of an electric transmission line shall be deemed to be a determination by the commission that, as of the date of issuance, the construction of the line is a prudent investment.
- (9) If any provision of this section or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of this section which can be given effect without the invalid provision or application, and to that end the provisions are declared to be severable.

Section 2. KRS 278.714 is amended to read as follows:

- (1) No person shall commence to construct a nonregulated electric transmission line without a construction certificate issued by the board. An application for a construction certificate shall be filed at the offices of the Public Service Commission along with an application fee as set forth in subsection (5) of this section.
- (2) A completed application shall include the following:
  - (a) The name, address, and telephone number of the person proposing construction of the nonregulated transmission line;
  - (b) A full description of the proposed route of the transmission line and its appurtenances. The description shall include a map or maps showing:
    - 1. The location of the proposed line and all proposed structures that will support it;
    - 2. The proposed right-of-way limits;
    - 3. Existing property lines and the names of persons who own the property over which the line will cross; and
    - 4. The distance of the proposed line from residential neighborhoods, schools, and public and private parks within one (1) mile of the proposed facilities;
  - (c) A full description of the proposed line and appurtenances, including the following:
    - 1. Initial and design voltages and capacities;
    - 2. Length of line;
    - 3. Terminal points; and
    - 4. Substation connections;
  - (d) A statement that the proposed transmission line and appurtenances will be constructed and maintained in accordance with accepted engineering practices and the National Electric Safety Code;

- (e) Evidence that public notice has been given by publication in a newspaper of general circulation in the general area concerned. Public notice shall include the location of the proposed line, shall state that the proposed line is subject to approval by the board, and shall provide the telephone number and address of the Public Service Commission; and
  - (f) Proof of service of a copy of the application upon the chief executive officer of each county and municipal corporation in which the proposed line is to be located, and upon the chief officer of each public agency charged with the duty of planning land use in the general area in which the line is proposed to be located.
- (3) Within ninety (90) days of receipt of the application, or one hundred twenty (120) days if a local public hearing is held, the board shall, by majority vote, grant or deny the construction certificate either in whole or in part. Action to grant the certificate shall be based on the board's determination that the proposed route of the line will minimize significant adverse impact on the scenic assets of Kentucky and that the applicant will construct and maintain the line according to all applicable legal requirements. ***In addition, the board may consider the interstate benefits expected to be achieved by the proposed construction or modification of electric transmission facilities in the Commonwealth.*** If the board determines that locating the transmission line will result in significant degradation of scenic factors or if the board determines that the construction and maintenance of the line will be in violation of applicable legal requirements, the board may deny the application or condition the application's approval upon relocation of the route of the line, or changes in design or configuration of the line.
- (4) A public hearing on an application to construct a nonregulated electric transmission line may be held in accordance with the provisions of KRS 278.712.
- (5) The board shall promulgate administrative regulations to establish an application fee for a construction certificate for a nonregulated transmission line in accordance with KRS 278.706(3).

**Approved April 4, 2006.**

## CHAPTER 138

### (HB 665)

AN ACT relating to coal-based production of hydrogen and electricity with minimum emissions.

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

Section 1. KRS 278.700 is amended to read as follows:

As used in KRS 278.700 to 278.716, unless the context requires otherwise:

- (1) "Board" means the Kentucky State Board on Electric Generation and Transmission Siting created in KRS 278.702;
- (2) "Merchant electric generating facility" means, except for a qualifying ~~cogeneration~~ facility as defined in subsection (7) of this section, an electricity generating plant, together with associated facilities, that:
  - (a) Is capable of operating at a capacity of ten megawatts (10MW) or more; and
  - (b) Sells the electricity it produces in the wholesale market, at rates and charges not regulated by the Public Service Commission;
- (3) "Person" means any individual, corporation, public corporation, political subdivision, governmental agency, municipality, partnership, cooperative association, trust, estate, two (2) or more persons having a joint or common interest, or any other entity, and no portion of KRS 224.10-280, 278.212, 278.214, 278.216, 278.218, and 278.700 to 278.716 shall apply to a utility owned by a municipality unless the utility is a merchant plant as defined in this section;
- (4) "Commence to construct" means physical on-site placement, assembly, or installation of materials or equipment which will make up part of the ultimate structure of the facility. In order to qualify, these activities must take place at the site of the proposed facility or must be site-specific. Activities such as site clearing and excavation work will not satisfy the commence to construct requirements;

- (5) "Nonregulated electric transmission line" means an electric transmission line and related appurtenances for which no certificate of public convenience and necessity is required; which is not operated as an activity regulated by the Public Service Commission; and which is capable of operating at or above sixty-nine thousand (69,000) volts;
- (6) "Residential neighborhood" means a populated area of five (5) or more acres containing at least one (1) residential structure per acre; and
- (7) "Qualifying~~cogeneration~~ facility" means a **cogeneration** facility as defined in 16 U.S.C. sec. 796(18)(b)~~);~~ that does not exceed a capacity of one hundred fifty megawatts (150MW)~~);~~ that is located on site at a manufacturer's plant and that uses steam from the cogeneration facility in its manufacturing process, **or a facility designed to achieve minimum emissions, built for demonstrating the feasibility of producing electricity and hydrogen from coal, whose site has been determined acceptable from an environmental impact perspective in a record of decision published by the United States Department of Energy after January 1, 2006, and that has received all applicable local planning and zoning approvals.**

Approved April 4, 2006.

## CHAPTER 139

(HB 688)

AN ACT relating to expelled or suspended students.

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

Section 1. KRS 158.150 is amended to read as follows:

- (1) All pupils admitted to the common schools shall comply with the lawful regulations for the government of the schools:
  - (a) Willful disobedience or defiance of the authority of the teachers or administrators, use of profanity or vulgarity, assault or battery or abuse of other students, the threat of force or violence, the use or possession of alcohol or drugs, stealing or destruction or defacing of school property or personal property of students, the carrying or use of weapons or dangerous instruments, or other incorrigible bad conduct on school property, as well as off school property at school-sponsored activities, constitutes cause for suspension or expulsion from school; and
  - (b) Assault or battery or abuse of school personnel; stealing or willfully or wantonly defacing, destroying, or damaging the personal property of school personnel on school property, off school property, or at school-sponsored activities constitutes cause for suspension or expulsion from school.
- (2) (a) Each local board of education shall adopt a policy requiring the expulsion from school for a period of not less than one (1) year for a student who is determined by the board to have brought a weapon to a school under its jurisdiction. ***In determining whether a student has brought a weapon to school, a local board of education shall use the definition of "unlawful possession of a weapon on school property" stated in KRS 527.070.***
- (b) The board shall also adopt a policy requiring disciplinary actions, up to and including expulsion from school, for a student who is determined by the board to have possessed prescription drugs or controlled substances for the purpose of sale or distribution at a school under the board's jurisdiction, or to have physically assaulted or battered or abused educational personnel or other students at a school or school function under the board's jurisdiction. The board may modify the expulsion requirement for students on a case-by-case basis. A board that has expelled a student from the student's regular school setting shall provide or assure that educational services are provided to the student in an appropriate alternative program or setting, unless the board has made a determination, on the record, supported by clear and convincing evidence, that the expelled student ~~posed~~~~poses~~ a threat to the safety of other students or school staff and ***could not***~~cannot~~ be placed into a state-funded agency program. ***Behavior which constitutes a threat shall include but not be limited to the physical assault, battery, or abuse of others; the threat of physical force; being under the influence of drugs or alcohol; the use, possession, sale, or transfer of drugs or alcohol; the carrying, possessing, or transfer of weapons or dangerous instruments; and any other behavior which may endanger the safety of others.*** Other intervention services as indicated for each student may be provided by the board or by agreement with

the appropriate state or community agency. A state agency that provides the service shall be responsible for the cost. ~~[In determining whether a student has brought a weapon to school, a local board of education shall use the definition of "unlawful possession of a weapon on school property" stated in KRS 527.070.]~~

- (3) ***For purposes of this subsection, "charges" means substantiated behavior that falls within the grounds for suspension or expulsion enumerated in subsection (1) of this section, including behavior committed by a student while enrolled in a private or public school, or in a school within another state. A school board may adopt a policy providing that if a student is suspended or expelled for any reason, or faces charges that may lead to suspension or expulsion but withdraws prior to a hearing, from any public or private school in this or any other state, the receiving district may review the details of the charges, suspension, or expulsion and determine if the student will be admitted, and if so, what conditions may be imposed upon the admission.***
- (4) School administrators, teachers, or other school personnel may immediately remove or cause to be removed threatening or violent students from a classroom setting or from the district transportation system pending any further disciplinary action that may occur. Each board of education shall adopt a policy to assure the implementation of this section and to assure the safety of the students and staff.
- (5)~~(4)~~ A pupil shall not be suspended from the common schools until after at least the following due process procedures have been provided:
- (a) The pupil has been given oral or written notice of the charge or charges against him which constitute cause for suspension;
  - (b) The pupil has been given an explanation of the evidence of the charge or charges if the pupil denies them; and
  - (c) The pupil has been given an opportunity to present his own version of the facts relating to the charge or charges.

These due process procedures shall precede any suspension from the common schools unless immediate suspension is essential to protect persons or property or to avoid disruption of the ongoing academic process. In such cases, the due process procedures outlined above shall follow the suspension as soon as practicable, but no later than three (3) school days after the suspension.

- (6)~~(5)~~ The superintendent, principal, assistant principal, or head teacher of any school may suspend a pupil but shall report the action in writing immediately to the superintendent and to the parent, guardian, or other person having legal custody or control of the pupil. The board of education of any school district may expel any pupil for misconduct as defined in subsection (1) of this section, but the action shall not be taken until the parent, guardian, or other person having legal custody or control of the pupil has had an opportunity to have a hearing before the board. The decision of the board shall be final.
- (7)~~(6)~~
- (a) Suspension of exceptional children, as defined in KRS 157.200, shall be considered a change of educational placement if:
    - 1. The child is removed for more than ten (10) consecutive days during a school year; or
    - 2. The child is subjected to a series of removals that constitute a pattern because the removals accumulate to more than ten (10) school days during a school year and because of other factors, such as the length of each removal, the total amount of time the child is removed, and the proximity of removals to one another.
  - (b) The admissions and release committee shall meet to review the placement and make a recommendation for continued placement or a change in placement and determine whether regular suspension or expulsion procedures apply. Additional evaluations shall be completed, if necessary.
  - (c) If the admissions and release committee determines that an exceptional child's behavior is related to his disability, the child shall not be suspended any further or expelled unless the current placement could result in injury to the child, other children, or the educational personnel, in which case an appropriate alternative placement shall be provided that will provide for the child's educational needs and will provide a safe learning and teaching environment for all. If the admissions and release committee determines that the behavior is not related to the disability, the local educational agency may pursue its regular suspension or expulsion procedure for the child, if the behavior so warrants. However,

educational services shall not be terminated during a period of expulsion and during a suspension after a student is suspended for more than a total of ten (10) days during a school year. A district may seek temporary injunctive relief through the courts if the parent and the other members of the admissions and release committee cannot agree upon a placement and the current placement will likely result in injury to the student or others.

- (8)~~(7)~~ Suspension of primary school students shall be considered only in exceptional cases where there are safety issues for the child or others.
- (9) *Any action under this section related to students with disabilities shall be in compliance with applicable federal law.*

**Approved April 4, 2006.**

## **CHAPTER 140**

### **(HCR 189)**

A CONCURRENT RESOLUTION relating to antibiotic resistance awareness.

WHEREAS, antibiotic resistance is emerging as a public health crisis; and

WHEREAS, in 1954, two million pounds of antibiotics were produced in the United States, compared to over 50 million pounds in 2000; and

WHEREAS, despite the extraordinary value of antibiotics, the overuse of these miracle drugs in medicine and agriculture endangers their continued effectiveness; and

WHEREAS, although national clinical practice guidelines do not recommend the use of an antibiotic for viral infections, 50 to 66 percent of doctors' office visits for colds, upper respiratory tract infections, and bronchitis culminated in an antibiotic prescription; and

WHEREAS, patients contribute to the drug-resistant infections by asking for antibiotics when they are not needed, or by not completing the entire course of antibiotics prescribed; and

WHEREAS, each year in the United States, humans consume over 235 million doses of antibiotics, with 20 to 50 percent of the use being unnecessary; and

WHEREAS, while the use of antibiotics among humans is probably the major contributor to the emergence of antibiotic resistance, agricultural uses also pose a problem since over 50 percent of antibiotics produced in the United States are used in livestock production; and

WHEREAS, every time a person takes an antibiotic, sensitive bacteria are killed, but some bacteria may become resistant to the medication and multiply, resulting in the drug becoming ineffective for treating infections caused by that strain of bacteria; and

WHEREAS, antibiotic-resistant microorganisms are becoming an increasing problem for Kentucky residents, especially children; and

WHEREAS, antibiotic-resistant microorganisms cause illness in day-care centers, schools, hospitals, and long-term care facilities; and

WHEREAS, there have been outbreaks of multidrug resistant strains of staphylococcal aureus among football players in Kentucky schools; and

WHEREAS, individuals infected with drug-resistant organisms are more likely to have longer hospital stays and require treatment with more potent antibiotics that may cause severe side effects and be more expensive; and

WHEREAS, the Institutes of Medicine estimated that the annual cost of infections caused by antibiotic-resistant bacteria to be four to five billion dollars; and

WHEREAS, antibiotic resistance is a growing menace to all people because the spread means that treatments for common infection will become increasingly limited and expensive or nonexistent; and

WHEREAS, antibiotic-resistant microorganisms present challenges to health care providers and infection control practitioners; and

WHEREAS, the average cost of developing and bring a new prescription drug to market is about \$802 million and usually takes between 10 to 15 years; and

WHEREAS, by teaching the public and health care providers to use antibiotics appropriately, the risk of antibiotic-resistant microorganisms may be reduced; and

WHEREAS, through educational campaigns, the Kentucky Cabinet for Health and Family Services, hospitals, health care providers, managed care plans, and pharmaceutical companies should unite to prevent the spread of antibiotic-resistant microorganisms in Kentucky;

NOW, THEREFORE,

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

Section 1. This honorable body declares October, 2006 as antibiotic resistance awareness month.

Section 2. The Interim Joint Committee on Health and Welfare is urged to hold hearings at its October, 2006 meeting on topics relating to the use and misuse of antibiotics in the Commonwealth, the emergence of antibiotic resistance, the effect of antibiotic resistance on the cost of health care in the Commonwealth, and recommendations to prevent antibiotic resistance from becoming a public health crisis.

**Approved April 4, 2006.**

## CHAPTER 141

### (HJR 145)

A JOINT RESOLUTION directing the Council on Postsecondary Education and the Kentucky Board of Education, in partnership with the Secretary of the State and other education entities, to develop strategies and a timeline for improving Kentucky students' knowledge and understanding of the Constitution of the United States and the democratic processes.

WHEREAS, there is growing evidence that a large number of students exit secondary and postsecondary education without an in-depth understanding of the rights and responsibilities of citizens under the Constitution of the United States; and

WHEREAS, education for citizenship is important to help all students evolve into active participants in a democratic society; and

WHEREAS, the United States was founded on the principle of "government by the people"; and

WHEREAS, evidence of apathy and decline in confidence that government can solve important national problems appears to be on the rise; and

WHEREAS, having comprehensive knowledge and understanding of the Constitution of the United States is fundamental to leadership in a democratic society; and

WHEREAS, knowledge and understanding is critical to developing "communication skills necessary to function in a complex and changing civilization," specified in KRS 158.645 as one of the capacities needed by all Kentucky students; and

WHEREAS, "understanding of governmental processes as they affect the community, state, and the nation" is also identified by the General Assembly in KRS 158.645 as an essential capacity for all Kentucky students; and

WHEREAS, students must have a core of basic knowledge about social and cultural issues and institutions in an ever-increasing diverse world to allow them to put their understanding of democracy in perspective; and

WHEREAS, the governing boards for P-16 schooling are ultimately responsible for providing the leadership to ensure Kentucky students leave school with the essential skills and knowledge for responsible citizenship;

NOW, THEREFORE,

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

Section 1. During the 2006-2007 fiscal year, the Council on Postsecondary Education, the Education Professional Standards Board, and the Kentucky Board of Education, in partnership with the Secretary of State and other education entities shall examine the current level of skills and knowledge of Kentucky students relating to the Constitution of the United States and the democratic processes. They shall examine the curriculum requirements at the elementary, secondary, and postsecondary levels for all Kentucky students; assessments of student knowledge at these levels and results of these assessments; requirements for teacher competencies in these areas; and other relevant data and information that would inform the study.

Section 2. The entities identified in Section 1 of this Resolution shall devise implementation strategies, including a specific timeline to improve Kentucky students' knowledge and understanding of the Constitution of the United States, the democratic processes, and the students' civic engagement. In the development of these strategies, current state efforts to promote civic literacy shall be incorporated where appropriate.

Section 3. The Commissioner of Education, the Executive Director of the Education Professional Standards Board, and the President of the Council on Postsecondary Education shall provide a preliminary report of their findings to the P-16 Council and a final report to the Interim Joint Committee on Education by August 1, 2007, and shall present the draft implementation plan required under Section 2 of this Resolution by December 1, 2007, to the Interim Joint Committee on Education.

**Approved April 4, 2006.**

## **CHAPTER 142**

**(SB 47)**

AN ACT relating to Veterans Day programs in schools.

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

Section 1. KRS 158.075 is amended to read as follows:

All public ~~high~~ schools shall observe Veterans Day under this section.

- (1) On Veterans Day, or one (1) of the five (5) school days preceding Veterans Day, one (1) class ***or instructional*** period shall be devoted to the observance of Veterans Day.
- (2) Students shall assemble in one (1) or more groups, as decided by the school principal, to attend the Veterans Day program.
- (3) The program shall be approved by the principal and, at a minimum, shall consist of a teacher and a veteran speaking on the meaning of Veterans Day.
- (4) To develop a Veterans Day program, Kentucky public ~~high~~ schools are encouraged to seek advice from the ***Kentucky Department of Veterans' Affairs***~~Kentucky Department of Military Affairs~~ and veterans' service organizations, including but not limited to the American Legion and the Veterans of Foreign Wars.

**Approved April 4, 2006.**

## **CHAPTER 143**

**(SB 58)**

AN ACT relating to reorganization.

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

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

- (1) The Telehealth Board is created and placed for administrative purposes under the Commonwealth Office of Technology. This ***ten (10)***~~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, or a designee, of the Commonwealth Office of Technology;~~and~~
  - (e) ***Chief information officer, or a designee, of the Cabinet for Health and Family Services; and***
  - (f) 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 Technology, recommend the processes and procedures for the switching and running of the telehealth network.
  - (5) The University of Kentucky and the University of Louisville shall report semiannually to the Interim Joint Committee on Health and Welfare on the following areas as specified by the board through an administrative regulation promulgated in accordance with KRS Chapter 13A.
    - (a) Data on utilization, performance, and quality of care;
    - (b) Quality assurance measures, including monitoring systems;
    - (c) The economic impact on and benefits to participating local communities; and
    - (d) Other matters related to telehealth at the discretion of the board.
  - (6) The board shall receive and dispense funds appropriated for its use by the General Assembly or obtained through any other gift or grant.

Section 2. 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 3. The General Assembly confirms Executive Order 2005-1286, increasing the membership of the Telehealth Board, to the extent it is not otherwise confirmed by this Act.

**Approved April 4, 2006.**

## CHAPTER 144

## (SB 108)

AN ACT relating to retirement for police and firefighters in urban-counties and declaring an emergency.

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

Section 1. KRS 67A.345 is amended to read as follows:

- (1) All members of the policemen's and firefighters' retirement fund of the urban-county government, operated pursuant to KRS 67A.360 to 67A.690, and all members of the urban-county government city employees pension fund who retired prior to July 1, 1999, and who did not terminate their participation in the group health insurance plan provided by the urban-county government before that date, and all members who retire on or after July 1, 1999, or who ~~withdrew~~~~[withdraw]~~ from service on a certificate **prior to September 18, 2002**~~[pursuant to KRS 67A.410(2)]~~, shall continue to be eligible to participate, at the member's cost, in a group health insurance plan approved by the urban-county council for such retirees.
- (2) The urban-county government shall provide, on behalf of all eligible members of the policemen's and firefighters' retirement fund and city employees pension, the following benefits:
  - (a) A sum equal to the single premium for the plan coverage selected by the retiree, but not more than one hundred percent (100%) of the urban-county government's contribution to the health insurance component of the benefit pool for current urban-county government employees; and
  - (b) Upon the death of a member of the policemen's and firefighters' retirement fund due to occupational causes, the urban-county government shall pay to the approved provider of the group health insurance plan one hundred percent (100%) of the cost of the family medical coverage for the member's surviving spouse and dependent children as long as they remain eligible for a monthly retirement allowance from the retirement fund.
- (3) No benefits shall be available under this section to retired members who were not, immediately prior to July 1, 1999, participants in the group health insurance plan coverage provided to urban-county government employees and retirees or who retire on or after July 1, 1999, and, at the time of their retirement, do not elect to participate in the group health insurance plan coverage provided pursuant to subsection (1) of this section.
- (4) Benefits shall be available under this section to members of the policemen's and firefighters' retirement fund who, **prior to September 18, 2002**, ~~withdrew~~~~[withdraw]~~ from service on a certificate ~~[pursuant to KRS 67A.410(2)]~~ when they attain the age of forty-six (46) years if, at the time they ~~withdrew~~~~[withdraw]~~ from service, they ~~elected~~~~[elect]~~ to participate in the group health insurance plan coverage provided pursuant to subsection (1) of this section upon attaining age forty-six (46).
- (5) All payments shall be made to the approved provider of the group health insurance plan, not to the retiree, and the retiree shall not be entitled to receive any portion of the government contribution remaining after payment is made to the approved provider.
- (6) Group rates under the group health insurance plan approved by the urban-county council under subsection (1) of this section shall be made available to the spouse, dependents, and disabled children, regardless of the disabled child's age, of a qualified and participating retiree, if the premium for the spouse, dependent, or disabled child is paid by the retired member, spouse, dependent, or disabled child, by payroll deduction or similar method.

Section 2. KRS 67A.402 is amended to read as follows:

- (1) (a) Except as otherwise provided in paragraph (b) of this subsection, any member who has at least five (5) years of total service credit as a member of the fund may purchase service credit, that is not otherwise purchasable, for up to a maximum of four (4) years of service. The member shall not be entitled to purchase any service credit for which he **or she** has been given credit in another defined benefit retirement fund; however, the member may purchase government service credit by transferring funds directly from another public defined benefit retirement plan if the member provides proof that he **or she** is not eligible for a retirement benefit from the other public defined benefit retirement fund.

- (b) Any provision of law to the contrary notwithstanding, no service credit purchase under this subsection shall be counted toward the accrual of a health or other medical insurance retirement benefit in this retirement system.
- (2) A member who purchases service credit shall file an application with the board ***no later than sixty (60) days prior to the anticipated service purchase payment date***~~[within the five (5) year period]~~. The member shall pay to the fund an amount which shall be determined by actuarial method consistent with the methods prescribed for determining the purchase of prior service credit which shall be the principal.
  - (3) Payment of the principal shall be made in a lump sum or payment of the principal and interest may be made by installments. Interest, at the annual rate of return on investments of the fund for the preceding year, shall be established by the commissioner of finance on or before August 31 of each year and shall be based on financial statements of the fund for the year ending June 30, except that the interest shall not be less than three percent (3%). Interest shall be added to the principal for the time period for which installments are to be made.
  - (4) If payments are made by installment, the cost of purchasing the service credit shall be recalculated annually based upon the member's current salary, the interest rate established by the commissioner of finance, and other factors required by the actuarial method. The member's payments shall be adjusted annually to reflect the annual recalculation of the cost of purchasing service credit. Installment payments shall be consecutive and the total number of monthly installments shall not be less than twelve (12) or more than two hundred forty (240). The member shall pay the installments by payroll deduction.
  - (5) Payments shall not be ~~[considered accumulated contributions of the member and shall not be]~~ picked up by the urban-county government. No employer contribution shall be paid on the installments. The board shall determine how much of the total cost represents payment for one (1) quarter of the service to be purchased and the member shall receive service credit for one (1) quarter of the service each time this amount is paid.
  - (6) If the member dies, retires, or ceases to be a member of the fund before he ***or she*** has made all installment payments for the purchase of service credit, the fund shall refund to the member, his ***or her*** qualified surviving spouse, or his ***or her*** estate, the portion of any payment that does not represent a full quarter of service.
  - (7) A member who does not repay a refund of contributions, as provided in KRS 67A.500(3), shall be entitled to purchase service credit for prior membership service.
  - (8) The member may cancel a purchase obligation at any time, but once canceled, a member shall have forever forfeited, waived, and relinquished the right to purchase service credit.

Section 3. KRS 67A.404 is amended to read as follows:

- (1) Any member who retires based on age and service on ***or after*** January 1, 1990, or ***based on service on or after September 18, 2002***~~[thereafter]~~, may purchase service credit for unused sick leave accrued while contributing to the retirement fund from which the retirement benefit is to be paid in accordance with this section.
- (2) A member retiring based on age and service, ***or based on service only, on or after September 18, 2002***, who chooses to purchase service credit for unused, accumulated sick leave as provided in this section shall notify the board of his ***or her*** intention upon submitting his ***or her*** retirement application to the board. The urban-county government shall certify the retiring member's unused, accumulated sick leave balance, up to a maximum of seven hundred and twenty (720) hours for members employed by the division of police and one thousand and eight (1,008) hours for members employed by the division of fire. The member's sick leave balance, expressed in days, shall be divided by the average number of working days per month and rounded to the nearest number of whole months. This number of months shall be added to the member's service credit for the purpose of determining his ***or her*** rate of retirement annuity pursuant to KRS 67A.430 and his ***or her*** total service credit pursuant to KRS 67A.400. The value of the unused, accumulated sick leave shall be based on the daily salary rate calculated from the member's last annual salary. Payment for unused sick leave, up to a maximum of seven hundred and twenty (720) hours for members employed by the division of police and one thousand and eight (1,008) hours for members employed by the division of fire, shall be incorporated into the annual salary of the final year of service, provided that the member contributes to the retirement fund the amount set forth in KRS 67A.510 and the urban-county government matches such contribution by the amount set forth in KRS 67A.520(1) on the unused, accumulated sick leave.

Section 4. KRS 67A.410 is amended to read as follows:

~~{(1) Beginning September 18, 2002, any member may, at his *or her* option, retire on a service retirement annuity upon or after attainment of the age of forty six (46) years,} if he *or she has* ~~{shall have}~~ completed at least twenty (20) years of total service. Upon fulfillment of *this term* ~~{these terms}~~, the board shall grant the retirement annuity upon receipt of the application of the member.~~

~~{(2) Any member who withdraws from service prior to age forty six (46) years after having completed at least twenty (20) years of total service, and who does not accept a refund of contributions, shall receive, upon application, a certificate entitling him to a service retirement annuity upon his attainment of age forty six (46) and specifying the amount of the annuity earned and accrued at the date of withdrawal from service.~~

~~(3) Upon the death, prior to age forty six (46), of a member holding a certificate granted pursuant to subsection (2) of this section, the surviving spouse shall receive an annuity equal to sixty percent (60%) of the annuity specified on the certificate, subject to the conditions and additional benefits found in KRS 67A.450(1)(a), 67A.450(1)(b), 67A.450(2), and 67A.450(3).~~

~~(4) The benefits provided in KRS 67A.600 and 67A.690 to an eligible member who retires or withdraws from service under the provisions of subsection (1) or (2) of this section after July 15, 1994, or to the member's surviving spouse or dependent children, shall be calculated when the member is retired for one (1) year or attains the age of forty seven (47), whichever is later, or would have been retired for one (1) year or reached the age of forty seven (47), whichever is later, if the member died before being retired one (1) year or reaching the age of forty seven (47).~~

~~(5) On or before March 3, 2003, the board shall provide for a vote by the full active membership on a provision that would allow members to retire with full benefits after twenty (20) years of total service, regardless of age. If a majority of the active membership voting votes in favor of a twenty (20) year service provision, the urban-county government, in coordination with the board, shall enact the twenty (20) year service provision within a period of six (6) months. Notwithstanding any statute to the contrary, any member retiring after the enactment of the twenty (20) year service provision, if enacted, shall be eligible to retire with twenty (20) years of service regardless of age.~~

Section 5. KRS 67A.430 is amended to read as follows:

(1) The rate of retirement annuity shall be two and one-half percent (2.5%) of average salary, as defined in KRS 67A.360(13), for each year of total service. Fractional periods of service shall be considered in the calculation of such annuities according to the aforesaid rate. Provided, however, that no retiree, or his *or her* surviving spouse ~~{widow}~~, whether *the member* ~~{he}~~ retired before or after June 16, 1972, under this section shall receive a pension of less than \$100 a month and when Social Security benefits are increased the minimum shall be increased by a like amount, provided that the increase shall not exceed five percent (5%).

(2) Any retiree or surviving spouse who as of July 1, 2005 ~~{2004}~~, *was* ~~{is}~~ receiving a monthly annuity of less than one thousand *two hundred fifty* dollars ~~(\$1,250) [(\$1,000)]~~ shall have the pension increased to one thousand *two hundred fifty* dollars ~~(\$1,250)~~. *Such increase shall be retroactive to July 1, 2005, and the retiree or surviving spouse shall receive a lump sum payment equal to the difference between the amount of the monthly annuities received between July 1, 2005, and July 15, 2006, and the amount that would have been received had the monthly annuity been increased on July 1, 2005.* ~~[((\$1,000), and]~~ The board shall increase this annuity at the same rate as annually provided by KRS 67A.690(1), and such increase shall be determined and granted annually thereafter by the board.

Section 6. KRS 67A.450 is amended to read as follows:

(1) Upon death of a member occurring while in service, arising from any cause other than in the performance of duty, provided the member has had at least five (5) years of total service, his *or her surviving spouse* ~~{widow}~~ shall receive an annuity equal to one and one-half percent (1-1/2%) of average salary for each year of total service, credited to the member, but not less than fifteen percent (15%) of average salary, subject to the following conditions:

(a) The *surviving spouse* ~~{widow}~~ had been married to the member at least six (6) months prior to his *or her* death;

(b) The *surviving spouse's* ~~{widow's}~~ annuity will terminate in any event when the *surviving spouse dies* ~~{widow remarries}~~. The annuity of each child or children shall continue until each child attains age eighteen (18), or, in the case of a child regularly engaged in full-time educational activities the age of twenty-three (23).

- (2) If, in addition to a **surviving spouse**~~[widow]~~, minor children survive the member, an additional annuity shall be payable for such children equal to fifty percent (50%) of the amount of the **surviving spouse's**~~[widow's]~~ annuity for the first child, and twenty-five percent (25%) of the amount of the **surviving spouse's**~~[widow's]~~ annuity for each additional child, subject to a maximum combined payment for the **surviving spouse**~~[widow]~~ and children of seventy-five percent (75%) of the member's average salary. The annuity payable for minor children shall be divided and paid in equal amounts for each child to the parent or guardian of each child under eighteen (18), and directly to each child between the ages of eighteen (18) and twenty-three (23) who is regularly engaged in full-time educational activities. As eligibility of children expires, the total annuity payable for such children shall be reduced by percentage amount in reverse order.
- (3) If the member is not survived by a **surviving spouse**~~[widow]~~ who qualifies under KRS 67A.450(1)(a) and there are minor children, the following benefits shall be paid: (a) one (1) minor child, fifty percent (50%), (b) two (2) minor children, fifteen percent (15%) additional, (c) three (3) or more minor children ten percent (10%) additional, subject to a maximum combined payment of seventy-five percent (75%) of the average salary as defined in KRS 67A.360(13). The benefits payable for minor children shall be divided and paid in equal amounts for each child to the parent or legal guardian of each child under the age of eighteen (18), and directly to each child between the ages of eighteen (18) and twenty-three (23) who is regularly engaged in full-time educational activities. The annuity of each child or children shall continue until each child attains age eighteen (18), or, in the case of a child regularly engaged in full-time educational activities the age of twenty-three (23). The annuity payments shall be reduced in reverse order, as provided in subsection (2) of this section.

Section 7. KRS 67A.460 is amended to read as follows:

- (1) If a total and permanent occupational disability occurs, the member shall receive an annuity calculated pursuant to subsection (2) of this section. This benefit shall begin at the time **the member's**~~[his]~~ salary ceases, and shall be paid during his **or her** entire lifetime. At the member's death, his **or her** eligible **surviving spouse**~~[widow]~~, if any, shall receive the benefits as provided under KRS 67A.492, and his **or her** minor children, if any, shall receive benefits as provided under KRS 67A.440.
- (2) The minimum annuity rate for a total and permanent occupational disability shall be sixty percent (60%) of the member's last rate of salary. The minimum rate shall be increased by one half (1/2) of the amount by which the member's percentage of disability exceeds twenty percent (20%), but this increase shall be not more than fifteen percent (15%) of the member's last rate of salary and the member's total annuity shall not be greater than seventy-five percent (75%) of his **or her** last rate of salary.
- (3) The member's percentage of disability shall be the average of the impairment rating determined by two (2) physicians selected by the board under KRS 67A.480, using the latest edition of the American Medical Association's "Guides to the Evaluation of Permanent Impairment".
- (4) If a member is eligible for a service retirement annuity under KRS 67A.410~~[(1) or (2)]~~ and the amount of **the member's**~~[his]~~ service retirement annuity would exceed the amount of his **or her** total and permanent occupational disability annuity, as determined by the board under this section, then the member may elect to receive an additional service retirement annuity payment equal to the amount by which **the member's**~~[his]~~ service retirement annuity would have exceeded the amount of his **or her** total and permanent occupational disability annuity, in addition to **the member's**~~[his]~~ disability annuity, by filing with the board the application required by KRS 67A.410. ~~[A member who is eligible for a certificate entitling him to a service retirement annuity under KRS 67A.410(2) shall not be eligible to receive this additional service retirement annuity payment until he attains the age of forty-six (46).]~~

Section 8. KRS 67A.490 is amended to read as follows:

- (1) Upon death of a member, occurring while in active service, if no **surviving spouse's**~~[widow's]~~ annuity, children's annuities or dependent parent annuities are payable, the designated beneficiary of the member or his **or her** estate shall be entitled to a death benefit equal to the total contributions made by the member, including the amount of any employee contributions picked up by the urban-county government pursuant to KRS 67A.510(2), without interest, or **one thousand five**~~[three]~~ hundred dollars (**\$1,500**)~~[(300)]~~, whichever is greater.
- (2) Upon death of a retired member, if no **surviving spouse's**~~[widow's]~~ annuity, children's annuities or dependent parent annuities shall be due and payable, a death benefit shall be paid to the designated beneficiary or estate of the member, equal to the excess, if any, of the total contributions made by the member, including those

picked up pursuant to KRS 67A.510(2), to this fund to the date of retirement, without interest, over the total annuity payments received by the member. The minimum payment in such case shall be **one thousand five**~~three~~ hundred dollars **(\$1,500)**~~(\$300)~~. If a **surviving spouse's**~~widow's~~ annuity, children's annuities or dependent parent annuities are payable after the death of the retired member, the amount of such death benefit, if any, shall be determined upon termination of annuity payments to all survivors of the member, whether such termination occurs by death~~, remarriage~~ or other cause.

Section 9. KRS 67A.492 is amended to read as follows:

- (1) Upon the death of a retired member, his **or her** surviving **spouse**~~widow~~ shall receive an annuity equal to sixty percent (60%) of the member's final annuity, or of the member's final rate of pay, whichever is greater. The surviving **spouse**~~widow~~ must have been married to the member for at least **three (3) years**~~one (1) year~~ prior to the member's death or six (6) months prior to the member's retirement in order to be eligible for the benefits provided in this section. **Effective the effective date of this Act, the benefits provided by this section shall be made eligible to surviving spouses of any retired member who died on July 14, 2000, or thereafter.**
- (2) Any member who retires on July 15, 1990, or thereafter, shall have the option at retirement to purchase an increased annuity allowance for his **or her** surviving **spouse**~~widow~~. The amount of any such optional survivorship allowance shall be actuarially equivalent to the amount of retirement allowance otherwise payable to **the member**~~him~~. The member may elect either of two (2) options:
  - (a) Survivorship seventy-five percent (75%). The member may elect to receive a decreased retirement allowance during his **or her** lifetime and have seventy-five percent (75%) of such retirement allowance continue after **the member's**~~his~~ death to his **or her** eligible **surviving spouse**~~widow~~ until **the surviving spouse's**~~her~~ death~~or remarriage~~.
  - (b) Survivorship one hundred percent (100%). The member may elect to receive a decreased retirement allowance during his **or her** lifetime and have such retirement allowance continued at the same rate after **the member's**~~his~~ death to his **or her** eligible **surviving spouse**~~widow~~ until **the surviving spouse's**~~her~~ death~~or remarriage~~.

Section 10. KRS 67A.560 is amended to read as follows:

- (1) The officers of the board shall consist of a president, vice president, and a secretary. The president shall be the chief executive officer of the board, shall preside at all meetings and shall appoint all necessary committees. The vice president shall serve as president in the absence of the president.
- (2) The board shall designate a secretary who may be a member of the board and shall fix **the secretary's**~~his~~ compensation. The secretary shall keep a full account of all proceedings of the board and shall give notice of all meetings and give effect to all resolutions, orders, and directives of the board. **The secretary**~~He~~ shall be in charge of the detailed affairs of administration of the fund; shall keep the record of proceedings of all meetings; shall keep all books, files, records, and accounts of the fund; shall receive all applications for annuities, benefits, and refunds; shall prepare periodic reports relative to the financial operations of the fund for the information of the board and its membership; shall compile all statistics pertinent to the operations of the fund; and shall answer all correspondence received by the board.
- (3) The commissioner of finance shall be ex officio treasurer of the board and custodian of the fund. **The commissioner**~~He~~ shall have custody of all cash and securities of the fund, subject to the authority and directives of the board, and shall keep such accounts and records as may be prescribed by the board. These accounts and records shall be subject to inspection of the board or any member thereof.
- (4) The commissioner of finance shall, within ten (10) days after his **or her** selection, execute a bond to the board, with good surety, in such penal sum as the board directs, to be approved by the board, conditioned upon the faithful performance of the duties of **the**~~his~~ office, and that **the commissioner shall**~~he will~~ safely keep and **shall**~~will~~ truthfully account for all money and properties that come into his **or her** hands as treasurer of the fund, and that upon the expiration of his **or her** term of office, he **or she shall**~~will~~ deliver to his **or her** successor all securities, unexpended moneys, and other properties that come into his **or her** hands as treasurer of the fund. The bond **shall**~~will~~ be filed with the secretary of the board, and suit thereon may be filed in the name of the board for use of the board or any person injured by its breach. The premium on said bond may be paid out of the fund.
- (5) The commissioner of law of the government shall serve as legal adviser to the board~~on all matters pertaining to the fund involving suits or actions at law, and on any questions of the interpretation of the provisions~~

~~hereof~~, except that the board shall have the power to hire independent counsel ~~for any suits or actions of law~~, the cost of such independent counsel to be borne by the pension fund.

- (6) The board may employ actuarial assistance from time to time to advise it in matters relating to the technical aspects of operations of the fund, to assist in the preparation of the periodic financial reports, to determine rates of urban-county contribution, and to make periodic analyses of the operation of the fund. Within six (6) months after the establishment of an urban-county form of government, an actuarial study shall be made for the purpose of recommending rates, mortality, disability, retirement, separations from service, and other essential factors. Beginning July 1, 2000, and at least once every two (2) years thereafter an actuarial survey and investigation shall be made of the operating experience of the fund, including a study of the rates, mortality, disability, retirement, separations from service, and other essential factors. The actuary shall recommend all mortality and interest tables to be adopted by the board, and shall recommend, if appropriate, cost-of-living increases as provided in KRS 67A.430. In the event such survey is not undertaken as provided herein, any member of the fund or any annuitant may obtain an injunction or mandamus requiring such survey and investigation, or may obtain the appointment of a person or persons to make such study and investigation, from the Circuit Court of any county in which the government is located.
- (7) The board shall establish rules and regulations to implement the provisions of KRS 67A.360 to 67A.690 which shall not be inconsistent therewith.

Section 11. KRS 67A.570 is amended to read as follows:

The board may invest the moneys accruing to the fund, in interest-bearing bonds of any county, urban-county government or city of the first, second, or third class in this Commonwealth, or in any securities in which trustees are permitted to invest trust funds under the laws of this Commonwealth, ***or in international or other securities as permitted under federal law.*** Such bonds shall be registered in the name of the board to the extent possible. The securities acquired by the board shall be deposited with the commissioner of finance and shall be subject to the order of the board. The board may at the cost of the pension fund employ or engage consultants to provide investment advice to aid the board in its determinations.

SECTION 12. A NEW SECTION OF KRS 67A.360 TO 67A.690 IS CREATED TO READ AS FOLLOWS:

- (1) ***Each current, former, or retired member's account shall be administered in a confidential manner and specific data regarding a current, former, or retired member shall not be released for publication unless authorized by the member. However, the board may release account information to the urban-county government or to any other governmental agency as it deems necessary or in response to a lawful subpoena or order issued by a court of law.***
- (2) ***A subpoena served upon the board that requires the production of any specific data regarding a current, former, or retired member is sufficient if the secretary of the board delivers within five (5) working days, by certified mail or by personal delivery, legible and durable copies of records, certified by the secretary, or an affidavit stating the information required by the subpoena. The production of documents or an affidavit shall be in lieu of any personal testimony of the secretary unless, after the production of documents or affidavit, a separate subpoena is served upon the board specifically directing the testimony of the secretary.***
- (3) ***The certification shall be signed before a notary public by the secretary and shall include the name of the member, the member's Social Security number, and a legend substantially to the following effect: "The records are true and complete reproductions of the original records which are housed in the board's office. This certification is given by the undersigned in lieu of his or her personal appearance."***
- (4) ***When an affidavit or copies of records are personally delivered, a receipt shall be presented to the person receiving the records for his or her signature and shall be immediately signed and returned to the person delivering the records. When an affidavit or copies of records are sent via certified mail, the receipt used by the postal authorities shall be sufficient to prove delivery and receipt of the affidavit or copies of records.***
- (5) ***When the affidavit or copies of record are delivered to a party for use in a deposition, they shall, after termination of the deposition, be delivered personally or by certified mail to the clerk of the court or other body before which the action or proceeding is pending. It shall be the responsibility of the party or attorney to transmit the receipt obtained to the secretary of the board. Upon issuance of a final order terminating the case and after the normal retention period for court records expires, the affidavit or copies of records shall be permanently disposed of by the clerk in a manner that protects the confidentiality of the information contained therein.***

- (6) *Records of the board that are susceptible to photostatic reproduction may be proved as to foundation, identity, and authenticity without any preliminary testimony by use of legible and durable copies, certified in accordance with the provisions of this section.*

Section 13. Whereas, the fiscal year for the urban-county begins July 1, 2006, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming a law.

**Approved April 4, 2006.**

## **CHAPTER 145**

### **(SB 141)**

AN ACT relating to long-term care facility inspections.

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

Section 1. KRS 216.530 is amended to read as follows:

- (1) All inspections of long-term care facilities performed by the cabinet shall be unannounced. All inspections of long-term care facilities shall be conducted in accordance with the rules and regulations promulgated by the cabinet in accordance with KRS Chapter 13A setting forth the parameters of such inspections. Except for complaint investigations, inspections shall be performed no later than seven (7) to fifteen (15) months after the previous inspection.
- (2) *A person having knowledge of or conducting inspections of long-term care facilities shall not, with intent to violate subsection (1) of this section, notify or cause notice to be made to an owner, operator, licensee, or representative of a licensee of any scheduled or contemplated inspection. A violation of this subsection by a state employee shall be considered cause for dismissal under KRS Chapter 18A.*

**Approved April 4, 2006.**

## **CHAPTER 146**

### **(SB 182)**

AN ACT relating to military license plates.

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

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

- (1) Each initial and renewal application *by a person who meets the criteria of paragraph (a) of this section and each initial application by a person who meets the criteria of paragraphs (b) and (c) of this section* for a special military license plate shall be accompanied by proof that the person is associated with the United States Army, United States Navy, United States Air Force, United States Marine Corps, United States Coast Guard, United States Coast Guard Auxiliary, Kentucky National Guard, Merchant Marines with service between December 7, 1941, and August 15, 1945, or Civil Air Patrol in one (1) of the following ways:
  - (a) An active component member;
  - (b) A retired member; or
  - (c) A veteran who received a discharge under honorable conditions, or the veteran's widow and:
    1. Performed twenty-four (24) months of active-duty service;
    2. Received an early release due to injuries or other medical condition, or at the convenience of the service;
    3. Received a hardship discharge;
    4. Was separated or retired due to a disability; or
    5. Was determined to have a service-connected disability incurred during the enlistment.



- (2) The member, retired member, veteran, or reservist may purchase two (2) special military-related license plates annually for vehicles they own or lease. A disabled veterans license plate shall expire on July 31.
- (3) A recipient of the Distinguished Service Cross, Navy Cross, or Air Force Cross shall be eligible for a Service Cross license plate upon submission of an application to the Kentucky Department of Veterans' Affairs. The recipient shall be required to include with the initial application for a Service Cross license plate a copy of the general order that authorized the award and the recipient's Department of Defense form number 214. The Department of Veterans' Affairs shall verify the documentation submitted with the application for a Service Cross license plate, and if the individual applying for the plate is confirmed to be a recipient of the Distinguished Service Cross, Navy Cross, or Air Force Cross, the Department of Veterans' Affairs shall submit the applicant's name to the Transportation Cabinet's Division of Motor Vehicle Licensing not later than September 1 preceding the year that the Service Cross license plate is to be initially issued or renewed. When the Service Cross license plate is ready, the plate shall be sent to the county clerk in the county of the applicant's residence. The Transportation Cabinet's Division of Motor Vehicle Licensing shall inform each applicant in writing that the Service Cross license plate is ready and may be picked up at the county clerk's office. The Transportation Cabinet shall prescribe the type of application form required by this subsection and shall supply the Department of Veterans' Affairs with the application form required by this subsection.
- (4) A person who is a former prisoner of the enemy during World War I, World War II, the Korean War, or the Vietnam War, or the spouse of a deceased former prisoner of war, shall be eligible for a former prisoner of war license plate by submitting written proof from the United States Department of Veterans Affairs or other appropriate federal agency stating the period of time the person or person's spouse was a prisoner of war. If a former prisoner of war dies with a vehicle licensed as authorized under this section, the person's surviving spouse may retain the license plate for use on the same vehicle or on another vehicle that complies with KRS 186.164(7).
- (5) A person who is certified by the Kentucky chapter of the Pearl Harbor Survivors Association as being a survivor of the attack on Pearl Harbor shall be eligible for a Pearl Harbor license plate and shall be required to attach to the special military-related license plate application written evidence from the Kentucky chapter of the Pearl Harbor Survivors Association that the person:
  - (a) Was a member of the United States Armed Forces on December 7, 1941;
  - (b) Was on station on December 7, 1941, during the hours of 7:55 a.m. to 9:45 a.m., Hawaii time, at Pearl Harbor, the island of Oahu, or offshore at a distance not to exceed three (3) miles;
  - (c) Was discharged honorably from the United States Armed Forces; and
  - (d) Is certified by the Kentucky chapter of the Pearl Harbor Survivors Association.

**Approved April 4, 2006.**

## CHAPTER 147

### (HB 530)

AN ACT relating to jail canteen accounts.

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

Section 1. KRS 441.135 is amended to read as follows:

- (1) The jailer may maintain a canteen for the benefit of prisoners lodged in the jail and may assign such jail employees and prisoners to operate the canteen as are necessary for efficient operation.
- (2) All profits from the canteen shall be used for the benefit ***and to enhance the well being***~~for recreation~~ of the prisoners. The jailer shall keep books of accounts of all receipts and disbursements from the canteen and shall annually report to the county treasurer on the canteen account.
- (3) ***Allowable expenditures from a canteen account shall include but not be limited to recreational, vocational, and medical purposes.***
- (4) ***In order to insure adequate, ongoing funding of jail canteen accounts, beginning July 1, 2007, and each year thereafter, funds shall be transferred by the fiscal court into the jail canteen account based on the***

*average daily inmate population of the jail. For purposes of calculating the amount to be transferred to the jail canteen account, the average daily number of inmates shall be equal to the average daily inmate population of the jail in the immediately preceding fiscal year. The amount of funds to be transferred shall be as follows:*

- (a) *300 prisoners or more.....\$6,000*
- (b) *200 to 299 prisoners.....4,000*
- (c) *100 to 199 prisoners.....2,000*
- (d) *99 or fewer prisoners .....1,000*

**Approved April 4, 2006.**

## **CHAPTER 148**

**(HB 589)**

AN ACT relating to health education.

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

SECTION 1. A NEW SECTION OF KRS CHAPTER 158 IS CREATED TO READ AS FOLLOWS:

(1) *The General Assembly finds that:*

- (a) *The chief cause of skin cancer is exposure to ultraviolet rays from natural sunlight and artificial sources;*
- (b) *According to the American Cancer Society, skin cancer is one (1) of the most common types of cancer in the United States, with one (1) in five (5) Americans developing skin cancer in his or her lifetime and one (1) American dying from skin cancer every hour;*
- (c) *The lifetime risk of getting skin cancer is linked to sun exposure and sunburn during childhood and adolescence;*
- (d) *World and national health organizations have published guidelines or instructional materials regarding sun safety and skin cancer prevention for schools; and*
- (e) *Schools have the potential to positively influence pupil behavior regarding skin cancer prevention.*

(2) *The General Assembly hereby encourages each public school to provide age-appropriate education to all students on the risks associated with exposure to ultraviolet rays from natural sunlight and artificial sources.*

- (a) *The education should be included within the existing health curriculum as required by KRS 156.160(1)(a) and in accordance with the curriculum policy adopted by the school-based decision making council, or if none exists, by the school principal.*
- (b) *The education should be consistent with guidelines published by world or national health organizations and should include, but not be limited to:*
  - 1. *The facts and statistics about skin cancer;*
  - 2. *The cause and impact of skin cancer; and*
  - 3. *Strategies and behaviors to reduce individual risks for skin cancer.*
- (c) *The Kentucky Department of Education shall provide instructional resources, including information from national standards and health organizations.*

**Approved April 4, 2006.**

**CHAPTER 149****(HB 234)**

AN ACT relating to business organizations.

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

SECTION 1. SUBCHAPTER 1 OF KRS CHAPTER 362 IS ESTABLISHED AND A NEW SECTION THEREOF IS CREATED TO READ AS FOLLOWS:

*As used in this subchapter, unless the context otherwise requires:*

- (1) *"Business" includes every trade, occupation, and profession;*
- (2) *"Debtor in bankruptcy" means a person who is the subject of;*
  - (a) *An order for relief under Title 11 of the United States Code or a comparable order under a successor statute of general application; or*
  - (b) *A comparable order under federal, state, or foreign law governing insolvency;*
- (3) *"Deliver" or "delivery" means any method of delivery used in conventional commercial practice, including delivery by hand, mail, commercial delivery, and electronic transmission;*
- (4) *"Distribution" means a transfer of money or other property from a partnership to a partner in the partner's capacity as a partner or to the transferee of all or a part of a partner's transferable interest;*
- (5) *"Electronic transmission" or "electronically transmitted" means any process of communication not directly involving the physical transfer of paper that is suitable for the retention, retrieval, and reproduction of information by the recipient;*
- (6) *"Entity" means a corporation, foreign corporation, not-for-profit corporation, profit or not-for-profit unincorporated association, business or statutory trust, estate, partnership, limited partnership, trust, two (2) or more persons having a joint or common economic interest, and a state, national, or foreign government;*
- (7) *"Foreign limited liability partnership" means a partnership that:*
  - (a) *Is formed under laws other than the laws of this Commonwealth; and*
  - (b) *Has the status of a limited liability partnership under those laws;*
- (8) *"Limited liability partnership" means a partnership that has filed a statement of qualification under Section 69 of this Act and does not have a similar statement in effect in any other jurisdiction;*
- (9) *"Name of record with the Secretary of State" means any real, fictitious, reserved, registered, or assumed name of an entity;*
- (10) *"Partnership" means an association of two (2) or more persons to carry on as co-owners a business for profit formed under Section 25 of this Act, predecessor law, or comparable law of another jurisdiction;*
- (11) *"Partnership agreement" means the agreement, whether written, oral, or implied, among the partners concerning the partnership, including amendments to the partnership agreement;*
- (12) *"Partnership at will" means a partnership in which the partners have not agreed to remain partners until the expiration of a definite term or the completion of a particular undertaking;*
- (13) *"Partnership interest" or "partner's interest in the partnership" means all of a partner's interests in the partnership, including the partner's transferable interest and all management and other rights;*
- (14) *"Person" means an individual, an entity or any other legal or commercial entity;*
- (15) *"Professional partnership" means a partnership organized under this subchapter or the laws of another state or foreign country for purposes that include, but are not limited to, the providing of one (1) or more professional services. Except as otherwise expressly provided in this subchapter, all provisions of this subchapter governing partnerships shall be applicable to professional partnerships;*

- (16) *"Professional services" mean the personal services rendered by physicians, osteopaths, optometrists, podiatrists, chiropractors, dentists, nurses, pharmacists, psychologists, occupational therapists, veterinarians, engineers, architects, landscape architects, certified public accountants, public accountants, physical therapists, and attorneys;*
- (17) *"Property" means all property, real, personal, or mixed, tangible or intangible, or any interest therein;*
- (18) *"Regulatory board" means the agency that is charged by law with the licensing and regulation of the practice of the profession which the professional partnership is organized to provide;*
- (19) *"Sign" or "signature" includes any manual, facsimile, conformed or electronic signature;*
- (20) *"State" means a state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or any territory or insular possession subject to the jurisdiction of the United States;*
- (21) *"Statement" means a statement of partnership authority under Section 30 of this Act, a statement of denial under Section 31 of this Act, a statement of dissociation under Section 52 of this Act, a statement of dissolution under Section 58 of this Act, a statement of merger under Section 67 of this Act, a statement of qualification under Section 69 of this Act, a statement of foreign qualification under Section 72 of this Act, or an amendment or cancellation of any of the foregoing; and*
- (22) *"Transfer" includes an assignment, conveyance, lease, mortgage, deed, and encumbrance.*

SECTION 2. A NEW SECTION OF SUBCHAPTER 1 OF KRS CHAPTER 362 IS CREATED TO READ AS FOLLOWS:

- (1) *A person knows a fact if the person has actual knowledge of it.*
- (2) *A person has notice of a fact if the person:*
  - (a) *Knows of it;*
  - (b) *Has received a notification of it;*
  - (c) *Has reason to know it exists from all of the facts known to the person at the time in question; or*
  - (d) *By reason of a filing or recording to the extent provided by and subject to the limitations set forth in subsection (4) or (5) of Section 30 of this Act, subsection (3) of Section 52 of this Act, or subsection (3) of Section 58 of this Act.*
- (3) *A person notifies or gives a notification to another by taking steps reasonably calculated to inform the other person in ordinary course, whether or not the other person obtains knowledge of it.*
- (4) *A person receives a notification when the notification:*
  - (a) *Comes to the person's attention; or*
  - (b) *Is duly delivered at the person's place of business or at any other place held out by the person as a place for receiving communications.*
- (5) *Except as otherwise provided in subsection (6) of this section, a person other than an individual knows, has notice, or receives a notification of a fact for purposes of a particular transaction when the individual conducting the transaction knows, has notice, or receives a notification of the fact, or in any event when the fact would have been brought to the individual's attention if the person had exercised reasonable diligence. The person exercises reasonable diligence if it maintains reasonable routines for communicating significant information to the individual conducting the transaction and there is reasonable compliance with the routines. Reasonable diligence does not require an individual acting for the person to communicate information unless the communication is part of the individual's regular duties or the individual has reason to know of the transaction and that the transaction would be materially affected by the information.*
- (6) *A partner's knowledge, notice, or receipt of a notification of a fact relating to the partnership is effective immediately as knowledge by, notice to, or receipt of a notification by the partnership, except in the case of a fraud on the partnership committed by or with the consent of that partner.*

SECTION 3. A NEW SECTION OF SUBCHAPTER 1 OF KRS CHAPTER 362 IS CREATED TO READ AS FOLLOWS:

- (1) *Except as otherwise provided in subsection (2) of this section, relations among the partners and between the partners and the partnership are governed by the partnership agreement. To the extent the partnership agreement does not otherwise provide, this subchapter governs relations among the partners and between the partners and the partnership.*
- (2) *The partnership agreement shall not:*
  - (a) *Vary the rights and duties under Section 5 of this Act except to eliminate the duty to provide copies of statements to all of the partners;*
  - (b) *Unreasonably restrict the right of access to books and records under subsection (2) of Section 38 of this Act or unreasonably restrict the right to information under subsection (3) of Section 38 of this Act;*
  - (c) *Eliminate the duty of loyalty under subsection (2) of Section 39 of this Act or subsection (2)(c) of Section 48 of this Act, but:*
    1. *The partnership agreement may identify specific types or categories of activities that do not violate the duty of loyalty, if not manifestly unreasonable; or*
    2. *All of the partners or a number or percentage specified in the partnership agreement may authorize or ratify, after full disclosure of all material facts, a specific act or transaction that otherwise would violate the duty of loyalty;*
  - (d) *Unreasonably reduce the duty of care under subsection (3) of Section 39 of this Act or subsection (2)(c) of Section 48 of this Act;*
  - (e) *Eliminate the obligation of good faith and fair dealing under Section 39 of this Act, but the partnership agreement may prescribe the standards by which the performance of the obligation is to be measured, if the standards are not manifestly unreasonable;*
  - (f) *Vary the power to dissociate as a partner under subsection (1) of Section 47 of this Act, except to require the notice under subsection (1) of Section 46 of this Act to be in writing;*
  - (g) *Vary the right of a partner or the partnership to seek a partner's expulsion by judicial determination or vary the right of a court to expel a partner in the events specified in subsection (5) of Section 46 of this Act;*
  - (h) *Vary the requirement to wind up the partnership business in cases specified in subsection (4), (5), or (6) of Section 54 of this Act; or*
  - (i) *Vary the law applicable to a limited liability partnership under subsection (2) of Section 6 of this Act; or*
  - (j) *Vary the liabilities and remedies under Section 40 of this Act to a greater extent than variations are in fact made under this section in the substantive rights in the partnership agreement giving rise to the partner claims at issue.*
- (3) *If a written partnership agreement contains a provision to the effect that any amendment to the partnership agreement must be in writing and adopted in accordance with the provisions of the partnership agreement, that provision shall be enforceable in accordance with its terms, and any agreement among the partners concerning the partnership which is not in writing and adopted in accordance with the provisions of the partnership agreement shall not be part of the partnership agreement.*

SECTION 4. A NEW SECTION OF SUBCHAPTER 1 OF KRS CHAPTER 362 IS CREATED TO READ AS FOLLOWS:

- (1) *Unless displaced by particular provisions of this subchapter, the principles of law and equity supplement this subchapter.*
- (2) *If an obligation to pay interest arises under this subchapter and the rate is not specified, then the rate is that specified in KRS 360.010.*
- (3) *Subject to subsection (2) of Section 3 of this Act, it shall be the policy of the General Assembly through this subchapter to give maximum effect to the principles of freedom of contract and the enforceability of partnership agreements. Although this subchapter is in derogation of common law, the rules of*

*construction that require strict construction of statutes that are in derogation of common law shall not apply to its provisions. Except as otherwise expressly provided herein, this subchapter shall not be construed to impair the obligation of any contract existing when this subchapter, or any amendment thereto, becomes effective, nor to affect any action or proceeding begun, or right accrued before this subchapter or any amendment thereto takes effect.*

- (4) *A professional partnership shall be governed by the laws, whether statutory or common law, applicable to other partnerships. Except for the provisions of this subchapter concerning the personal liability of partners, employees, and agents of a partnership, nothing in this subchapter shall restrict, limit, or expand in any manner the authority and duty of any regulatory board to:*
  - (a) *License individual persons providing professional services; and*
  - (b) *Regulate the practice of persons providing professional services which are within the jurisdiction of the regulatory board, even though the persons are partners, employees, or agents of a professional partnership, or provide professional services through a professional partnership, including the establishment of regulations concerning:*
    - 1. *The qualifications of partners of a professional partnership;*
    - 2. *The transfer of partnership interests in a professional partnership; or*
    - 3. *The provision of one (1) or more professional services through a professional partnership.*

SECTION 5. A NEW SECTION OF SUBCHAPTER 1 OF KRS CHAPTER 362 IS CREATED TO READ AS FOLLOWS:

- (1) *A statement may be filed in the office of Secretary of State. A filed statement has the effect provided in this subchapter with respect to partnership property located in or transactions that occur in this Commonwealth.*
- (2) *A certified copy of a statement that has been filed in the office of the Secretary of State may be filed with and recorded by any county clerk to which the statement is presented for filing and recording.*
- (3) *A statement filed by a partnership shall be executed by at least two (2) partners. Other statements shall be executed by a partner or other person authorized by this subchapter.*
- (4) *A person authorized by this subchapter to file a statement may amend or cancel the statement by filing an amendment or cancellation that names the partnership, identifies the statement, and states the substance of the amendment or cancellation. No amendment or cancellation shall be made with respect to a statement of merger or statement of dissolution after filing with the Secretary of State.*
- (5) *A person authorized by this subchapter to file a statement may correct a filed statement if the statement contains information that was incorrect as of the time of the original filing or if the statement was defectively executed, attested, sealed, verified or acknowledged. A statement is corrected by filing with the Secretary of State a statement of correction that describes the original filing, specifies the information that was incorrect as of the original filing or the manner in which the execution was defective, corrects the incorrect information or the defective execution and is accompanied by a copy of the original defective statement, accompanied by the proper filing fee. A statement of correction shall be effective as of the effective date of the statement it corrects except as to persons relying on the uncorrected document adversely affected by the correction. As to those persons, the statement of correction shall be effective in the same manner as they were on notice of the original statement.*
- (6) *A person who files a statement pursuant to this section shall promptly send a copy of the statement to every nonfiling partner and to any other person named as a partner in the statement. Failure to send a copy of a statement to a partner or other person does not limit the effectiveness of the statement as to a person not a partner.*
- (7) *A person who executes a statement shall be deemed to have declared under penalty of perjury that to that person's knowledge the contents of the statement are accurate.*
- (8) *It shall be unlawful for any person to sign a statement the person knows is false in any material respect with the intent that the statement be delivered to the Secretary of State for filing. Any person who violates this subsection shall be guilty of a Class B misdemeanor punishable by a fine not to exceed one hundred dollars (\$100).*

- (9) *The Secretary of State may collect a fee for filing or providing a certified copy of a statement. The county clerk may collect a fee of ten dollars (\$10.00) for recording a statement.*
- (10) *The Secretary of State may prescribe and furnish on request forms for:*
  - (a) *A statement of change of registered office or registered agent;*
  - (b) *An application to reserve a name;*
  - (c) *An application to cancel the reservation of a name;*
  - (d) *A resignation of a registered agent or registered office or both;*
  - (e) *An annual report; and*
  - (f) *An amendment to the annual report.*
- (11) *The Secretary of State may mandate the use of the forms listed in subsection (10) of this section.*
- (12) *The Secretary of State may prescribe and furnish on request forms for any other records required or permitted to be filed pursuant to this subchapter, but their use shall not be mandatory.*

SECTION 6. A NEW SECTION OF SUBCHAPTER 1 OF KRS CHAPTER 362 IS CREATED TO READ AS FOLLOWS:

- (1) *Except as otherwise provided in subsection (2) of this section, the law of the jurisdiction in which a partnership has its chief executive office governs relations among the partners and between the partners and the partnership.*
- (2) *The law of this Commonwealth governs relations among the partners and between the partners and the partnership and the liability of partners for an obligation of a limited liability partnership.*

SECTION 7. A NEW SECTION OF SUBCHAPTER 1 OF KRS CHAPTER 362 IS CREATED TO READ AS FOLLOWS:

*A partnership governed by this subchapter is subject to any amendment to or repeal of this subchapter.*

SECTION 8. A NEW SECTION OF SUBCHAPTER 1 OF KRS CHAPTER 362 IS CREATED TO READ AS FOLLOWS:

- (1) *A statement shall satisfy the requirements of this section, and of any other section of this subchapter that adds to or varies these requirements, to be entitled to filing by the Secretary of State.*
- (2) *A statement shall contain the information required by this subchapter. It may also contain other information.*
- (3) *The statement shall be typewritten or printed or, if electronically transmitted, it shall be in a format that can be retrieved or reproduced in typewritten or printed form.*
- (4) *The statement shall be in the English language. A partnership name may be in a language other than English if written in English letters or Arabic or Roman numerals. Any statement that may be filed by a foreign partnership that is duly authenticated by the official having custody of the applicable records in the state, country, or other jurisdiction under whose law the partnership is formed may be in a language other than English if accompanied by a reasonably authenticated English translation.*
- (5) *The person or persons executing the statement shall sign it and state beneath or opposite the signature the name of the person and the capacity in which they sign.*
- (6) *The person or persons executing the statement may do so as an attorney-in-fact. Powers of attorney relating to the execution of the statement shall not be required to be provided to or filed with the Secretary of State.*
- (7) *If the Secretary of State has prescribed a mandatory form for a statement or other filing, then the statement or other filing shall be in or on the prescribed form.*
- (8) *In order to be filed, a statement shall be delivered to the office of the Secretary of State. Delivery may be made by electronic transmission if and to the extent permitted by the Secretary of State. If it is filed in typewritten or printed form and not transmitted electronically, then the Secretary of State may require one (1) exact or conformed copy to be delivered with the statement.*

- (9) *When the statement is delivered to the office of the Secretary of State for filing, the correct filing fee and any penalty required by this subchapter or other law to be collected by the office of the Secretary of State therewith shall be paid or provision for payment made in a manner permitted by the Secretary of State. The Secretary of State may accept payment of the correct amount due by credit card, debit card, charge card or similar method. However, if the amount due is tendered by any method other than cash, then the liability is not finally discharged until the Secretary of State receives final payment or credit of collectible funds.*

SECTION 9. A NEW SECTION OF SUBCHAPTER 1 OF KRS CHAPTER 362 IS CREATED TO READ AS FOLLOWS:

- (1) *The Secretary of State shall collect the following fees when the statements described in this subsection are delivered for filing:*
- (a) *Statement of Partnership Authority ..... \$40.00*
  - (b) *Statement of Denial ..... \$20.00*
  - (c) *Statement of Dissociation ..... \$20.00*
  - (d) *Statement of Dissolution ..... \$40.00*
  - (e) *Statement of Merger ..... \$40.00*
  - (f) *Statement of Qualification ..... \$40.00*
  - (g) *Amendment to a Statement of Qualification ..... \$40.00*
  - (h) *Statement of Foreign Qualification ..... \$90.00*
  - (i) *Reinstatement of a Statement of Qualification ..... \$100.00*
  - (j) *Change of Registered Agent or Change of the Address of the Registered Office, or Both ..\$10.00*
  - (k) *Registered Agent's Statement of Change of Registered Office for Each Affected Partnership .. \$10.00*
  - (l) *Change of the Mailing Address of the Chief Executive Office ..... \$10.00*
  - (m) *Application to Reserve a Name for Use by a Domestic or Foreign Partnership ..... \$15.00*
  - (n) *Notice of the Transfer of a Name Reserved for Use by a Domestic or Foreign Partnership .. \$15.00*
  - (o) *Application for Registered Name ..... \$36.00*
  - (p) *Application for Renewal of Registered Name ..... \$36.00*
  - (q) *Annual report.....\$15.00*
  - (r) *Amendment to the annual report .....\$10.00*
  - (s) *All other filings ..... \$40.00*
- (2) *The Secretary of State shall collect the following fees for copying and certifying the copy of any filed statements relating to a domestic or foreign partnership:*
- (a) *Fifty cents (\$0.50) a page for copying; and*
  - (b) *Five dollars (\$5) for the certificate.*

SECTION 10. A NEW SECTION OF SUBCHAPTER 1 OF KRS CHAPTER 362 IS CREATED TO READ AS FOLLOWS:

- (1) *Except as provided in subsection (2) of this section, a statement shall be effective at the date and time of filing, as evidenced by such means as the Secretary of State may use for the purpose of recording the date and time of filing.*
- (2) *A statement may specify a delayed effective time and date, and if it does so and is filed pursuant to subsection (1) of this section, the statement shall become effective at the time and date specified. If a delayed effective date but no time is specified, the statement shall be effective at the close of business on that date. A delayed effective date for a statement shall not be later than the ninetieth (90th) day after the date it is filed.*



- (3) *Except as provided in subsection (5) of Section 30 of this Act, a statement filed in accordance with this subchapter shall be effective regardless of a failure to file the statement with the county clerk.*

SECTION 11. A NEW SECTION OF SUBCHAPTER 1 OF KRS CHAPTER 362 IS CREATED TO READ AS FOLLOWS:

- (1) *If a statement delivered to the Secretary of State for filing satisfies the requirements of this subchapter, then the Secretary of State shall file it.*
- (2) *The Secretary of State shall file a statement by recording it as filed on the date and time of receipt. After filing a statement, the Secretary of State shall deliver to the domestic or foreign partnership or its representative a copy of the statement with an acknowledgment of the date and time of filing.*
- (3) *If the Secretary of State refuses to file a statement, then the Secretary of State shall return it to the domestic or foreign partnership or its representative within five (5) days after the statement was delivered, together with a brief, written explanation of the reason for the refusal.*
- (4) *The Secretary of State's duty to file statements under this section shall be ministerial. The filing or refusal to file a statement by the Secretary of State shall not:*
  - (a) *Affect the validity or invalidity of the statement in whole or in part;*
  - (b) *Relate to the correctness or incorrectness of information contained in the statement; or*
  - (c) *Create a presumption that the statement is valid or invalid or that information contained in the statement is correct or incorrect.*

SECTION 12. A NEW SECTION OF SUBCHAPTER 1 OF KRS CHAPTER 362 IS CREATED TO READ AS FOLLOWS:

*If the Secretary of State refuses to file a statement delivered for filing, then the domestic or foreign partnership, or in the case of a statement filed by an individual, that individual, may appeal the refusal to the Franklin Circuit Court. The appeal shall be commenced by petitioning the court to compel filing the statement and by attaching to the petition the statement and the Secretary of State's explanation of the refusal to file. The court may summarily order the Secretary of State to file the statement or take other action the court considers appropriate. The Court's final decision may be appealed as are other civil proceedings.*

SECTION 13. A NEW SECTION OF SUBCHAPTER 1 OF KRS CHAPTER 362 IS CREATED TO READ AS FOLLOWS:

*A certificate attached to a copy of the statement filed by the Secretary of State, bearing his signature, which may be in facsimile, and the seal of this Commonwealth, shall be conclusive evidence that the original statement is on file with the Secretary of State. The only obligation of the Secretary of State is to certify that a statement is of record, and the Secretary of State is not obligated to certify as to any fact set forth in a statement of record.*

SECTION 14. A NEW SECTION OF SUBCHAPTER 1 OF KRS CHAPTER 362 IS CREATED TO READ AS FOLLOWS:

- (1) *Except as authorized by subsections (2) and (3) of this section, the name of a partnership as set forth on a statement of qualification or statement of foreign qualification shall be distinguishable from any name of record with the Secretary of State.*
- (2) *No partnership may include in its name "corporation," "incorporated," or the abbreviations "corp." or "inc." and only a partnership that has filed a statement of qualification or a statement of foreign qualification may include in its name "limited" or the abbreviation "ltd."*
- (3) *A partnership may use the name, including the fictitious name, with any modification required by this section or Section 70 of this Act of another business entity that is used in this Commonwealth if the other business entity is organized or authorized to transact business in this Commonwealth and the partnership:*
  - (a) *Has merged with the other business entity;*
  - (b) *Has been formed by reorganization of the other business entity; or*
  - (c) *Has acquired all or substantially all of the assets, including the business name, of the other business entity.*

- (4) *This subchapter shall not control the use of assumed names.*
- (5) *The filing of a statement, including statement of qualification or statement of foreign qualification, under the particular name of the partnership shall not automatically prevent the use of that name or protect that name from use by other persons.*
- (6) *If a foreign limited liability partnership authorized to transact business in this Commonwealth changes its name to one that does not satisfy the requirements of this section, then it shall not transact business in this Commonwealth under the changed name until it adopts a name satisfying the requirements of this section and amends its statement of foreign qualification to set forth that name.*

SECTION 15. A NEW SECTION OF SUBCHAPTER 1 OF KRS CHAPTER 362 IS CREATED TO READ AS FOLLOWS:

- (1) *A person may apply to the Secretary of State to reserve the exclusive use of a partnership name, including the fictitious name, for a limited liability partnership or for a foreign limited liability partnership whose partnership name is not available for use in this Commonwealth. If the Secretary of State finds that the name applied for is available, then the Secretary of State shall reserve the name for the applicant's exclusive use for one (1) nonrenewable period of one hundred twenty (120) days.*
- (2) *The holder of a reserved partnership name may transfer the reservation to another person by delivering to the Secretary of State a notice of the transfer, executed by the holder for whom the name was reserved, and specifying the name and address of the transferee.*
- (3) *The holder of a reserved partnership name may cancel the reservation by delivery to the Secretary of State of a notice of cancellation, executed by the applicant for whom the name was reserved, that states the reserved name and its date of reservation.*

SECTION 16. A NEW SECTION OF SUBCHAPTER 1 OF KRS CHAPTER 362 IS CREATED TO READ AS FOLLOWS:

- (1) *A foreign limited liability partnership may register its name, or its name with any addition required by Section 70 of this Act, if the name is distinguishable upon the records of the Secretary of State as required under Section 14 of this Act.*
- (2) *A foreign limited liability partnership shall register its name, or its name with any addition required by Section 70 of this Act, by delivering to the Secretary of State for filing an application setting forth:*
  - (a) *Its name, or its name with any addition required by Section 70 of this Act;*
  - (b) *The state or country and date of its organization; and*
  - (c) *A statement that the foreign partnership validly exists as a partnership under the laws of the jurisdiction of its formation.*
- (3) *The name shall be registered for the applicant's exclusive use upon the effective date of the application.*
- (4) *A foreign limited liability partnership whose registration is effective may renew it for successive years by delivering to the Secretary of State for filing a renewal application between October 1 and December 31 of the preceding year. The renewal application shall comply with the requirements of subsection (2) of this section and when filed shall renew the registration for the following calendar year.*
- (5) *A foreign limited liability partnership whose name registration is effective may thereafter qualify as a foreign limited liability partnership under the registered name or consent in writing to the use of that name by a partnership thereafter organized under this subchapter or by another foreign limited liability partnership thereafter authorized to transact business in this Commonwealth. The registration shall terminate when the domestic partnership is organized or the foreign limited liability partnership qualifies or consents to the qualification of another foreign limited liability partnership under the registered name.*

SECTION 17. A NEW SECTION OF SUBCHAPTER 1 OF KRS CHAPTER 362 IS CREATED TO READ AS FOLLOWS:

- (1) *Each limited liability partnership and each foreign limited liability partnership authorized to transact business in the Commonwealth pursuant to Sections 71 to 74 of this Act shall continuously maintain in this Commonwealth:*
  - (a) *A registered office that may be the same as any of its places of business; and*

*(b) A registered agent who shall be:*

1. *An individual who is a resident of this Commonwealth and whose business office is identical with the registered office;*
  2. *A domestic corporation, domestic limited liability company, or domestic nonprofit corporation whose business office is identical with the registered office; or*
  3. *A foreign corporation, foreign limited liability company, or foreign nonprofit corporation authorized to transact business in this Commonwealth whose business office is identical with the registered office.*
- (2) Unless the registered agent signs the document making the appointment, the appointment of a registered agent or a successor registered agent on whom process may be served shall not be effective until the agent delivers a statement in writing to the Secretary of State accepting the appointment.*

SECTION 18. A NEW SECTION OF SUBCHAPTER 1 OF KRS CHAPTER 362 IS CREATED TO READ AS FOLLOWS:

- (1) A limited liability partnership or foreign limited liability partnership authorized to transact business in this Commonwealth pursuant to Sections 71 to 74 of this Act may change its registered office or registered agent, or both, upon filing in the office of the Secretary of State a statement of change on a form supplied by the Secretary of State that sets forth:*
- (a) The name of the partnership;*
  - (b) The street address of its current registered office;*
  - (c) If the current registered office is to be changed, the street address of the new registered office;*
  - (d) The name of its current registered agent;*
  - (e) If the current registered agent is to be changed, the name of the new registered agent and the new registered agent's written consent; and*
  - (f) That after the change or changes are made, the street addresses of its registered office and the business office of its registered agent will be identical.*
- (2) If a registered agent changes the street address of the registered agent's business office to another place within this Commonwealth, then the registered agent shall change the street address of the registered office of any domestic partnership that has filed a statement of qualification or foreign partnership of which the registered agent is a registered agent by notifying the domestic partnership that has filed a statement of qualification or foreign partnership in writing of the change, and delivering to the Secretary of State for filing a statement that complies with the requirements of subsection (1) of this section and recites that the partnership has been notified of the change.*
- (3) The change of address of the registered office or registered agent shall be effective on delivery of the statement of change to the Secretary of State. The appointment of a new registered agent shall be effective on delivery of the statement of change to the Secretary of State and on receipt by the Secretary of State of evidence that the new registered agent has accepted appointment pursuant to subsection (2) of Section 17 of this Act.*

SECTION 19. A NEW SECTION OF SUBCHAPTER 1 OF KRS CHAPTER 362 IS CREATED TO READ AS FOLLOWS:

- (1) A registered agent may resign as registered agent by signing and delivering to the Secretary of State for filing the executed original and two (2) exact or conformed copies of a statement of resignation. The statement may also include a statement that the registered office is discontinued.*
- (2) After filing the statement, the Secretary of State shall mail one (1) copy to the registered office, if not discontinued, and the other copy to the limited liability partnership or foreign limited liability partnership at its principal office.*
- (3) The agency appointment shall be terminated, and the registered office discontinued if so provided, on the thirty-first day after the date on which the statement was filed.*

SECTION 20. A NEW SECTION OF SUBCHAPTER 1 OF KRS CHAPTER 362 IS CREATED TO READ AS FOLLOWS:

- (1) *The registered agent of a limited liability partnership or of a foreign limited liability partnership authorized to transact business in this Commonwealth pursuant to Sections 71 to 74 of this Act shall be the partnership's agent for service of process, notice, or demand required or permitted by law to be served on the domestic limited liability partnership or foreign partnership.*
- (2) *If a limited liability partnership or foreign limited liability partnership authorized to transact business in this Commonwealth pursuant to Sections 71 to 74 of this Act has no registered agent in this Commonwealth, or the registered agent cannot with reasonable diligence be served, then the partnership may be served by registered or certified mail, return receipt requested, addressed to the partnership at its principal office. Service shall be perfected under this subsection at the earliest of:*
  - (a) *The date the partnership receives the mail;*
  - (b) *The date shown on the return receipt, if signed on behalf of the domestic or foreign partnership; or*
  - (c) *Five (5) days after its deposit in the United States mail, as evidenced by the postmark, if mailed postpaid and correctly addressed.*
- (3) *An agent named pursuant to subsection (1)(a)3. of Section 30 of this Act is not a registered agent for the partnership, and service of process is not accomplished against that agent.*
- (4) *This section does not prescribe the only means, or necessarily the required means, of serving a limited liability partnership or a foreign limited liability partnership authorized to transact business in this Commonwealth pursuant to Sections 71 to 74 of this Act.*

SECTION 21. A NEW SECTION OF SUBCHAPTER 1 KRS CHAPTER 362 IS CREATED TO READ AS FOLLOWS:

- (1) *Each limited liability partnership and each foreign limited liability partnership authorized to transact business in this Commonwealth pursuant to Sections 71 to 74 of this Act shall file an annual report in the office of the Secretary of State on such form as shall be prescribed by the Secretary of State which contains:*
  - (a) *The name of the partnership and the state or other jurisdiction under whose laws it is formed;*
  - (b) *The street address of the partnership's chief executive office and, if different, the street address of an office of the partnership in this Commonwealth, if any; and*
  - (c) *The address of its registered office and the name of its registered agent in this Commonwealth.*
- (2) *Information in the annual report shall be current as of the date the annual report is executed on behalf of the partnership.*
- (3) *The first annual report shall be delivered to the Secretary of State between January 1 and June 30 of the year following the calendar year in which a partnership files a statement of qualification or statement of foreign qualification. Subsequent annual reports shall be delivered to the Secretary of State between January 1 and June 30 of the following calendar years.*
- (4) *If an annual report does not contain the information required by this section, then the Secretary of State shall promptly notify the reporting partnership in writing and return the report to it for correction.*
- (5) *A limited liability partnership or foreign limited liability partnership may amend the information in its last filed annual report by delivery to the Secretary of State of an amendment to the annual report on an appropriate form provided by the Secretary of State.*

SECTION 22. A NEW SECTION OF SUBCHAPTER 1 OF KRS CHAPTER 362 IS CREATED TO READ AS FOLLOWS:

- (1) *The Secretary of State may commence a proceeding to administratively dissolve a statement of qualification if:*
  - (a) *The limited liability partnership does not file its annual report with the Secretary of State within sixty (60) days after it is due;*
  - (b) *The limited liability partnership is without a registered agent or registered office in this Commonwealth for sixty (60) days or more; or*

- (c) *The limited liability partnership does not notify the Secretary of State within sixty (60) days that its registered agent or registered office has been changed, that its registered agent has resigned, or that its registered office has been discontinued.*
- (2) *If the Secretary of State determines that one (1) or more grounds exist under subsection (1) of this section for the administrative dissolution of a statement of qualification, then he shall serve the partnership with written notice of his determination by mailing such notice by first class mail to the limited liability partnership at the street address of the partnership's chief executive office as set forth in the partnership's most recent annual report filed pursuant to Section 21 of this Act or, if none, that set forth in the statement of partnership qualification filed pursuant to Section 69 of this Act or the statement of foreign qualification filed by a foreign limited liability partnership pursuant to Section 72 of this Act.*
- (3) *If the limited liability partnership 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 the notice was mailed, then the Secretary of State shall administratively dissolve the statement of qualification by signing a certificate of dissolution that recites the ground or grounds for dissolution and its effective date. The Secretary of State shall file the original certificate and serve a copy on the limited liability partnership by mailing such certificate by first class mail to the partnership at its registered office. The administrative dissolution of a statement of qualification shall not terminate the authority of the registered agent of the partnership.*
- (4) *The administrative dissolution of a statement of qualification affects only the partnership's status as a limited liability partnership and is not an event of dissolution of the partnership.*
- (5) *The partnership whose statement of qualification has been administratively dissolved may apply to the Secretary of State for reinstatement of the statement at any time after the effective date of the dissolution by filing an application that:*
  - (a) *Recites the name of the partnership, identifies the statement that was administratively dissolved and the effective date of that administrative dissolution;*
  - (b) *States that the ground or grounds for dissolution either did not exist or have been eliminated;*
  - (c) *States that the name of the partnership satisfies the requirements of Section 14 of this Act; and*
  - (d) *Is accompanied by the reinstatement penalty and the current fee for filing each delinquent annual report.*
- (6) *If the Secretary of State determines that the application contains the information required by subsection (5) of this section and that the information provided therein is correct, then the Secretary of State shall cancel the certificate of administrative dissolution and prepare a certificate reciting the cancellation of the administrative dissolution and the effective date thereof, file the original of the certificate and serve a copy on the partnership by mailing the certificate by first class mail to the partnership at its registered office. When the revocation of the administrative dissolution is effective, it shall relate back to and take effect as of the effective date of the administrative dissolution, and the statement or statements shall be in full force and effect as if the administrative dissolution had never occurred.*
- (7) *If the Secretary of State denies a partnership's application for reinstatement of its statement of qualification following administrative dissolution, then he shall serve the partnership with written notice that explains the reason or reasons for denial by mailing the notice by first class mail to the partnership at its registered office. The partnership may appeal the denial of reinstatement to the Franklin Circuit Court within thirty (30) days after the service of the notice of the denial transmitted to the partnership. The partnership may appeal by petitioning the court to set aside the administrative dissolution and attaching to the petition copies of the Secretary of State's certificate of administrative dissolution, the partnership's application for reinstatement and the Secretary of State's notice of denial. The court may summarily order the Secretary of State to reinstate the statement of qualification or may take any other action the court considers appropriate. The court's final decision may be appealed as in any other civil proceedings.*

SECTION 23. A NEW SECTION OF SUBCHAPTER 1 OF KRS CHAPTER 362 IS CREATED TO READ AS FOLLOWS:

- (1) *The Secretary of State may commence a proceeding under subsection (2) of this section to revoke the statement of foreign qualification of a foreign limited liability partnership authorized to transact business in this Commonwealth if:*
  - (a) *The foreign limited liability partnership does not file its annual report to the Secretary of State within sixty (60) days after it is due;*
  - (b) *The foreign limited liability partnership is without a registered agent or registered office in this Commonwealth for sixty (60) days or more;*
  - (c) *The foreign limited liability partnership does not inform the Secretary of State that its registered agent or registered office has changed, that its registered agent has resigned, or that its registered office has been discontinued within sixty (60) days of the change, resignation or discontinuance; or*
  - (d) *The Secretary of State receives a duly authenticated certificate from the Secretary of State or other official having custody of partnership records in the state or country under whose law the foreign limited liability partnership is formed stating that it has been dissolved or disappeared as the result of a merger, consolidation or conversion.*
- (2) *If the Secretary of State determines that one (1) or more grounds exist for the revocation of a statement of foreign qualification, then he shall serve the foreign limited liability partnership with written notice of his determination by mailing the notice by first class mail to the foreign limited liability partnership at the street address of the partnership's chief executive office as set forth in the most recent annual report filed pursuant to Section 21 of this Act or, if none, that set forth in the statement of foreign qualification filed pursuant to Section 72 of this Act.*
- (3) *If the foreign limited liability partnership does not correct each ground for revocation 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 after the mailing of the notice, then the Secretary of State may revoke the foreign limited liability partnership's statement of foreign qualification by signing a certificate of revocation that recites the ground or grounds for revocation and its effective date. The Secretary of State shall file the original of the certificate and serve a copy on the foreign partnership by mailing the notice by first class mail to the foreign limited liability partnership at the street address of the partnership's chief executive office as set forth in the most recent annual report filed pursuant to Section 21 of this Act or, if none, that set forth in the statement of foreign qualification filed pursuant to Section 72 of this Act.*
- (4) *The authority of a foreign limited liability partnership to transact business in this Commonwealth shall cease on the date shown on the certificate revoking its statement of foreign qualification.*
- (5) *The Secretary of State's revocation of a foreign limited liability partnership's statement of foreign qualification shall be considered to appoint the Secretary of State the foreign limited liability partnership's agent for service of process in any proceeding based on the cause of action that arose during the time the foreign limited liability partnership was authorized to transact business in this Commonwealth. Service of process on the Secretary of State under this subsection shall be service on the foreign limited liability partnership. Upon receipt of process, the Secretary of State shall mail a copy of the process to the foreign limited liability partnership at its principal office shown in its most recent annual report or any subsequent communication received from the foreign limited liability partnership stating the current mailing address of its principal office, or, if none are on file, in its statement of foreign qualification.*
- (6) *Revocation of a foreign limited liability partnership's statement of foreign qualification shall not terminate the authority of the registered agent of the partnership.*
- (7) *A foreign limited liability partnership may appeal the Secretary of State's revocation of its statement of foreign qualification to the Franklin Circuit Court within thirty (30) days after service of the certificate of revocation. The foreign limited liability partnership may appeal by petitioning the court to set aside the revocation and attaching to the petition copies of its statement of foreign qualification and the Secretary of State's certificate of revocation.*
- (8) *The court may summarily order the Secretary of State to reinstate the statement of foreign qualification or may take any other action the court considers appropriate.*
- (9) *The court's final decision may be appealed as in other civil proceedings.*

SECTION 24. A NEW SECTION OF SUBCHAPTER 1 OF KRS CHAPTER 362 IS CREATED TO READ AS FOLLOWS:

- (1) *A partnership is an entity distinct from its partners.*
- (2) *A limited liability partnership is a partnership and continues to be the same entity that existed before the filing of a statement of qualification under Section 69 of this Act.*

SECTION 25. A NEW SECTION OF SUBCHAPTER 1 OF KRS CHAPTER 362 IS CREATED TO READ AS FOLLOWS:

- (1) *Except as otherwise provided in subsection (2) of this section, the association of two (2) or more persons to carry on as co-owners a business for profit forms a partnership, whether or not the persons intend to form a partnership.*
- (2) *An association formed under a statute other than this subchapter, a predecessor statute, or a comparable statute of another jurisdiction is not a partnership under this subchapter.*
- (3) *In determining whether a partnership is formed, the following rules apply:*
  - (a) *Joint tenancy, tenancy in common, tenancy by the entireties, joint property, common property, or part ownership does not by itself establish a partnership, even if the co-owners share profits made by the use of the property.*
  - (b) *The sharing of gross returns does not by itself establish a partnership, even if the persons sharing them have a joint or common right or interest in property from which the returns are derived.*
  - (c) *A person who receives a share of the profits of a business is presumed to be a partner in the business, unless the profits were received in payment:*
    - 1. *Of a debt by installments or otherwise;*
    - 2. *For services as an independent contractor or of wages or other compensation to an employee;*
    - 3. *Of rent;*
    - 4. *Of an annuity or other retirement or health benefit to a beneficiary, representative, or designee of a deceased or retired partner;*
    - 5. *Of interest or other charge on a loan, even if the amount of payment varies with the profits of the business, including a direct or indirect present or future ownership of the collateral, or rights to income, proceeds, or increase in value derived from the collateral; or*
    - 6. *For the sale of the goodwill of a business or other property by installments or otherwise.*

SECTION 26. A NEW SECTION OF SUBCHAPTER 1 OF KRS CHAPTER 362 IS CREATED TO READ AS FOLLOWS:

*Property transferred to or otherwise acquired by a partnership is property of the partnership and not of the partners individually.*

SECTION 27. A NEW SECTION OF SUBCHAPTER 1 OF KRS CHAPTER 362 IS CREATED TO READ AS FOLLOWS:

- (1) *Property is partnership property if acquired in the name of:*
  - (a) *The partnership; or*
  - (b) *One (1) or more partners with an indication in the instrument transferring title to the property of the person's capacity as a partner or of the existence of a partnership but without an indication of the name of the partnership.*
- (2) *Property is acquired in the name of the partnership by a transfer to:*
  - (a) *The partnership in its name; or*
  - (b) *One (1) or more partners in their capacity as partners in the partnership, if the name of the partnership is indicated in the instrument transferring title to the property.*
- (3) *Property is presumed to be partnership property if purchased with partnership assets, even if not acquired in the name of the partnership or of one or more partners with an indication in the instrument transferring title to the property of the person's capacity as a partner or of the existence of a partnership.*

- (4) *Property acquired in the name of one or more of the partners, without an indication in the instrument transferring title to the property of the person's capacity as a partner or of the existence of a partnership and without use of partnership assets, is presumed to be separate property, even if used for partnership purposes.*

SECTION 28. A NEW SECTION OF SUBCHAPTER 1 OF KRS CHAPTER 362 IS CREATED TO READ AS FOLLOWS:

*Subject to the effect of a statement of partnership authority under Section 30 of this Act:*

- (1) *Each partner is an agent of the partnership for the purpose of its business. An act of a partner, including the execution of an instrument in the partnership name, for apparently carrying on in the ordinary course the partnership business or business of the kind carried on by the partnership binds the partnership, unless the partner had no authority to act for the partnership in the particular matter and the person with whom the partner was dealing had notice that the partner lacked authority.*
- (2) *An act of a partner which is not apparently for carrying on in the ordinary course the partnership business or business of the kind carried on by the partnership binds the partnership only if the act was authorized by all of the other partners.*

SECTION 29. A NEW SECTION OF SUBCHAPTER 1 OF KRS CHAPTER 362 IS CREATED TO READ AS FOLLOWS:

- (1) *Partnership property may be transferred as follows:*

- (a) *Subject to the effect of a statement of partnership authority under Section 30 of this Act, partnership property held in the name of the partnership may be transferred by an instrument of transfer executed by a partner in the partnership name.*
- (b) *Partnership property held in the name of one (1) or more partners with an indication in the instrument transferring the property to them of their capacity as partners or of the existence of a partnership, but without an indication of the name of the partnership, may be transferred by an instrument of transfer executed by the persons in whose name the property is held.*
- (c) *Partnership property held in the name of one (1) or more persons other than the partnership, without an indication in the instrument transferring the property to them of their capacity as partners or of the existence of a partnership, may be transferred by an instrument of transfer executed by the persons in whose name the property is held.*
- (2) *A partnership may recover partnership property from a transferee only if it proves that execution of the instrument of initial transfer did not bind the partnership under Section 28 of this Act and:*
- (a) *As to a subsequent transferee who gave value for property transferred under paragraph (a) or (b) of subsection (1) of this section, proves that the subsequent transferee had notice that the person who executed the instrument of initial transfer lacked authority to bind the partnership; or*
- (b) *As to a transferee who gave value for property transferred under subsection (1)(c) of this section, proves that the transferee had notice that the property was partnership property and that the person who executed the instrument of initial transfer lacked authority to bind the partnership.*
- (3) *A partnership shall not recover partnership property from a subsequent transferee if the partnership would not have been entitled to recover the property, under subsection (2) of this section, from any earlier transferee of the property.*
- (4) *If a person holds all of the partners' interests in the partnership, all of the partnership property vests in that person. The person may execute a document in the name of the partnership to evidence vesting of the property in that person and may file or record the document.*

SECTION 30. A NEW SECTION OF SUBCHAPTER 1 OF KRS CHAPTER 362 IS CREATED TO READ AS FOLLOWS:

- (1) *A partnership may file a statement of partnership authority, which:*

- (a) *Shall include:*

1. *The name of the partnership, which shall comply with Sections 14 and 70 of this Act;*



2. *The street address of its chief executive office and of one (1) office in this Commonwealth, if any;*
  3. *The names and mailing addresses of all of the partners or of an agent appointed and maintained by the partnership for the purpose of subsection (2) of this section;*
  4. *The names of the partners authorized to execute an instrument transferring real property held in the name of the partnership;*
  5. *The date any statement of qualification or statement of foreign qualification was previously filed by the partnership with the Secretary of State; and*
- (b) *May state the authority, or limitations on the authority, of some or all of the partners to enter into other transactions on behalf of the partnership and any other matter.*
- (2) *The agent named in the statement of partnership authority pursuant to subsection (1)(a)3. of this section, if any, shall maintain a list of the names and mailing addresses of all of the partners and make it available to any person on written request for good cause shown.*
  - (3) *If a filed statement of partnership authority is executed pursuant to subsection (3) of Section 5 of this Act and states the name of the partnership but does not contain all of the other information required by subsection (1) of this section, then the statement nevertheless operates with respect to a person not a partner as provided in subsections (4) and (5) of this section.*
  - (4) *Except as otherwise provided in subsection (7) of this section, a filed statement of partnership authority supplements the authority of a partner to enter into transactions on behalf of the partnership as follows:*
    - (a) *Except for transfers of real property, a grant of authority contained in a filed statement of partnership authority is conclusive in favor of a person who gives value without notice to the contrary, so long as and to the extent that a limitation on that authority is not then contained in another filed statement. A filed cancellation of a limitation on authority revives the previous grant of authority.*
    - (b) *A grant of authority to transfer real property held in the name of the partnership contained in a certified copy of a filed statement of partnership authority recorded in the office for recording transfers of that real property is conclusive in favor of a person who gives value without having notice to the contrary, so long as and to the extent that a certified copy of a filed statement containing a limitation on that authority is not then of record in the office for recording transfers of that real property. The recording in the office for recording transfers of that real property of a certified copy of a filed cancellation of a limitation on authority revives the previous grant of authority.*
  - (5) *A person not a partner has knowledge of a limitation on the authority of a partner to transfer real property held in the name of the partnership if a certified copy of the filed statement containing the limitation on authority is of record in the office for recording transfers of that real property.*
  - (6) *Except as otherwise provided in subsections (4) and (5) of this section and Sections 50 and 56 of this Act, a person not a partner does not have notice of a limitation on the authority of a partner merely because the limitation is contained in a filed statement.*
  - (7) *Unless earlier canceled, a filed statement of partnership authority is canceled by operation of law five (5) years after the date on which the statement, or the most recent amendment to the statement of partnership authority expressly extending its term for not more than five (5) years from the date of the amendment, was filed with the Secretary of State.*

SECTION 31. A NEW SECTION OF SUBCHAPTER 1 OF KRS CHAPTER 362 IS CREATED TO READ AS FOLLOWS:

*A partner or other person named as a partner in a filed statement of partnership authority or in a list maintained by an agent pursuant to subsection (2) of Section 30 of this Act may file a statement of denial stating the name of the partnership, the date of filing of the statement of partnership authority and the fact that is being denied, which may include denial of a person's authority or status as a partner. A statement of denial is a limitation on authority as provided in subsections (4) and (5) of Section 30 of this Act.*

SECTION 32. A NEW SECTION OF SUBCHAPTER 1 OF KRS CHAPTER 362 IS CREATED TO READ AS FOLLOWS:

- (1) *A partnership is liable for loss or injury caused to a person, or for a penalty incurred, as a result of a wrongful act or omission, or other actionable conduct, of a partner acting in the ordinary course of business of the partnership or with authority of the partnership.*
- (2) *If, in the course of the partnership's business or while acting with authority of the partnership, a partner receives or causes the partnership to receive money or property of a person not a partner, and the money or property is misapplied by a partner, then the partnership is liable for the loss.*

SECTION 33. A NEW SECTION OF SUBCHAPTER 1 OF KRS CHAPTER 362 IS CREATED TO READ AS FOLLOWS:

- (1) *Except as otherwise provided in subsections (2) and (3) of this section, all partners are liable jointly and severally for all obligations of the partnership unless otherwise agreed by the claimant or provided by law.*
- (2) *A person admitted as a partner into an existing partnership is not personally liable for any partnership obligation incurred before the person's admission as a partner.*
- (3) *An obligation of a partnership incurred while the partnership is a limited liability partnership, whether arising in contract, tort, or otherwise, is solely the obligation of the partnership. A partner is not personally liable, directly or indirectly, by way of indemnification, contribution, assessment or otherwise, for such an obligation solely by reason of being or so acting as a partner. This subsection applies notwithstanding anything inconsistent in the partnership agreement that existed immediately before the vote required to become a limited liability partnership under subsection (2) of Section 69 of this Act.*
- (4) *Subsection (3) of this section shall not affect the liability of a partner in a limited liability partnership for his own negligence, wrongful acts, or misconduct.*

SECTION 34. A NEW SECTION OF SUBCHAPTER 1 OF KRS CHAPTER 362 IS CREATED TO READ AS FOLLOWS:

- (1) *A partnership may sue and be sued in the name of the partnership.*
- (2) *An action may be brought against the partnership and, to the extent not inconsistent with Section 33 of this Act, any or all of the partners in the same action or in separate actions.*
- (3) *A judgment against a partnership is not by itself a judgment against a partner. A judgment against a partnership may not be satisfied from a partner's assets unless there is also a judgment against the partner.*
- (4) *A judgment creditor of a partner shall not levy execution against the assets of a partner to satisfy a judgment based on a claim against the partnership unless the partner is personally liable for the claim under Section 33 of this Act and:*
  - (a) *A judgment based on the same claim has been obtained against the partnership and a writ of execution on the judgment has been returned unsatisfied in whole or in part;*
  - (b) *The partnership is a debtor in bankruptcy;*
  - (c) *The partner has agreed that the creditor need not exhaust partnership assets;*
  - (d) *A court grants permission to the judgment creditor to levy execution against the assets of a partner based on a finding that partnership assets subject to execution are clearly insufficient to satisfy the judgment, that exhaustion of partnership assets is excessively burdensome, or that the grant of permission is an appropriate exercise of the court's equitable powers; or*
  - (e) *Liability is imposed on the partner by law or contract independent of the existence of the partnership.*
- (5) *This section applies to any partnership liability or obligation resulting from a representation by a partner or purported partner under Section 35 of this Act.*
- (6) *A partner in a limited liability partnership is not a proper party to a proceeding against such a partnership solely by reason of being a partner.*

SECTION 35. A NEW SECTION OF SUBCHAPTER 1 OF KRS CHAPTER 362 IS CREATED TO READ AS FOLLOWS:

- (1) *If a person, by words or conduct, purports to be a partner or consents to being represented by another as a partner in a partnership or with one or more persons not partners, then the purported partner is liable to a person to whom the representation is made, if that person, relying on the representation, enters into a transaction with the actual or purported partnership and the purported partner would have been personally liable for obligations of the partnership under subsection (1) of Section 33 of this Act.*
- (2) *Subject to subsection (1) of this section, if the representation, either by the purported partner or by a person with the purported partner's consent, is made in a public manner, then the purported partner is liable to a person who relies upon the purported partnership even if the purported partner is not aware of being held out as a partner to the claimant. If partnership liability results, then the purported partner is liable with respect to that liability as if the purported partner were a partner. If no partnership liability results, then the purported partner is liable with respect to that liability jointly and severally with any other person consenting to the representation.*
- (3) *Subject to subsection (1) of this section, if a person is thus represented to be a partner in an existing partnership, or with one or more persons not partners, then the purported partner is an agent of persons consenting to the representation to bind them to the same extent and in the same manner as if the purported partner were a partner, with respect to persons who enter into transactions in reliance upon the representation. If all of the partners of the existing partnership consent to the representation, then a partnership act or obligation results. If fewer than all of the partners of the existing partnership consent to the representation, then the person acting and the partners consenting to the representation are jointly and severally liable.*
- (4) *A person is not liable as a partner merely because the person is named by another in a statement of partnership authority.*
- (5) *A person does not continue to be liable as a partner merely because of a failure to file a statement of dissociation or to amend a statement of partnership authority to indicate the partner's dissociation from the partnership.*
- (6) *Except as otherwise provided in subsections (1) and (2) of this section, persons who are not partners as to each other are not liable as partners to other persons.*

SECTION 36. A NEW SECTION OF SUBCHAPTER 1 OF KRS CHAPTER 362 IS CREATED TO READ AS FOLLOWS:

- (1) *Each partner is deemed to have an account that is:*
  - (a) *Credited with an amount equal to the money plus the value of any other property, net of the amount of any liabilities, the partner contributes to the partnership and the partner's share of the partnership profits; and*
  - (b) *Charged with an amount equal to the money plus the value of any other property, net of the amount of any liabilities, distributed by the partnership to the partner and the partner's share of the partnership losses.*
- (2) *Each partner is entitled to an equal share of the partnership profits and is chargeable with a share of the partnership losses in proportion to the partner's share of the profits.*
- (3) *A partnership shall reimburse a partner for payments made and indemnify a partner for liabilities incurred by the partner in the ordinary course of the business of the partnership or for the preservation of its business or property.*
- (4) *A partnership shall reimburse a partner for an advance to the partnership beyond the amount of capital the partner agreed to contribute.*
- (5) *A payment or advance made by a partner which gives rise to a partnership obligation under subsection (3) or (4) of this section constitutes a loan to the partnership which accrues interest from the date of the payment or advance.*
- (6) *Each partner has equal rights in the management and conduct of the partnership business.*
- (7) *A partner may use or possess partnership property only on behalf of the partnership.*

- (8) *A partner is not entitled to remuneration for services performed for the partnership, except for reasonable compensation for services rendered in winding up the business of the partnership.*
- (9) *A person may become a partner only with the consent of all of the partners.*
- (10) *A difference arising as to a matter in the ordinary course of business of a partnership may be decided by a majority of the partners. An act outside the ordinary course of business of a partnership and an amendment to the partnership agreement may be undertaken only with the consent of all of the partners.*
- (11) *This section does not affect the obligations of a partnership to other persons under Section 28 of this Act.*

SECTION 37. A NEW SECTION OF SUBCHAPTER 1 OF KRS CHAPTER 362 IS CREATED TO READ AS FOLLOWS:

- (1) *A partner, regardless of the nature of the partner's contribution, has no right to demand and receive any distribution in kind from a partnership. A partner shall not be compelled to accept a distribution of any asset in kind from a partnership to the extent that the percentage of the asset distributed to the partner exceeds a percentage of that asset which is equal to the percentage in which the partner shares in distributions from the partnership. A partner may be compelled to accept a distribution of any asset in kind from a partnership to the extent that the percentage of the asset distributed to the partner is equal to a percentage of that asset which is equal to the percentage in which the partner shares in distributions from the partnership.*
- (2) *The property of a partnership subject to this subchapter shall not be subject to KRS 381.135(1)(a)1.*

SECTION 38. A NEW SECTION OF SUBCHAPTER 1 OF KRS CHAPTER 362 IS CREATED TO READ AS FOLLOWS:

- (1) *A partnership shall keep its books and records, if any, at its chief executive office.*
- (2) *A partnership shall provide partners and their agents and attorneys access to its books and records. It shall provide former partners and their agents and attorneys access to books and records pertaining to the period during which they were partners. The right of access provides the opportunity to inspect and copy books and records during ordinary business hours. A partnership may impose a reasonable charge, covering the costs of labor and material, for copies of documents furnished.*
- (3) *Each partner and the partnership shall furnish to a partner, and to the legal representative of a deceased partner or partner under legal disability:*
  - (a) *Without demand, any information concerning the partnership's business and affairs reasonably required for the proper exercise of the partner's rights and duties under the partnership agreement or this subchapter; and*
  - (b) *On demand, any other information concerning the partnership's business and affairs, except to the extent the demand or the information demanded is unreasonable or otherwise improper under the circumstances.*
- (4) *The partnership agreement may impose reasonable limitations upon use of information obtained under this section and may define appropriate remedies, including liquidated damages, for the breach of any reasonable limitation on use.*

SECTION 39. A NEW SECTION OF SUBCHAPTER 1 OF KRS CHAPTER 362 IS CREATED TO READ AS FOLLOWS:

- (1) *The fiduciary duties a partner owes to the partnership and the other partners include the duty of loyalty and the duty of care set forth in subsections (2) and (3) of this section.*
- (2) *A partner's duty of loyalty to the partnership and the other partners includes, but is not limited to, the following:*
  - (a) *To account to the partnership and hold as trustee for it any property, profit, or benefit derived by the partner in the conduct and winding up of the partnership business or derived from a use by the partner of partnership property, including the appropriation of a partnership opportunity;*
  - (b) *To refrain from dealing with the partnership in the conduct or winding up of the partnership business as or on behalf of a party having an interest adverse to the partnership; and*

- (c) *To refrain from competing with the partnership in the conduct of the partnership business before the dissolution of the partnership.*
- (3) *A partner's duty of care to the partnership and the other partners in the conduct and winding up of the partnership business includes, but is not limited to, acting with the care that a reasonable person in a like position would exercise under similar circumstances and in a manner that the partner believes to be in the best interests of the partnership.*
- (4) *A partner shall discharge the duties to the partnership and the other partners under this subchapter or under the partnership agreement and exercise any rights consistently with the obligation of good faith and fair dealing.*
- (5) *A partner does not violate a duty or obligation under this subchapter or under the partnership agreement merely because the partner's conduct furthers the partner's own interest.*
- (6) *A partner may lend money to, borrow money from, act as a surety, guarantor or endorser for, guarantee or assume one or more specific obligations of, provide collateral for and transact other business with the partnership, and as to each loan or transaction the rights and obligations of the partner are the same as those of a person who is not a partner, subject to other applicable law.*
- (7) *This section applies to a person winding up the partnership business as the personal or legal representative of the last surviving partner as if the person were a partner.*

SECTION 40. A NEW SECTION OF SUBCHAPTER 1 OF KRS CHAPTER 362 IS CREATED TO READ AS FOLLOWS:

- (1) *A partnership may maintain an action against a partner for a breach of the partnership agreement, or for the violation of a duty to the partnership causing harm to the partnership.*
- (2) *A partner may maintain an action against the partnership or another partner for legal or equitable relief, with or without an accounting as to partnership business, to:*
  - (a) *Enforce the partner's rights under the partnership agreement;*
  - (b) *Enforce the partner's rights under this subchapter, including:*
    - 1. *The partner's rights under Section 36, 38, or 39 of this Act;*
    - 2. *The partner's right on dissociation to have the partner's interest in the partnership purchased pursuant to Section 49 of this Act or enforce any other right under Sections 46 to 53 of this Act; or*
    - 3. *The partner's right to compel a dissolution and winding up of the partnership business under or enforce any other right under Sections 54 to 60 of this Act; or*
  - (c) *Enforce the rights and otherwise protect the interests of the partner, including rights and interests arising independently of the partnership relationship.*
- (3) *The accrual of, and any time limitation on, a right of action for a remedy under this section is governed by KRS Chapter 413. A right to an accounting upon a dissolution and winding up does not revive a claim barred by law.*

SECTION 41. A NEW SECTION OF SUBCHAPTER 1 OF KRS CHAPTER 362 IS CREATED TO READ AS FOLLOWS:

- (1) *If a partnership for a definite term or particular undertaking is continued, without an express agreement, after the expiration of the term or completion of the undertaking, then the rights and duties of the partners remain the same as they were at the expiration or completion, so far as is consistent with a partnership at will.*
- (2) *If the partners, or the partners who habitually acted in the business during the term or undertaking, continue the business without any settlement or liquidation of the partnership, then they are presumed to have agreed that the partnership will continue.*

SECTION 42. A NEW SECTION OF SUBCHAPTER 1 OF KRS CHAPTER 362 IS CREATED TO READ AS FOLLOWS:

*Partnership property is owned by the partnership as an entity. A partner is not a co-owner of partnership property and has no interest in partnership property which can be transferred, either voluntarily or involuntarily.*

SECTION 43. A NEW SECTION OF SUBCHAPTER 1 OF KRS CHAPTER 362 IS CREATED TO READ AS FOLLOWS:

*The only transferable interest of a partner in the partnership is the partner's share of the profits and losses of the partnership and the partner's right to receive distributions. The interest is personal property.*

SECTION 44. A NEW SECTION OF SUBCHAPTER 1 OF KRS CHAPTER 362 IS CREATED TO READ AS FOLLOWS:

- (1) *A transfer, in whole or in part, of a partner's transferable interest in the partnership:*
  - (a) *Is permissible;*
  - (b) *Does not by itself cause the partner's dissociation or a dissolution and winding up of the partnership business; and*
  - (c) *Does not, as against the other partners or the partnership, entitle the transferee, during the continuance of the partnership, to participate in the management or conduct of the partnership business, to require access to information concerning partnership transactions, or to inspect or copy the partnership books or records.*
- (2) *A transferee of a partner's transferable interest in the partnership has a right:*
  - (a) *To receive, in accordance with the transfer, distributions to which the transferor would otherwise be entitled;*
  - (b) *To receive upon the dissolution and winding up of the partnership business, in accordance with the transfer, the net amount otherwise distributable to the transferor; and*
  - (c) *To seek under subsection (6) of Section 54 of this Act a judicial determination that it is equitable to wind up the partnership business.*
- (3) *In a dissolution and winding up, a transferee is entitled to an account of partnership transactions only from the date of the latest account agreed to by all of the partners.*
- (4) *Upon transfer, the transferor retains the rights and duties of a partner other than the transferable interest so transferred.*
- (5) *A partnership need not give effect to a transferee's rights under this section until it has notice of the transfer.*
- (6) *A transfer of a partner's transferable interest in the partnership in violation of a restriction on transfer contained in the partnership agreement is ineffective as to a person having notice of the restriction at the time of transfer.*
- (7) *Limitations upon transfer set forth in Sections 42 to 45 of this Act or adopted by the partners in accordance with this subchapter are enforceable notwithstanding KRS 355.9-406 and 355.9-408.*

SECTION 45. A NEW SECTION OF SUBCHAPTER 1 OF KRS CHAPTER 362 IS CREATED TO READ AS FOLLOWS:

- (1) *On application by a judgment creditor of a partner or of a partner's transferee, a court having jurisdiction may charge the transferable interest of the judgment debtor to satisfy the judgment. The court order charging the transferable interest of a partner or of a partner's transferee shall be the sole remedy of a judgment creditor, who shall have no right under this subchapter to participate in the management of or to cause the dissolution of the partnership. The court may appoint a receiver of the share of the distributions due or to become due to the judgment debtor in respect of the partnership and make all other orders, directions, accounts, and inquiries the judgment debtor might have made or which the circumstances of the case may require.*
- (2) *A charging order constitutes a right to receive distributions made with respect to the judgment debtor's transferable interest in the partnership. The court may order a foreclosure of the interest subject to the charging order at any time. The purchaser at the foreclosure sale has the rights of a transferee.*
- (3) *At any time before foreclosure, an interest charged may be redeemed:*

- (a) *By the judgment debtor;*
- (b) *With property other than partnership property, by one or more of the other partners; or*
- (c) *With partnership property, by one (1) or more of the other partners with the consent of all of the partners whose interests are not so charged.*
- (4) *This subchapter does not deprive a partner of a right under exemption laws with respect to the partner's interest in the partnership.*
- (5) *This section provides the exclusive remedy by which a judgment creditor of a partner or partner's transferee may satisfy a judgment out of the judgment debtor's transferable interest in the partnership.*

SECTION 46. A NEW SECTION OF SUBCHAPTER 1 OF KRS CHAPTER 362 IS CREATED TO READ AS FOLLOWS:

*A partner is dissociated from a partnership upon the occurrence of any of the following events:*

- (1) *When the partnership has notice of the partner's express will to withdraw as a partner unless a later date is specified by the partner in the notice;*
- (2) *An event agreed to in the partnership agreement as causing the partner's dissociation;*
- (3) *The partner's expulsion pursuant to the partnership agreement;*
- (4) *The partner's expulsion by the unanimous vote of the other partners if:*
  - (a) *It is unlawful to carry on the partnership business with that partner;*
  - (b) *There has been a transfer of all or substantially all of that partner's transferable interest in the partnership, other than a transfer for security purposes that has not been foreclosed, or a court order charging the partner's interest, which has not been foreclosed;*
  - (c) *Within ninety (90) days after the partnership notifies a corporate partner that it will be expelled because it has filed a certificate of dissolution or the equivalent, its charter has been revoked, or its right to conduct business has been suspended by the jurisdiction of its incorporation, there is no revocation of the certificate of dissolution or no reinstatement of its charter or its right to conduct business; or*
  - (d) *A partnership that is a partner has been dissolved and its business is being wound up;*
- (5) *On application by the partnership or another partner, the partner's expulsion by judicial determination because:*
  - (a) *The partner engaged in wrongful conduct that adversely and materially affected the partnership business;*
  - (b) *The partner willfully or persistently committed a material breach of the partnership agreement or of a duty owed to the partnership or the other partners under Section 39 of this Act; or*
  - (c) *The partner engaged in conduct relating to the partnership business which makes it not reasonably practicable to carry on the business in partnership with the partner;*
- (6) *The partner's:*
  - (a) *Becoming a debtor in bankruptcy;*
  - (b) *Executing an assignment for the benefit of creditors;*
  - (c) *Seeking, consenting to, or acquiescing in the appointment of a trustee, receiver, or liquidator of that partner or of all or substantially all of that partner's property; or*
  - (d) *Failing, within ninety (90) days after the appointment, to have vacated or stayed the appointment of a trustee, receiver, or liquidator of the partner or of all or substantially all of the partner's property obtained without the partner's consent or acquiescence, or failing within ninety (90) days after the expiration of a stay to have the appointment vacated;*
- (7) *In the case of a partner who is an individual:*

- (a) *The partner's death;*
- (b) *The appointment of a guardian or general conservator for the partner; or*
- (c) *A judicial determination that the partner has otherwise become incapable of performing the partner's duties under the partnership agreement;*
- (8) *In the case of a partner that is a trust or is acting as a partner by virtue of being a trustee of a trust, distribution of the trust's entire transferable interest in the partnership, but not merely by reason of the substitution of a successor trustee;*
- (9) *In the case of a partner that is an estate or is acting as a partner by virtue of being a personal representative of an estate, distribution of the estate's entire transferable interest in the partnership, but not merely by reason of the substitution of a successor personal representative; or*
- (10) *Termination of any other partner who is an entity.*

SECTION 47. A NEW SECTION OF SUBCHAPTER 1 OF KRS CHAPTER 362 IS CREATED TO READ AS FOLLOWS:

- (1) *A partner has the power to dissociate at any time, rightfully or wrongfully, by express will pursuant to subsection (1) of Section 46 of this Act.*
- (2) *A partner's dissociation is wrongful only if any of the following apply:*
  - (a) *It is in breach of an express provision of the partnership agreement; or*
  - (b) *In the case of a partnership for a definite term or particular undertaking, before the expiration of the term or the completion of the undertaking if any of the following apply:*
    - 1. *The partner withdraws by express will, unless the withdrawal follows within ninety (90) days after another partner's dissociation by death or otherwise under subsections (6) to (10) of Section 46 of this Act or wrongful dissociation under this subsection;*
    - 2. *The partner is expelled by judicial determination under subsection (5) of Section 46 of this Act;*
    - 3. *The partner is dissociated by becoming a debtor in bankruptcy; or*
    - 4. *In the case of a partner who is not an individual, trust other than a business trust, or estate, the partner is expelled or otherwise dissociated because it willfully dissolved or terminated.*
- (3) *A partner who wrongfully dissociates is liable to the partnership and to the other partners for damages caused by the dissociation. The liability is in addition to any other obligation of the partner to the partnership or to the other partners.*

SECTION 48. A NEW SECTION OF SUBCHAPTER 1 OF KRS CHAPTER 362 IS CREATED TO READ AS FOLLOWS:

- (1) *If a partner's dissociation results in a dissolution and winding up of the partnership business, then Sections 54 to 60 of this Act apply; otherwise, Sections 49 to 53 of this Act apply.*
- (2) *Upon a partner's dissociation, the dissociating partner's:*
  - (a) *Right to participate in the management and conduct of the partnership business terminates, except as otherwise provided in Section 56 of this Act;*
  - (b) *Duty of loyalty under subsection (2)(c) of Section 39 of this Act terminates; and*
  - (c) *Duty of loyalty under paragraphs (a) and (b) of subsection (2) of Section 39 of this Act and duty of care under subsection (3) of Section 39 of this Act continue only with regard to matters arising and events occurring before the partner's dissociation, unless the partner participates in winding up the partnership's business pursuant to Section 56 of this Act.*

SECTION 49. A NEW SECTION OF SUBCHAPTER 1 OF KRS CHAPTER 362 IS CREATED TO READ AS FOLLOWS:

- (1) *If a partner is dissociated from a partnership without resulting in a dissolution and winding up of the partnership business under Section 54 of this Act, then the partnership shall cause the dissociated partner's*



*interest in the partnership to be purchased for a buyout price determined pursuant to subsection (2) of this section.*

- (2) *The buyout price of a dissociated partner's interest is the amount that would have been distributable to the dissociating partner under subsection (2) of Section 60 of this Act if, on the date of dissociation, the assets of the partnership were sold at a price equal to the greater of the liquidation value or the value based on a sale of the entire business as a going concern without the dissociated partner and the partnership were wound up as of that date. Interest shall be paid from the date of dissociation to the date of payment.*
- (3) *Damages for wrongful dissociation under subsection (2) of Section 47 of this Act, and all other amounts owing, whether or not presently due, from the dissociated partner to the partnership, shall be offset against the buyout price. Interest shall be paid from the date the amount owed becomes due to the date of payment.*
- (4) *A partnership shall indemnify a dissociated partner whose interest is being purchased against all partnership liabilities, whether incurred before or after the dissociation, except liabilities incurred by an act of the dissociated partner under Section 50 of this Act.*
- (5) *If no agreement for the purchase of a dissociated partner's interest is reached within one hundred twenty (120) days after a written demand for payment, then the partnership shall pay, or cause to be paid, in cash to the dissociated partner the amount the partnership estimates to be the buyout price and accrued interest, reduced by any offsets and accrued interest under subsection (3) of this section.*
- (6) *If a deferred payment is authorized under subsection (8) of this section, then the partnership may tender a written offer to pay the amount it estimates to be the buyout price and accrued interest, reduced by any offsets under subsection (3) of this section, stating the time of payment, the amount and type of security for payment, and the other terms and conditions of the obligation.*
- (7) *The payment or tender required by subsection (5) or (6) of this section shall be accompanied by the following:*
  - (a) *A statement of partnership assets and liabilities as of the date of dissociation;*
  - (b) *The latest available partnership balance sheet and income statement, if any;*
  - (c) *An explanation of how the estimated amount of the payment was calculated; and*
  - (d) *Written notice that the payment is in full satisfaction of the obligation to purchase unless, within one hundred twenty (120) days after the written notice, the dissociated partner commences an action to determine the buyout price, any offsets under subsection (3) of this section, or other terms of the obligation to purchase.*
- (8) *A partner who wrongfully dissociates before the expiration of a definite term or the completion of a particular undertaking is not entitled to payment of any portion of the buyout price until the expiration of the term or completion of the undertaking, unless the partner establishes to the satisfaction of the court that earlier payment will not cause undue hardship to the business of the partnership. A deferred payment shall be adequately secured and bear interest.*
- (9) *A dissociated partner may maintain an action against the partnership, pursuant to subsection (2)(b)2. of Section 40 of this Act, to determine the buyout price of that partner's interest, any offsets under subsection (3) of this section, or other terms of the obligation to purchase. The action shall be commenced within one hundred twenty (120) days after the partnership has tendered payment or an offer to pay or within one year after written demand for payment if no payment or offer to pay is tendered. The court shall determine the buyout price of the dissociated partner's interest, any offset due under subsection (3) of this section, and accrued interest, and enter judgment for any additional payment or refund. If deferred payment is authorized under subsection (8) of this section, then the court shall also determine the security for payment and other terms of the obligation to purchase. The court may assess reasonable attorney's fees and the fees and expenses of appraisers or other experts for a party to the action, in amounts the court finds equitable, against a party that the court finds acted arbitrarily, vexatiously, or not in good faith. The finding may be based on the partnership's failure to tender payment or an offer to pay or to comply with subsection (7) of this section.*

SECTION 50. A NEW SECTION OF SUBCHAPTER 1 OF KRS CHAPTER 362 IS CREATED TO READ AS FOLLOWS:

- (1) *For two (2) years after a partner dissociates without resulting in a dissolution and winding up of the partnership business, the partnership, including a surviving partnership under Sections 61 to 68 of this Act, is bound by an act of the dissociated partner which would have bound the partnership under Section 28 of this Act before dissociation only if at the time of entering into the transaction the other party:*
- (a) *Reasonably believed that the dissociated partner was then a partner;*
  - (b) *Did not have notice of the partner's dissociation; and*
  - (c) *Is not deemed to have knowledge under subsection (5) of Section 30 of this Act or notice under subsection (3) of Section 52 of this Act.*
- (2) *A dissociated partner is liable to the partnership for any damage caused to the partnership arising from an obligation incurred by the dissociated partner after dissociation for which the partnership is liable under subsection (1) of this section.*

SECTION 51. A NEW SECTION OF SUBCHAPTER 1 OF KRS CHAPTER 362 IS CREATED TO READ AS FOLLOWS:

- (1) *A partner's dissociation does not of itself discharge the partner's liability for a partnership obligation incurred before dissociation. A dissociated partner is not liable for a partnership obligation incurred after dissociation, except as otherwise provided in subsection (2) of this section.*
- (2) *A partner who dissociates without resulting in a dissolution and winding up of the partnership business is liable as a partner to the other party in a transaction entered into by the partnership, or a surviving partnership under Sections 61 to 68 of this Act, within two (2) years after the partner's dissociation, only if the partner is liable for the obligation under Section 33 of this Act and at the time of entering into the transaction the other party:*
- (a) *Reasonably believed that the dissociated partner was then a partner;*
  - (b) *Did not have notice of the partner's dissociation; and*
  - (c) *Is not deemed to have knowledge under subsection (5) of Section 30 of this Act or notice under subsection (3) of Section 52 of this Act.*
- (3) *By agreement with the partnership creditor and the partners continuing the business, a dissociated partner may be released from liability for a partnership obligation.*
- (4) *A dissociated partner is released from liability for a partnership obligation if a partnership creditor, with notice of the partner's dissociation but without the partner's consent, agrees to a material alteration in the nature or time of payment of a partnership obligation.*

SECTION 52. A NEW SECTION OF SUBCHAPTER 1 OF KRS CHAPTER 362 IS CREATED TO READ AS FOLLOWS:

- (1) *A dissociated partner or the partnership may file a statement of dissociation stating the name of the partnership and that the partner is dissociated from the partnership.*
- (2) *A statement of dissociation is a limitation on the authority of a dissociated partner for the purposes of subsections (4) and (5) of Section 30 of this Act.*
- (3) *For the purposes of subsection (1)(c) of Section 50 of this Act and subsection (2)(c) of Section 51 of this Act, a person not a partner has notice of the dissociation ninety (90) days after the statement of dissociation is filed.*

SECTION 53. A NEW SECTION OF SUBCHAPTER 1 OF KRS CHAPTER 362 IS CREATED TO READ AS FOLLOWS:

*Continued use of a partnership name, or a dissociated partner's name as part of the partnership name, by partners continuing the business does not of itself make the dissociated partner liable for an obligation of the partners or the partnership continuing the business.*

SECTION 54. A NEW SECTION OF SUBCHAPTER 1 OF KRS CHAPTER 362 IS CREATED TO READ AS FOLLOWS:

*A partnership is dissolved, and its business shall be wound up, only upon the occurrence of any of the following events:*

- (1) *In a partnership at will, the partnership's having notice from a partner, other than a partner who is dissociated under subsections (2) to (10) of Section 46 of this Act, of that partner's express will to withdraw as a partner, or on a later date specified by the partner;*
- (2) *In a partnership for a definite term or particular undertaking:*
  - (a) *Within ninety (90) days after a partner's dissociation by death or otherwise under subsections (6) to (10) of Section 46 of this Act or wrongful dissociation under subsection (2) of Section 47 of this Act, the express will of at least half of the remaining partners to wind up the partnership business, for which purpose a partner's rightful dissociation pursuant to subsection (2)(b)1. of Section 47 of this Act constitutes the expression of that partner's will to wind up the partnership business;*
  - (b) *The express will of all of the partners to wind up the partnership business; or*
  - (c) *The expiration of the term or the completion of the undertaking;*
- (3) *An event agreed to in the partnership agreement resulting in the winding up of the partnership business;*
- (4) *An event that makes it unlawful for all or substantially all of the business of the partnership to be continued, but a cure of illegality within ninety (90) days after notice to the partnership of the event is effective retroactively to the date of the event for purposes of this section;*
- (5) *On application by a partner, a judicial determination that:*
  - (a) *The economic purpose of the partnership is likely to be unreasonably frustrated;*
  - (b) *Another partner has engaged in conduct relating to the partnership business which makes it not reasonably practicable to carry on the business in partnership with that partner; or*
  - (c) *It is not otherwise reasonably practicable to carry on the partnership business in conformity with the partnership agreement; or*
- (6) *On application by a transferee of a partner's transferable interest, a judicial determination that it is equitable to wind up the partnership business:*
  - (a) *After the expiration of the term or completion of the undertaking, if the partnership was for a definite term or particular undertaking at the time of the transfer or entry of the charging order that gave rise to the transfer; or*
  - (b) *At any time, if the partnership was a partnership at will at the time of the transfer or entry of the charging order that gave rise to the transfer.*

SECTION 55. A NEW SECTION OF SUBCHAPTER 1 OF KRS CHAPTER 362 IS CREATED TO READ AS FOLLOWS:

- (1) *Subject to subsection (2) of this section, a partnership continues after dissolution only for the purpose of winding up its business. The partnership is terminated when the winding up of its business is completed.*
- (2) *At any time after the dissolution of a partnership and before the winding up of its business is completed, all of the partners, including any dissociating partner other than a wrongfully dissociating partner, may waive the right to have the partnership's business wound up and the partnership terminated. In that event:*
  - (a) *The partnership resumes carrying on its business as if dissolution had never occurred, and any liability incurred by the partnership or a partner after the dissolution and before the waiver is determined as if dissolution had never occurred; and*
  - (b) *The rights of a third party accruing under subsection (1) of Section 57 of this Act or arising out of conduct in reliance on the dissolution before the third party has notice of the waiver shall not be adversely affected.*

SECTION 56. A NEW SECTION OF SUBCHAPTER 1 OF KRS CHAPTER 362 IS CREATED TO READ AS FOLLOWS:

- (1) *After dissolution, a partner who has not wrongfully dissociated may participate in winding up the partnership's business, but on application of any partner, partner's legal representative, or transferee, the Circuit Court for the county in which the registered office is located or, if none, the Franklin Circuit Court, for good cause shown, may order judicial supervision of the winding up.*

- (2) *The legal representative of the last surviving partner may wind up a partnership's business.*
- (3) *A person winding up a partnership's business may preserve the partnership business or property as a going concern for a reasonable time, prosecute and defend actions and proceedings, whether civil, criminal, or administrative, settle and close the partnership's business, dispose of and transfer the partnership's property, discharge the partnership's liabilities, distribute the assets of the partnership pursuant to Section 60 of this Act, settle disputes by mediation or arbitration, and perform other necessary acts.*

SECTION 57. A NEW SECTION OF SUBCHAPTER 1 OF KRS CHAPTER 362 IS CREATED TO READ AS FOLLOWS:

*Subject to Section 58 of this Act, a partnership is bound by a partner's act after dissolution that:*

- (1) *Is appropriate for winding up the partnership business; or*
- (2) *Would have bound the partnership under Section 28 of this Act before dissolution, if the other party to the transaction did not have notice of the dissolution.*

SECTION 58. A NEW SECTION SUBCHAPTER 1 OF KRS CHAPTER 362 IS CREATED TO READ AS FOLLOWS:

- (1) *After dissolution, a partner who has not wrongfully dissociated may file a statement of dissolution stating the name of the partnership, that the partnership has dissolved and is winding up its business, and the date of dissolution.*
- (2) *A statement of dissolution cancels a filed statement of partnership authority for the purposes of subsection (4) of Section 30 of this Act and is a limitation on authority for the purposes of subsection (5) of Section 30 of this Act.*
- (3) *For the purposes of Sections 28 and 57 of this Act, a person not a partner has notice of the dissolution and the limitation on the partners' authority as a result of the statement of dissolution ninety (90) days after it is filed.*
- (4) *After filing a statement of dissolution, a dissolved partnership may file and, if appropriate, record a statement of partnership authority which will operate with respect to a person not a partner as provided in subsections (4) and (5) of Section 30 of this Act in any transaction, whether or not the transaction is appropriate for winding up the partnership business.*

SECTION 59. A NEW SECTION OF SUBCHAPTER 1 OF KRS CHAPTER 362 IS CREATED TO READ AS FOLLOWS:

- (1) *Except as otherwise provided in subsection (2) of this section and Section 33 of this Act, after dissolution a partner is liable to the other partners for the partner's share of any partnership liability incurred under Section 57 of this Act.*
- (2) *A partner who, with knowledge of the dissolution, incurs a partnership liability under subsection (2) of Section 57 of this Act by an act that is not appropriate for winding up the partnership business is liable to the partnership for any damage caused to the partnership arising from the liability.*

SECTION 60. A NEW SECTION SUBCHAPTER 1 OF KRS CHAPTER 362 IS CREATED TO READ AS FOLLOWS:

- (1) *In winding up a partnership's business, the assets of the partnership, including the contributions of the partners required by this section, shall be applied to discharge its obligations to creditors, including, to the extent permitted by law, partners who are creditors. Any surplus shall be applied to pay the net amount distributable to partners in accordance with their right to distributions under subsection (2) of this section.*
- (2) *Each partner is entitled to a settlement of all partnership accounts upon winding up the partnership business. In settling accounts among the partners, profits and losses that result from the liquidation of the partnership assets shall be credited and charged to the partners' accounts. The partnership shall make a distribution to a partner in an amount equal to any excess of the credits over the charges in the partner's account. A partner shall contribute to the partnership an amount equal to any excess of the charges over the credits in the partner's account but excluding from the calculation charges attributable to an obligation for which the partner is not personally liable under Section 33 of this Act.*
- (3) *If a partner fails to contribute the full amount required under subsection (2) of this section, then all of the other partners shall contribute, in the proportions in which those partners share partnership losses, the*

*additional amount necessary to satisfy the partnership obligations for which they are personally liable under Section 33 of this Act. A partner or partner's legal representative may recover from the other partners any contributions the partner makes to the extent the amount contributed exceeds that partner's share of the partnership obligations for which the partner is personally liable under Section 33 of this Act.*

- (4) *After the settlement of accounts, each partner shall contribute, in the proportion in which the partner shares partnership losses, the amount necessary to satisfy partnership obligations that were not known at the time of the settlement and for which the partner is personally liable under Section 33 of this Act.*
- (5) *The estate of a deceased partner is liable for the partner's obligation to contribute to the partnership.*
- (6) *An assignee for the benefit of creditors of a partnership or a partner, or a person appointed by a court to represent creditors of a partnership or a partner, may enforce a partner's obligation to contribute to the partnership.*

SECTION 61. A NEW SECTION OF SUBCHAPTER 1 OF KRS CHAPTER 362 IS CREATED TO READ AS FOLLOWS:

*As used in Sections 61 to 68 of this Act:*

- (1) *"General partner" means a partner in a partnership and a general partner in a limited partnership;*
- (2) *"Limited partner" means a limited partner in a limited partnership;*
- (3) *"Limited partnership" means a limited partnership created under the Kentucky Uniform Limited Partnership Act (2006), predecessor law, or comparable law of another jurisdiction; and*
- (4) *"Partner" includes both a general partner and a limited partner.*

SECTION 62. A NEW SECTION OF SUBCHAPTER 1 OF KRS CHAPTER 362 IS CREATED TO READ AS FOLLOWS:

- (1) *A partnership may be converted to a limited partnership pursuant to this section.*
- (2) *The terms and conditions of a conversion of a partnership to a limited partnership shall be approved by all of the partners or by a number or percentage specified for conversion in the partnership agreement.*
- (3) *After the conversion is approved by the partners, the partnership shall cancel any statement of qualification, statement of partnership authority or certificate of assumed name filed with the Secretary of State and file a certificate of limited partnership in the jurisdiction in which the limited partnership is to be formed. In addition to all other requirements, the certificate shall include:*
  - (a) *A statement that the partnership was converted to a limited partnership from a partnership;*
  - (b) *Its former name; and*
  - (c) *A statement of the number of votes cast by the partners for and against the conversion and, if the vote is less than unanimous, the number or percentage required to approve the conversion under the partnership agreement.*
- (4) *The conversion takes effect when the certificate of limited partnership is filed or at any later date specified in the certificate.*
- (5) *A general partner who becomes a limited partner as a result of the conversion remains liable as a general partner for an obligation incurred by the partnership before the conversion takes effect. If the other party to a transaction with the limited partnership reasonably believes when entering the transaction that the limited partner is a general partner, then the limited partner is liable for an obligation incurred by the limited partnership within ninety (90) days after the conversion takes effect. The limited partner's liability for all other obligations of the limited partnership incurred after the conversion takes effect is that of a limited partner as provided in Subchapter 2 of this chapter.*
- (6) *A partnership may be converted to a limited liability company as provided in KRS 275.370.*

SECTION 63. A NEW SECTION OF SUBCHAPTER 1 OF KRS CHAPTER 362 IS CREATED TO READ AS FOLLOWS:

- (1) *A limited partnership may be converted to a partnership pursuant to this section.*

- (2) *Notwithstanding a provision to the contrary in a limited partnership agreement, the terms and conditions of a conversion of a limited partnership to a partnership shall be approved by all of the partners.*
- (3) *After the conversion is approved by the partners, the limited partnership shall cancel its certificate of limited partnership and any certificate of assumed name filed with the Secretary of State.*
- (4) *The conversion takes effect when the certificate of limited partnership is canceled.*
- (5) *A limited partner who becomes a general partner as a result of the conversion remains liable only as a limited partner for an obligation incurred by the limited partnership before the conversion takes effect. Except as otherwise provided in Section 33 of this Act, the partner is liable as a general partner for an obligation of the partnership incurred after the conversion takes effect.*

SECTION 64. A NEW SECTION OF SUBCHAPTER 1 OF KRS CHAPTER 362 IS CREATED TO READ AS FOLLOWS:

- (1) *A partnership or limited partnership that has been converted pursuant to Sections 61 to 68 of this Act is for all purposes the same entity that existed before the conversion.*
- (2) *When a conversion takes place:*
  - (a) *All property and contract rights owned by, and all rights, privileges, and immunities of, the converting organization shall remain vested in the converted organization without assignment, reversions, or impairment and without the converting organization having been dissolved;*
  - (b) *All obligations of the converting partnership organization shall continue as obligations of the converted organization;*
  - (c) *An action or proceeding pending against the converting partnership organization may be continued as if the organization had not occurred, and the name of the converted organization may be substituted in any pending action or proceeding for the name of the converting organization;*
  - (d) *Any written partnership agreement of the converted partnership or limited partnership shall be binding upon each person who becomes a partner in the converted partnership or limited partnership; and*
  - (e) *Except as otherwise provided in the plan of conversion, the terms and conditions of the plan of conversion take effect.*
- (3) *Unless otherwise provided in the partnership agreement, a partner has no right to dissent from a conversion.*

SECTION 65. A NEW SECTION OF SUBCHAPTER 1 OF KRS CHAPTER 362 IS CREATED TO READ AS FOLLOWS:

- (1) *Pursuant to a plan of merger approved as provided in subsection (3) of this section, a partnership may be merged with one or more partnerships or limited partnerships.*
- (2) *The plan of merger shall set forth:*
  - (a) *The name of each partnership or limited partnership that is a party to the merger;*
  - (b) *The name of the surviving entity into which the other partnerships or limited partnerships will merge;*
  - (c) *Whether the surviving entity is a partnership or a limited partnership and the status of each partner;*
  - (d) *The terms and conditions of the merger;*
  - (e) *The manner and basis of converting the interests of each party to the merger into interests or obligations of the surviving entity, or into money or other property in whole or part; and*
  - (f) *The street address of the surviving entity's chief executive office.*
- (3) *The plan of merger shall be approved:*
  - (a) *In the case of a partnership that is a party to the merger, by all of the partners, or a number or percentage specified for merger in the partnership agreement; and*

- (b) *In the case of a limited partnership that is a party to the merger, by the vote required for approval of a merger by the law of the state or foreign jurisdiction in which the limited partnership is organized and, in the absence of such a specifically applicable law, by all of the partners, notwithstanding a provision to the contrary in the partnership agreement.*
- (4) *After a plan of merger is approved and before the merger takes effect, the plan may be amended or abandoned as provided in the plan.*
- (5) *The merger takes effect on the later of:*
  - (a) *The approval of the plan of merger by all parties to the merger, as provided in subsection (3) of this section;*
  - (b) *The filing of all documents required by law to be filed as a condition to the effectiveness of the merger; or*
  - (c) *Subject to Section 10 of this Act, any effective date specified in the plan of merger.*

SECTION 66. A NEW SECTION OF SUBCHAPTER 1 OF KRS CHAPTER 362 IS CREATED TO READ AS FOLLOWS:

- (1) *When a merger takes effect:*
  - (a) *The separate existence of every partnership or limited partnership that is a party to the merger, other than the surviving entity, ceases;*
  - (b) *All property owned by each of the merged partnerships or limited partnerships vests in the surviving entity;*
  - (c) *All obligations of every partnership or limited partnership that is a party to the merger become the obligations of the surviving entity; and*
  - (d) *An action or proceeding pending against a partnership or limited partnership that is a party to the merger may be continued as if the merger had not occurred, or the surviving entity may be substituted as a party to the action or proceeding.*
- (2) *The Secretary of State of this Commonwealth is the agent for service of process in an action or proceeding against a surviving foreign partnership or limited partnership to enforce an obligation of a domestic partnership or limited partnership that is a party to a merger. The surviving entity shall promptly notify the Secretary of State of the mailing address of its chief executive office and of any change of address. Upon receipt of process, the Secretary of State shall mail a copy of the process to the surviving foreign partnership or limited partnership.*
- (3) *A partner of the surviving partnership or limited partnership is liable for:*
  - (a) *All obligations of a party to the merger for which the partner was personally liable before the merger;*
  - (b) *All other obligations of the surviving entity incurred before the merger by a party to the merger, but those obligations may be satisfied only out of property of the entity; and*
  - (c) *Except as otherwise provided in Section 33 of this Act, all obligations of the surviving entity incurred after the merger takes effect, but those obligations may be satisfied only out of property of the entity if the partner is a limited partner.*
- (4) *If the obligations incurred before the merger by a party to the merger are not satisfied out of the property of the surviving partnership or limited partnership, then the general partners of that party immediately before the effective date of the merger shall contribute the amount necessary to satisfy that party's obligations to the surviving entity, in the manner provided in Section 60 of this Act or in the Limited Partnership Act of the jurisdiction in which the party was formed, as the case may be, as if the merged party were dissolved.*
- (5) *A partner of a party to a merger who does not become a partner of the surviving partnership or limited partnership is dissociated from the entity, of which that partner was a partner, as of the date the merger takes effect. The surviving entity shall cause the partner's interest in the entity to be purchased under Section 49 of this Act or another statute specifically applicable to that partner's interest with respect to a merger. The surviving entity is bound under Section 50 of this Act by an act of a general partner dissociated*

*under this subsection, and the partner is liable under Section 51 of this Act for transactions entered into by the surviving entity after the merger takes effect.*

- (6) *Unless otherwise provided in the partnership agreement, a partner has no right to dissent from a merger.*

SECTION 67. A NEW SECTION OF SUBCHAPTER 1 OF KRS CHAPTER 362 IS CREATED TO READ AS FOLLOWS:

- (1) *After a merger, the surviving partnership or limited partnership may file a statement that one (1) or more partnerships or limited partnerships have merged into the surviving entity.*
- (2) *A statement of merger shall contain:*
  - (a) *The name of each partnership or limited partnership that is a party to the merger;*
  - (b) *The name of the surviving entity into which the other partnerships or limited partnership were merged;*
  - (c) *The street address of the surviving entity's chief executive office and of an office in this Commonwealth, if any;*
  - (d) *Whether the surviving entity is a partnership or a limited partnership; and*
  - (e) *The effective date of this merger as determined in accordance with subsection (5) of Section 65 of this Act.*
- (3) *Except as otherwise provided in subsection (4) of this section, for the purposes of Section 29 of this Act, property of the surviving partnership or limited partnership which before the merger was held in the name of another party to the merger is property held in the name of the surviving entity upon filing a statement of merger.*
- (4) *For the purposes of Section 29 of this Act, real property of the surviving partnership or limited partnership which before the merger was held in the name of another party to the merger is property held in the name of the surviving entity upon recording a certified copy of the statement of merger in the office for recording transfers of that real property.*
- (5) *A filed and, if appropriate, recorded statement of merger, executed and declared to be accurate pursuant to subsection (3) of Section 5 of this Act, stating the name of a partnership or limited partnership that is a party to the merger in whose name property was held before the merger and the name of the surviving entity, but not containing all of the other information required by subsection (2) of this section, operates with respect to the partnerships or limited partnerships named to the extent provided in subsections (3) and (4) of this section.*
- (6) *A limited partnership party to a merger with a partnership shall file with the Secretary of State such documents as are provided for in the law governing the limited partnership.*

SECTION 68. A NEW SECTION OF SUBCHAPTER 1 OF KRS CHAPTER 362 IS CREATED TO READ AS FOLLOWS:

*Sections 61 to 68 of this Act are not exclusive. Partnerships or limited partnerships may be converted or merged in any other manner provided by law.*

SECTION 69. A NEW SECTION OF SUBCHAPTER 1 OF KRS CHAPTER 362 IS CREATED TO READ AS FOLLOWS:

- (1) *A partnership may become a limited liability partnership pursuant to this section.*
- (2) *The terms and conditions on which a partnership becomes a limited liability partnership shall be approved by the vote necessary to amend the partnership agreement except, in the case of a partnership agreement that expressly considers obligations to contribute to the partnership, the vote necessary to amend those provisions.*
- (3) *After the approval required by subsection (2) of this section, a partnership may become a limited liability partnership by filing with the Secretary of State a statement of qualification. The statement shall contain:*
  - (a) *The name of the partnership, which shall comply with Sections 14 and 70 of this Act;*
  - (b) *The address of the partnership's chief executive office and, if different, the street address of an office in this Commonwealth, if any;*



- (c) *The street address of the partnership's registered office, and the name of its registered agent at that office;*
- (d) *A statement that the partnership elects to be a limited liability partnership; and*
- (e) *The date any statement of partnership authority was previously filed with the Secretary of State.*
- (4) *The status of a partnership as a limited liability partnership remains effective, regardless of changes in the partnership, until the statement of qualification is canceled pursuant to subsection (4) of Section 5 of this Act or administratively dissolved pursuant to Section 22 of this Act.*
- (5) *The status of a partnership as a limited liability partnership and the liability of its partners is not affected by errors or later changes in the information required to be contained in the statement of qualification under subsection (3) of this section.*
- (6) *The filing of a statement of qualification establishes that a partnership has satisfied all conditions precedent to the qualification of the partnership as a limited liability partnership.*
- (7) *An amendment or cancellation of a statement of qualification is effective when it is filed or on a deferred effective date specified in the amendment or cancellation. An amendment to a statement of qualification shall include the date of filing of the statement being amended and all information required in an initial statement of qualification. A cancellation of a statement of qualification shall include the name of the partnership and the date of filing of the statement of qualification.*

SECTION 70. A NEW SECTION OF SUBCHAPTER 1 OF KRS CHAPTER 362 IS CREATED TO READ AS FOLLOWS:

*The name of a limited liability partnership shall end with "Registered Limited Liability Partnership," "Limited Liability Partnership," "R.L.L.P.," "L.L.P.," "RLLP," or "LLP."*

SECTION 71. A NEW SECTION OF SUBCHAPTER 1 OF KRS CHAPTER 362 IS CREATED TO READ AS FOLLOWS:

- (1) *Subject to the Constitution of this Commonwealth, the law of the jurisdiction in which a foreign limited liability partnership is formed governs relations among the partners, between the partners and the partnership, and the liability of partners for obligations of the partnership. This subchapter does not authorize this Commonwealth to regulate the organization or internal affairs of a foreign limited liability partnership authorized to transact business in this Commonwealth.*
- (2) *A foreign limited liability partnership shall not be denied a statement of foreign qualification by reason of any difference between the law under which the partnership was formed and the law of this Commonwealth.*
- (3) *No foreign partnership, including a foreign limited liability partnership that has filed a statement of foreign qualification, may engage in any business or exercise any power that a domestic partnership is forbidden to exercise or engage in by the laws of this Commonwealth.*

SECTION 72. A NEW SECTION OF SUBCHAPTER 1 OF KRS CHAPTER 362 IS CREATED TO READ AS FOLLOWS:

- (1) *Before transacting business in this Commonwealth, a foreign limited liability partnership shall file a statement of foreign qualification. The statement shall contain:*
  - (a) *The name of the foreign limited liability partnership which satisfies the requirements of Section 14 of this Act and, if applicable, subsection (3) of this section, and ends with "Registered Limited Liability Partnership," "Limited Liability Partnership," "R.L.L.P.," "L.L.P.," "RLLP," or "LLP";*
  - (b) *The street address of the partnership's chief executive office and, if different, the street address of an office of the partnership in this Commonwealth, if any;*
  - (c) *The street address of the partnership's registered office within this Commonwealth, and the name of its registered agent at that office; and*
  - (d) *Its jurisdiction of organization.*

- (2) *The status of a partnership as a foreign limited liability partnership remains effective, regardless of changes in the partnership, until it is canceled pursuant to subsection (4) of Section 5 of this Act or revoked pursuant to Section 23 of this Act.*
- (3) *If the name of a foreign limited liability partnership is not distinguishable upon the records of the Secretary of State, then it may file a statement of foreign qualification using a fictitious name that is distinguishable upon the records of the Secretary of State, in which instance the statement of foreign qualification shall be filed under the fictitious name, shall recite that the partnership has filed the statement of foreign qualification under a fictitious name, and shall include in the statement its real name in its jurisdiction of organization.*
- (4) *A statement of foreign qualification shall authorize the foreign limited liability partnership to transact business in this Commonwealth subject to the right of the Commonwealth to revoke the statement.*
- (5) *A foreign limited liability partnership, having filed a statement of foreign qualification, shall have the same as, but no greater rights than, and shall have the same, but no greater privileges than, and except as otherwise provided by this subchapter, shall be subject to the same duties, restrictions, penalties, and liabilities now or later imposed on, a limited liability partnership.*

SECTION 73. A NEW SECTION OF SUBCHAPTER 1 OF KRS CHAPTER 362 IS CREATED TO READ AS FOLLOWS:

- (1) *A foreign limited liability partnership transacting business in this Commonwealth shall not maintain an action or proceeding in this Commonwealth unless it has in effect a statement of foreign qualification.*
- (2) *The successor to a foreign limited liability partnership that transacted business in this Commonwealth without having filed a statement of foreign qualification and the assignee of a cause of action arising out of that business shall not maintain a proceeding based on that cause of action in any court in this Commonwealth until the foreign limited liability partnership or its successor files a statement of foreign qualification.*
- (3) *A court may stay a proceeding commenced by a foreign limited liability partnership, its successor, or assignee, until it determines whether the foreign limited liability partnership or its successor is obligated to have filed a statement of foreign qualification. If it so determines, then the court may further stay the proceeding until the limited liability partnership or its successor files the statement of foreign qualification.*
- (4) *The failure of a foreign limited liability partnership to have in effect a statement of foreign qualification does not impair the validity of a contract or act of the foreign limited liability partnership or preclude it from defending an action or proceeding in this Commonwealth.*
- (5) *A limitation on personal liability of a partner is not waived solely by transacting business in this Commonwealth without having filed and having in effect a statement of foreign qualification.*
- (6) *A foreign limited liability partnership transacting business in this Commonwealth without filing and having in effect a statement of foreign qualification shall be deemed to have appointed the Secretary of State as its agent for service of process with respect to causes of action arising out of the transaction of business in this Commonwealth.*
- (7) *A foreign limited liability partnership shall be liable for a civil penalty of two dollars (\$2) for each day, but not to exceed a total of five hundred dollars (\$500) for each year, it transacts business in this Commonwealth without having filed a statement of foreign qualification. The Attorney General may collect all penalties due under this subsection.*

SECTION 74. A NEW SECTION OF SUBCHAPTER 1 OF KRS CHAPTER 362 IS CREATED TO READ AS FOLLOWS:

- (1) *Activities of a foreign limited liability partnership which do not constitute transacting business for the purposes of Sections 69 to 73 of this Act include:*
  - (a) *Maintaining, defending, or settling an action or proceeding;*
  - (b) *Holding meetings of its partners or carrying on any other activity concerning its internal affairs;*
  - (c) *Maintaining bank accounts;*
  - (d) *Maintaining offices or agencies for the transfer, exchange, and registration of the partnership's own securities or maintaining trustees or depositories with respect to those securities;*

- (e) *Selling through independent contractors;*
  - (f) *Soliciting or obtaining orders, whether by mail or through employees or agents or otherwise, if the orders require acceptance outside this Commonwealth before they become contracts;*
  - (g) *Creating or acquiring indebtedness, with or without a mortgage, or other security interest in property;*
  - (h) *Collecting debts or foreclosing mortgages or other security interests in property securing the debts, and holding, protecting, and maintaining property so acquired;*
  - (i) *Conducting an isolated transaction that is completed within thirty (30) days and is not one (1) in the course of repeated transactions of a like nature;*
  - (j) *Owning, without more, real or personal property; or*
  - (k) *Transacting business in interstate commerce.*
- (2) *For purposes of Sections 71 to 75 of this Act, the ownership in this Commonwealth of income-producing real property or tangible personal property, other than property excluded under subsection (1) of this section, constitutes transacting business in this Commonwealth.*
- (3) *The list of activities in subsection (1) of this section shall not be considered exhaustive. This section does not apply in determining the contacts or activities that may subject a foreign limited liability partnership or any partner therein to service of process, taxation, or regulation under any other law of this Commonwealth.*

SECTION 75. A NEW SECTION OF SUBCHAPTER 1 OF KRS CHAPTER 362 IS CREATED TO READ AS FOLLOWS:

*The Attorney General may maintain an action to restrain a foreign limited liability partnership from transacting business in this Commonwealth in violation of this subchapter.*

SECTION 76. A NEW SECTION OF SUBCHAPTER 1 OF KRS CHAPTER 362 IS CREATED TO READ AS FOLLOWS:

*This subchapter shall be applied and construed to effectuate its general purpose to make uniform the law with respect to the subject of this subchapter among the states enacting it.*

SECTION 77. A NEW SECTION OF SUBCHAPTER 1 OF KRS CHAPTER 362 IS CREATED TO READ AS FOLLOWS:

*This subchapter may be cited as the Kentucky Revised Uniform Partnership Act (2006).*

SECTION 78. A NEW SECTION OF SUBCHAPTER 1 OF KRS CHAPTER 362 IS CREATED TO READ AS FOLLOWS:

*If any provision of this subchapter or its application to any person or circumstance is held invalid, then the invalidity shall not affect other provisions or applications of this subchapter which can be given effect without the invalid provision or application, and to this end the provisions of this subchapter are severable.*

SECTION 79. A NEW SECTION OF SUBCHAPTER 1 OF KRS CHAPTER 362 IS CREATED TO READ AS FOLLOWS:

- (1) *This subchapter governs only a partnership:*
- (a) *Formed on or after the effective date of this subchapter, except a partnership that is continuing the business of a dissolved partnership under KRS 362.350; and*
  - (b) *Formed prior to the effective date of this subchapter that elects, as provided by subsection (2) of this section, to be governed by this subchapter.*
- (2) *A partnership formed prior to the effective date of Sections 1 to 80 of this Act voluntarily may elect, in the manner provided in its partnership agreement or by law for amending the partnership agreement, to be governed by this subchapter. The filing by the partnership of a statement pursuant to this section shall constitute an election to be bound by this subchapter. The provisions of this subchapter relating to the liability of the partnership's partners to third parties apply to limit those partners' liability to a third party*

*who has engaged in business with the partnership within one (1) year before the partnership's election to be governed by this subchapter only if the third party has notice of the partnership's election to be governed by this subchapter.*

SECTION 80. A NEW SECTION SUBCHAPTER 1 OF KRS CHAPTER 362 IS CREATED TO READ AS FOLLOWS:

*This subchapter does not affect an action or proceeding commenced or right accrued before this subchapter takes effect.*

SECTION 81. SUBCHAPTER 2 OF KRS CHAPTER 362 IS ESTABLISHED AND A NEW SECTION THEREOF IS CREATED TO READ AS FOLLOWS:

*As used in this subchapter, unless the context otherwise requires:*

- (1) *"Certificate of limited partnership" means the certificate required by Section 105 of this Act or filed under KRS 362.415 and includes the certificate as amended or restated;*
- (2) *"Contribution" means any benefit provided by a person to a limited partnership in order to become a partner or in the person's capacity as a partner;*
- (3) *"Debtor in bankruptcy" means a person that is the subject of:*
  - (a) *An order for relief under Title 11 of the United States Code or a comparable order under a successor statute of general application; or*
  - (b) *A comparable order under federal, state, or foreign law governing insolvency;*
- (4) *"Deliver" or "delivery" means any method of delivery used in conventional commercial practice, including delivery by hand, mail, commercial delivery, and electronic transmission;*
- (5) *"Designated office" means:*
  - (a) *With respect to a limited partnership, the office that a limited partnership is required to designate and maintain under Section 93 of this Act; and*
  - (b) *With respect to a foreign limited partnership, its principal office;*
- (6) *"Distribution" means a transfer of money or other property from a limited partnership to a partner in the partner's capacity as a partner or to a transferee on account of a transferable interest owned by the transferee;*
- (7) *"Electronic transmission" or "electronically transmitted" means any process of communication not directly involving the physical transfer of paper that is suitable for the retention, retrieval, and reproduction of information by the recipient;*
- (8) *"Entity" means a corporation, foreign corporation, not-for-profit corporation, profit and not-for-profit unincorporated associations, business or statutory trust, estate, partnership, limited partnership, trust, two (2) or more persons having a joint or common economic interest, and a state, national, or foreign government;*
- (9) *"Foreign limited partnership" means a partnership formed under the laws of a jurisdiction other than this Commonwealth and required by those laws to have one (1) or more general partners and one (1) or more limited partners and includes a foreign limited liability limited partnership;*
- (10) *"Foreign limited liability limited partnership" means a foreign limited partnership whose general partners have limited liability for the obligations of the foreign limited partnership under a provision similar to subsection (3) of Section 124 of this Act;*
- (11) *"General partner" means:*
  - (a) *With respect to a limited partnership, a person that:*
    1. *Has been admitted as a general partner under Section 121 of this Act; or*
    2. *Was a general partner in a limited partnership when that limited partnership became subject to this subchapter under subsections (1) and (2) of Section 192 of this Act; and*
  - (b) *With respect to a foreign limited partnership, a person that has rights, powers, and obligations similar to those of a general partner in a limited partnership;*

- (12) *"Limited liability limited partnership," except in the phrase "foreign limited liability limited partnership," means a limited partnership whose certificate of limited partnership states that the limited partnership is a limited liability limited partnership;*
- (13) *"Limited partner" means:*
  - (a) *With respect to a limited partnership, a person that:*
    - 1. *Has been admitted as a limited partner under Section 115 of this Act; or*
    - 2. *Was a limited partner in a limited partnership when that limited partnership became subject to this subchapter under subsections (1) and (2) of Section 192 of this Act; and*
  - (b) *With respect to a foreign limited partnership, a person that has rights, powers, and obligations similar to those of a limited partner in a limited partnership;*
- (14) *"Limited partnership," except in the phrases "foreign limited partnership" and "foreign limited liability limited partnership," means an entity, having one (1) or more general partners and one (1) or more limited partners, which is formed under this subchapter by two (2) or more persons or becomes subject to this subchapter under subsections (1) and (2) of Section 192 of this Act. The term includes a limited liability limited partnership;*
- (15) *"Name of record with the Secretary of State" means any real, fictitious, reserved, registered, or assumed name of an entity;*
- (16) *"Partner" means a limited partner or general partner;*
- (17) *"Partnership agreement" means the partners' agreement, oral, implied, in record form, or in any combination, concerning the limited partnership. The term includes the agreement as amended;*
- (18) *"Person" means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, government, governmental subdivision, agency, or instrumentality, or any other legal or commercial entity;*
- (19) *"Principal office" means the office where the principal executive office of a limited partnership or foreign limited partnership is located, whether or not the office is located in this Commonwealth;*
- (20) *"Professional services" mean the personal services rendered by physicians, osteopaths, optometrists, podiatrists, chiropractors, dentists, nurses, pharmacists, psychologists, occupational therapists, veterinarians, engineers, architects, landscape architects, certified public accountants, public accountants, physical therapists, and attorneys;*
- (21) *"Record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form;*
- (22) *"Required information" means the information that a limited partnership is required to maintain under Section 90 of this Act;*
- (23) *"Sign" or "signature" includes any manual, facsimile, or conformed or electronic signature;*
- (24) *"State" means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or any territory or insular possession subject to the jurisdiction of the United States;*
- (25) *"Transfer" includes an assignment, conveyance, deed, bill of sale, lease, mortgage, security interest, encumbrance, gift, and transfer by operation of law;*
- (26) *"Transferable interest" means the partner's right to receive distributions; and*
- (27) *"Transferee" means a person to which all or part of a transferable interest has been transferred, whether or not the transferor is a partner.*

SECTION 82. A NEW SECTION OF SUBCHAPTER 2 OF KRS CHAPTER 362 IS CREATED TO READ AS FOLLOWS:

- (1) *A person knows a fact if the person has actual knowledge of it.*
- (2) *Except as otherwise provided in subsections (3) and (4) of this section, a person has notice of a fact if the person:*

- (a) *Knows of it;*
  - (b) *Has received a notification of it; or*
  - (c) *Has reason to know it exists from all of the facts known to the person at the time in question.*
- (3) *Subject to subsection (4) of this section, a certificate of limited partnership on file in the office of the Secretary of State is notice that the partnership is a limited partnership and the persons designated in the certificate as general partners are general partners, but is not notice of any other fact.*
- (4) *A person has notice of:*
- (a) *Another person's dissociation as a general partner ninety (90) days after the effective date of an amendment to the certificate of limited partnership which states that the other person has dissociated or ninety (90) days after the effective date of a statement of dissociation pertaining to that other person, whichever occurs first;*
  - (b) *A limited partnership's dissolution ninety (90) days after the effective date of an amendment to the certificate of limited partnership stating that the limited partnership is dissolved;*
  - (c) *A limited partnership's cancellation ninety (90) days after the effective date of a statement of cancellation;*
  - (d) *A limited partnership's conversion under Sections 176 to 188 of this Act ninety (90) days after the effective date of the articles of conversion; and*
  - (e) *A merger under Sections 176 to 188 of this Act ninety (90) days after the effective date of the articles of merger.*
- (5) *A person notifies or gives a notification to another person by taking steps reasonably required to inform the other person in ordinary course, whether or not the other person learns of it.*
- (6) *A person receives a notification when the notification:*
- (a) *Comes to the person's attention; or*
  - (b) *Is duly delivered at the person's place of business or at any other place held out by the person as a place for receiving communications.*
- (7) *Except as otherwise provided in subsection (8) of this section, an entity knows, has notice, or receives a notification of a fact for purposes of a particular transaction when the individual conducting the transaction for the entity knows, has notice, or receives a notification of the fact, or in any event when the fact would have been brought to the individual's attention if the entity had exercised reasonable diligence. An entity exercises reasonable diligence if it maintains reasonable routines for communicating significant information to the individual conducting the transaction for the entity, and there is reasonable compliance with the routines. Reasonable diligence does not require an individual acting for the entity to communicate information unless the communication is part of the individual's regular duties or the individual has reason to know of the transaction, and that the transaction would be materially affected by the information.*
- (8) *A general partner's knowledge, notice, or receipt of a notification of a fact relating to the limited partnership is effective immediately as knowledge by, notice to, or receipt of a notification by the limited partnership, except in the case of a fraud on the limited partnership committed by or with the consent of the general partner. A limited partner's knowledge, notice, or receipt of a notification of a fact relating to the limited partnership is not effective as knowledge by, notice to, or receipt of a notification by the limited partnership.*

SECTION 83. A NEW SECTION OF SUBCHAPTER 2 OF KRS CHAPTER 362 IS CREATED TO READ AS FOLLOWS:

- (1) *A limited partnership is an entity distinct from its partners. A limited partnership is the same entity regardless of whether its certificate states that the limited partnership is a limited liability limited partnership.*
- (2) *A limited partnership may be organized under this subchapter for any lawful purpose except for rendering a professional service.*
- (3) *A limited partnership has a perpetual duration.*

SECTION 84. A NEW SECTION OF SUBCHAPTER 2 OF KRS CHAPTER 362 IS CREATED TO READ AS FOLLOWS:

*A limited partnership has the powers to do all things necessary or convenient to carry on its activities, including the power to sue, be sued, and defend in its own name and to maintain an action against a partner for harm caused to the limited partnership by an actual or threatened injury to the limited partnership, breach of the partnership agreement, or violation of a duty to the partnership.*

SECTION 85. A NEW SECTION OF SUBCHAPTER 2 OF KRS CHAPTER 362 IS CREATED TO READ AS FOLLOWS:

*The law of this Commonwealth governs relations among the partners of a limited partnership, and between the partners and the limited partnership, and the liability of partners as partners for an obligation of a limited partnership.*

SECTION 86. A NEW SECTION OF SUBCHAPTER 2 OF KRS CHAPTER 362 IS CREATED TO READ AS FOLLOWS:

- (1) *Unless displaced by particular provisions of this subchapter, the principles of law and equity supplement this subchapter.*
- (2) *If an obligation to pay interest arises under this subchapter and the rate is not specified, then the rate is that specified in KRS 360.010.*
- (3) *Subject to subsection (2) of Section 89 of this Act, it shall be the public policy of the Commonwealth in this subchapter to give maximum effect to the principles of freedom of contract and the enforceability of partnership agreements. Unless displaced by particular provisions of this subchapter, the principles of law and equity shall supplement this subchapter. Although this subchapter is in derogation of the common law, the rules of construction that require strict construction of statutes that are in derogation of common law shall not apply to its provisions. Except as otherwise expressly provided herein, this subchapter shall not be construed to impair the obligation of any contract existing when this subchapter, or any amendment thereto, becomes effective, nor to affect any action or proceeding begun or right accrued before this subchapter or any amendment thereto takes effect.*

SECTION 87. A NEW SECTION OF SUBCHAPTER 2 OF KRS CHAPTER 362 IS CREATED TO READ AS FOLLOWS:

- (1) *The name of a limited partnership may contain the name of any partner.*
- (2) *The name of a limited partnership that is not a limited liability limited partnership shall contain the word "limited" or the abbreviation "Ltd." or the phrase "limited partnership" or the abbreviation "L.P." or "LP" and it shall not contain the phrase "limited liability limited partnership" or the abbreviation "LLLP" or "L.L.L.P."*
- (3) *The name of a limited partnership that is a limited liability limited partnership shall contain the phrase "limited liability limited partnership" or the abbreviation "LLLP" or "L.L.L.P." and it shall not contain only "limited partnership" or the abbreviation "L.P." or "LP."*
- (4) *Unless authorized by subsection (5) or (6) of this section, the name of a limited partnership shall be distinguishable upon the records of the Secretary of State from any name of record with the Secretary of State.*
- (5) *A limited partnership may use the name, including the fictitious name, with any modification required by this section or Section 165 of this Act of another business entity that is used in this Commonwealth if the other business entity is organized or authorized to transact business in this Commonwealth and the limited partnership:*
  - (a) *Has merged with the other business entity;*
  - (b) *Has been formed by reorganization of the other business entity; or*
  - (c) *Has acquired all or substantially all of the assets, including the business name, of the other business entity.*
- (6) *This subchapter shall not control the use of assumed names.*

- (7) *The filing of a certificate of limited partnership under the particular name of the limited partnership shall not automatically prevent the use of that name or protect that name from use by other persons.*
- (8) *Subject to Section 165 of this Act, this section applies to any foreign limited partnership transacting business in this Commonwealth, authorized to transact business in this Commonwealth, or applying for such authorization.*

SECTION 88. A NEW SECTION OF SUBCHAPTER 2 OF KRS CHAPTER 362 IS CREATED TO READ AS FOLLOWS:

- (1) *A person may apply to the Secretary of State to reserve the exclusive use of a limited partnership name, including the fictitious name for a foreign limited partnership whose limited partnership name is not available for use in this Commonwealth. If the Secretary of State finds that the limited partnership name applied for is available, then the Secretary of State shall reserve the name for the applicant's exclusive use for one (1) nonrenewable period of one hundred twenty (120) days.*
- (2) *The holder of a reserved limited partnership name may transfer the reservation to another person by delivering to the Secretary of State a notice of the transfer, executed by the holder for whom the name was reserved, and specifying the name and address of the transferee.*
- (3) *The holder of a reserved limited partnership name may cancel the reservation by delivery to the Secretary of State of a notice of cancellation, executed by the applicant for whom the name was reserved, that states the reserved name and its date of reservation.*

SECTION 89. A NEW SECTION OF SUBCHAPTER 2 OF KRS CHAPTER 362 IS CREATED TO READ AS FOLLOWS:

- (1) *Except as otherwise provided in subsection (2) of this section, the partnership agreement governs relations among the partners and between the partners and the partnership. To the extent the partnership agreement does not otherwise provide, this subchapter governs relations among the partners and between the partners and the partnership.*
- (2) *The partnership agreement shall not:*
  - (a) *Vary a limited partnership's power under Section 84 of this Act to sue, be sued, and defend in its own name;*
  - (b) *Vary the law applicable to a limited partnership under Section 85 of this Act;*
  - (c) *Vary the requirements of Section 108 of this Act;*
  - (d) *Vary the information required under KRS 141.407 or unreasonably restrict the right to information under Sections 118 and 127 of this Act, but the partnership agreement may provide a different location for the maintenance of the books and records, and impose reasonable limitations on the availability and use of information obtained under those sections, and may define appropriate remedies, including liquidated damages, for a breach of any reasonable limitation on use;*
  - (e) *Eliminate the duty of loyalty under Section 128 of this Act, but the partnership agreement may:*
    - 1. *Identify specific types or categories of activities that do not violate the duty of loyalty, if not manifestly unreasonable; and*
    - 2. *Specify the number or percentage of partners which may authorize or ratify, after full disclosure to all partners of all material facts, a specific act or transaction that otherwise would violate the duty of loyalty;*
  - (f) *Unreasonably reduce the duty of care under subsection (3) of Section 128 of this Act;*
  - (g) *Eliminate the obligation of good faith and fair dealing under subsection (2) of Section 119 and subsection (4) of Section 128 of this Act, but the partnership agreement may prescribe the standards by which the performance of the obligation is to be measured, if the standards are not manifestly unreasonable;*
  - (h) *Vary the power of a person to dissociate as a general partner under subsection (1) of Section 141 of this Act, except to require that the notice under subsection (1) of Section 140 of this Act be in a record;*



- (i) *Vary the right of a court to decree dissolution in the circumstances specified in Section 150 of this Act;*
  - (j) *Vary the requirement to wind up the partnership's business as specified in Section 151 of this Act;*
  - (k) *Unreasonably restrict the right to bring an action under Sections 171 to 175 of this Act; or*
  - (l) *Restrict the right of a partner under subsection (1) of Section 185 of this Act to consent to a merger or conversion or the right of a general partner under subsection (2) of Section 185 of this Act to consent to an amendment to the certificate of limited partnership which deletes a statement that the limited partnership is a limited liability limited partnership.*
- (3) *If a written partnership agreement contains a provision to the effect that any amendment to the partnership agreement must be in writing and adopted in accordance with the provisions of the partnership agreement, that provision shall be enforceable in accordance with its terms, and any agreement among the partners concerning the partnership which is not in writing and adopted in accordance with the provisions of the partnership agreement shall not be part of the partnership agreement.*

SECTION 90. A NEW SECTION OF SUBCHAPTER 2 OF KRS CHAPTER 362 IS CREATED TO READ AS FOLLOWS:

*A limited partnership shall maintain at its designated office the following information:*

- (1) *A current list showing the full name and last known street and mailing address of each partner, separately identifying the general partners, in alphabetical order, and the limited partners, in alphabetical order;*
- (2) *A copy of the initial certificate of limited partnership and all amendments to and restatements of the certificate, together with signed copies of any powers of attorney under which any certificate, amendment, or restatement has been signed;*
- (3) *A copy of any filed articles of conversion or merger;*
- (4) *A copy of the limited partnership's federal, state, and local income tax returns and reports, if any, for the three (3) most recent years;*
- (5) *A copy of any partnership agreement made in record form and any amendment made in record form to any partnership agreement;*
- (6) *A copy of any financial statement of the limited partnership for the three (3) most recent years;*
- (7) *A copy of the three (3) most recent annual reports delivered by the limited partnership to the Secretary of State pursuant to Section 114 of this Act;*
- (8) *A copy of any record made by the limited partnership during the past three (3) years of any consent given by or vote taken of any partner pursuant to this subchapter or the partnership agreement; and*
- (9) *Unless contained in a partnership agreement in record form, a record stating:*
  - (a) *The amount of cash, and a description and statement of the agreed value of the other benefits, contributed and agreed to be contributed by each partner;*
  - (b) *The times at which, or events on the happening of which, any additional contributions agreed to be made by each partner are to be made;*
  - (c) *For any person that is both a general partner and a limited partner, a specification of what transferable interest the person owns in each capacity; and*
  - (d) *Any events upon the happening of which the limited partnership is to be dissolved and its activities wound up.*

SECTION 91. A NEW SECTION OF SUBCHAPTER 2 OF KRS CHAPTER 362 IS CREATED TO READ AS FOLLOWS:

*A partner may lend money to, borrow money from, act as a surety, guarantor, or endorser for, guarantee or assume one or more specific obligations of, provide collateral for, and transact other business with the limited partnership and, subject to other law, has the same rights and obligations with respect to the loan or other transaction as a person that is not a partner.*

SECTION 92. A NEW SECTION OF SUBCHAPTER 2 OF KRS CHAPTER 362 IS CREATED TO READ AS FOLLOWS:

*A person may be both a general partner and a limited partner. A person that is both a general and limited partner has the rights, powers, duties, and obligations provided by this subchapter and the partnership agreement in each of those capacities. When the person acts as a general partner, the person is subject to the obligations and restrictions under this subchapter and the partnership agreement for general partners. When the person acts as a limited partner, the person is subject to the obligations and restrictions under this subchapter and the partnership agreement for limited partners.*

SECTION 93. A NEW SECTION OF SUBCHAPTER 2 OF KRS CHAPTER 362 IS CREATED TO READ AS FOLLOWS:

- (1) *A limited partnership shall designate and continuously maintain in this Commonwealth:*
  - (a) *A designated office, which need not be a place of its activity in this Commonwealth; and*
  - (b) *A registered office and agent for service of process at that office.*
- (2) *A foreign limited partnership shall designate and continuously maintain in this Commonwealth a registered office and agent for service of process at that office.*
- (3) *A registered agent shall be:*
  - (a) *An individual who is a resident of this Commonwealth and whose business office is identical with the registered office;*
  - (b) *A domestic corporation, domestic limited liability company, or domestic nonprofit corporation whose business office is identical with the registered office; or*
  - (c) *A foreign corporation, foreign limited liability company, or foreign nonprofit corporation authorized to transact business in this Commonwealth whose business office is identical with the registered office.*
- (4) *Unless the registered agent signs the record making the appointment, the appointment of a registered agent or a successor registered agent on whom process may be served shall not be effective until the agent delivers a statement in writing to the Secretary of State accepting the appointment.*

SECTION 94. A NEW SECTION OF SUBCHAPTER 2 OF KRS CHAPTER 362 IS CREATED TO READ AS FOLLOWS:

- (1) *In order to change its designated office, registered office or agent for service of process, a limited partnership or a foreign limited partnership shall deliver to the Secretary of State for filing a statement of change containing:*
  - (a) *The name of the limited partnership or foreign limited partnership;*
  - (b) *The street and mailing address of its current designated office;*
  - (c) *The address of its registered office and the name of its registered agent at that office in this Commonwealth;*
  - (d) *If the current designated office is to be changed, the street address of the new designated office;*
  - (e) *If the current registered office is to be changed, the street address of the new registered office;*
  - (f) *If the current registered agent is to be changed, the name of the new registered agent and the new registered agent's written consent; and*
  - (g) *That after the change or changes are made, the street addresses of its registered office and the business office of its registered agent will be identical.*
- (2) *If a registered agent changes the street address of the registered agent's business office to another place within this Commonwealth, then the registered agent shall change the street address of the registered office of any limited partnership or foreign limited partnership of which the registered agent is a registered agent by notifying the limited partnership or foreign limited partnership in writing of the change, and delivering to the Secretary of State for filing a statement that complies with the requirements of subsection (1) of this section and recites that the limited partnership or foreign limited partnership has been notified of the change.*

- (3) *The change of address of the registered office or registered agent shall be effective on delivery of the statement to the Secretary of State. The appointment of a new registered agent shall be effective on delivery of the statement to the Secretary of State and on receipt by the Secretary of State of evidence that the new registered agent has accepted the appointment.*
- (4) *Any statement of change of a designated office or the name or address of an agent for service of process shall be made on a form provided by the Secretary of State.*

SECTION 95. A NEW SECTION OF SUBCHAPTER 2 OF KRS CHAPTER 362 IS CREATED TO READ AS FOLLOWS:

- (1) *A registered agent may resign as registered agent by signing and delivering to the Secretary of State for filing the executed original and two (2) exact or conformed copies of a statement of resignation. The statement may also include a statement that the registered office is also discontinued.*
- (2) *After filing the statement, the Secretary of State shall mail one (1) copy to the registered office, if not discontinued, and the other copy to the limited partnership or foreign limited partnership at its designated office.*
- (3) *The agency appointment shall be terminated, and the registered office discontinued if so provided, on the thirty-first day after the date on which the statement was filed.*

SECTION 96. A NEW SECTION OF SUBCHAPTER 2 OF KRS CHAPTER 362 IS CREATED TO READ AS FOLLOWS:

- (1) *An agent for service of process appointed by a limited partnership or foreign limited partnership is an agent of the limited partnership or foreign limited partnership for service of any process, notice, or demand required or permitted by law to be served upon the limited partnership or foreign limited partnership.*
- (2) *If a limited partnership or foreign limited partnership fails to appoint or maintain an agent for service of process in this Commonwealth or the agent for service of process cannot with reasonable diligence be found at the agent's address, then the Secretary of State is an agent of the limited partnership or foreign limited partnership upon which process, notice, or demand may be served.*
- (3) *Service of any process, notice, or demand on the Secretary of State may be made by delivering to and leaving with the Secretary of State duplicate copies of the process, notice, or demand. If a process, notice, or demand is served on the Secretary of State, then the Secretary of State shall forward one of the copies by registered or certified mail, return receipt requested, to the limited partnership or foreign limited partnership at its designated office.*
- (4) *Service is effected under subsection (3) of this section at the earliest of:*
  - (a) *The date the limited partnership or foreign limited partnership receives the process, notice, or demand;*
  - (b) *The date shown on the return receipt, if signed on behalf of the limited partnership or foreign limited partnership; or*
  - (c) *Five (5) days after the process, notice, or demand is deposited in the mail, if mailed postpaid and correctly addressed.*
- (5) *The Secretary of State shall keep a record of each process, notice, and demand served pursuant to this section and record the time of and the action taken regarding the service.*
- (6) *This section does not affect the right to serve process, notice, or demand in any other manner provided by law.*

SECTION 97. A NEW SECTION OF SUBCHAPTER 2 OF KRS CHAPTER 362 IS CREATED TO READ AS FOLLOWS:

*Action requiring the consent of partners under this subchapter may be taken without a meeting, and a partner may appoint a proxy to consent or otherwise act for the partner by signing an appointment record, either personally or by the partner's attorney in fact.*

SECTION 98. A NEW SECTION OF SUBCHAPTER 2 OF KRS CHAPTER 362 IS CREATED TO READ AS FOLLOWS:

- (1) *The Secretary of State may prescribe and furnish on request forms for:*
  - (a) *A certificate of existence or authorization;*
  - (b) *An application for a certificate of authority;*
  - (c) *An application for a certificate of withdrawal;*
  - (d) *A statement of change of registered office or registered agent;*
  - (e) *A statement of change of designated office;*
  - (f) *Application to reserve a name;*
  - (g) *Application to cancel the reservation of a name;*
  - (h) *Resignation of a registered agent;*
  - (i) *The annual report;*
  - (j) *An amendment to the annual report; and*
  - (k) *Amended application for certificate of authority.*
- (2) *The Secretary of State may mandate the use of the forms listed in subsection (1) of this section.*
- (3) *The Secretary of State may prescribe and furnish on request forms for other records required or permitted to be filed pursuant to this subchapter, but their use shall not be mandatory.*

SECTION 99. A NEW SECTION OF SUBCHAPTER 2 OF KRS CHAPTER 362 IS CREATED TO READ AS FOLLOWS:

- (1) *Except as provided in subsection (2) of this section, a document filed with the Secretary of State shall be effective at the date and time of filing, as evidenced by such means as the Secretary of State may use for the purpose of recording the date and time of filing, or, if later, at the time specified in the document as its effective time on the date it is filed.*
- (2) *A document may specify a delayed effective time and date. If it does so and is filed pursuant to subsection (1) of this section, then the document shall become effective at the close of business on that date. A delayed effective date for a document shall not be later than the ninetieth day after the date it is filed.*
- (3) *Except as otherwise provided in this subchapter, a document filed in accordance with this section shall be effective regardless of a failure to file the document with the county clerk.*

SECTION 100. A NEW SECTION OF SUBCHAPTER 2 OF KRS CHAPTER 362 IS CREATED TO READ AS FOLLOWS:

- (1) *A record that satisfies the requirements of this section, and of any other section of this subchapter that adds to or varies these requirements, shall be entitled to filing by the Secretary of State.*
- (2) *This subchapter shall require or permit filing the record in the Office of the Secretary of State.*
- (3) *The record shall contain the information required by this subchapter. It may also contain other information.*
- (4) *The record shall be typewritten or printed or, if electronically transmitted, it shall be in a format that can be retrieved or reproduced in typewritten or printed form. The typewritten or printed portion shall be in black. Manually signed photocopies or other reproduced copies of typewritten or printed records may be filed.*
- (5) *The record shall be in the English language. A limited partnership name may be in a language other than English if written in English letters or Arabic or Roman numerals. Any record that may be filed by a foreign limited partnership that is duly authenticated by the official having custody of the applicable records in the state, country, or other jurisdiction under whose law the limited liability company is formed may be in a language other than English if accompanied by a reasonably-authenticated English translation.*
- (6) *The person executing the record shall sign it and print beneath or opposite his or her signature the names of the person and the capacity in which he or she signs.*
- (7) *The person executing the record may do so as an attorney-in-fact. Powers of attorney relating to the execution of the record shall not be required to be provided to or filed with the Secretary of State.*

- (8) *If the Secretary of State has prescribed a mandatory form for a record, then the record shall be in or on the prescribed form.*
- (9) *The record shall be delivered to the Secretary of State for filing. Delivery may be made by electronic transmission if and to the extent permitted by the Secretary of State. If it is filed in typewritten or printed form and not transmitted electronically, then the Secretary of State may require that it be accompanied by two (2) exact or conformed copies.*
- (10) *One (1) exact or conformed copy, or, if transmitted electronically, a reproduction in paper form, shall be filed with and recorded by the county clerk of the county in which the registered office of the limited partnership is located. A county clerk shall receive a fee pursuant to KRS 64.012 for recording and issuing reports, articles, and statements pertaining to limited partnerships. A document otherwise filed in accordance with this section with the Secretary of State shall be effective regardless of failure to file the document with the county clerk in accordance with this subsection.*
- (11) *When the record is delivered to the Secretary of State for filing, the correct filing fee and any other moneys required by this subchapter or other law to be collected by the Secretary of State therewith shall be paid or provision for payment made in a manner permitted by the Secretary of State. The Secretary of State may accept payment of the correct amount due by credit card, debit card, charge card, or similar method. However, if the amount due is tendered by any method other than cash, then the liability is not finally discharged until the Secretary of State receives final payment or credit of collectible funds.*

SECTION 101. A NEW SECTION OF SUBCHAPTER 2 OF KRS CHAPTER 362 IS CREATED TO READ AS FOLLOWS:

- (1) *The Secretary of State shall collect the following fees when the following records in this subsection are delivered for filing:*
  - (a) *Certificate of limited partnership .....\$ 40.00*
  - (b) *Application for certificate of authority as  
a foreign limited partnership.....\$ 90.00*
  - (c) *Amendment of certificate of limited partnership.....\$ 40.00*
  - (d) *Restatement of certificate of limited partnership.....\$40.00*
  - (e) *Amendment and restatement of  
certificate of limited partnership .....\$80.00*
  - (f) *Certificate of dissolution with respect  
to a domestic limited partnership .....\$40.00*
  - (g) *Statement of change of registered agent or  
change of the address of the registered office, or both.....\$10.00*
  - (h) *Registered agent's statement of change of registered  
office for each affected limited partnership.....\$10.00*  
*Not to exceed a total of .....\$1,000.00*
  - (i) *Statement of change of the mailing address  
of the principal office .....\$10.00*
  - (j) *Application to reserve a name for use by  
a domestic or foreign limited partnership .....\$15.00*
  - (k) *Notice of the transfer of a name reserved  
for use by a domestic or a foreign limited partnership .....\$15.00*
  - (l) *Application for registered name .....\$36.00*

- (m) *Application for renewal of registered name*.....\$36.00
- (n) *Articles of merger*.....\$50.00
- (o) *Application for amended certificate of authority*.....\$40.00
- (p) *Application for certificate of withdrawal*.....\$40.00
- (q) *Statement of correction*.....\$20.00
- (r) *Certificate of existence or authorization*.....\$10.00
- (s) *Reinstatement penalty following administrative dissolution*.....\$100.00
- (t) *Annual report*.....\$15.00
- (u) *Amendment to annual report*.....\$10.00
- (v) *Any other record required or permitted to be filed by this subchapter*.....\$15.00
- (2) *The Secretary of State shall collect a fee of ten dollars (\$10) each time process is served on the Secretary of State under this subchapter. The party to a proceeding causing service of process shall be entitled to recover this fee as costs if the party prevails in the proceeding.*
- (3) *The Secretary of State shall collect the following fees for copying and certifying the copy of any filed records relating to a domestic or foreign limited partnership:*  
*Copies, per page*      \$0.50  
*Certifications, each* \$5.00
- (4) *The county clerk shall receive a fee pursuant to KRS 64.012 for recording and issuing reports, articles, and statements pertaining to limited partnerships.*

SECTION 102. A NEW SECTION OF SUBCHAPTER 2 OF KRS CHAPTER 362 IS CREATED TO READ AS FOLLOWS:

- (1) *A foreign limited partnership may register its name, or its name with any addition required by Section 165 of this Act, if the name is distinguishable upon the records of the Secretary of State as required under Section 87 of this Act.*
- (2) *A foreign limited partnership shall register its name, or its name with any addition required by Section 165 of this Act, by delivering to the Secretary of State for filing an application setting forth:*
  - (a) *Its name, or its name with any addition required by Section 165 of this Act;*
  - (b) *The state or country and date of its organization;*
  - (c) *A brief description of the nature of the business in which it is engaged; and*
  - (d) *A statement that the foreign limited partnership validly exists as a limited partnership under the laws of the jurisdiction of its formation.*
- (3) *The name shall be registered for the applicant's exclusive use upon the effective date of the application.*
- (4) *A foreign limited partnership whose registration is effective may renew it for successive years by delivering to the Secretary of State for filing a renewal application between October 1 and December 31 of the preceding year. The renewal application shall comply with the requirements of subsection (2) of this section and when filed shall renew the registration for the following calendar year.*
- (5) *A foreign limited partnership whose registration is effective may thereafter qualify as a foreign limited partnership under the registered name or consent in writing to the use of that name by a limited partnership thereafter organized under this subchapter or by another foreign limited partnership thereafter authorized to transact business in this Commonwealth. The registration shall terminate when the domestic limited partnership is organized or the foreign limited partnership qualifies or consents to the qualification of another foreign limited partnership under the registered name.*

SECTION 103. A NEW SECTION OF SUBCHAPTER 2 OF KRS CHAPTER 362 IS CREATED TO READ AS FOLLOWS:

- (1) *If a record delivered to the Secretary of State for filing satisfies the requirements of this subchapter, then the Secretary of State shall file it.*
- (2) *The Secretary of State shall file a record by recording it as filed on the date and time of receipt. After filing a record, the Secretary of State shall deliver to the domestic or foreign limited partnership or its representative a copy of the record with an acknowledgment of the date and time of filing.*
- (3) *If the Secretary of State refuses to file a record, then the Secretary of State shall return it to the domestic or foreign limited partnership or its representative within five (5) days after the record was delivered, together with a brief written explanation of the reason for the refusal.*
- (4) *The Secretary of State's duty to file records under this section shall be ministerial. The filing or refusal to file a record by the Secretary of State shall not:*
  - (a) *Affect the validity or invalidity of the record in whole or part;*
  - (b) *Relate to the correctness or incorrectness of information contained in the record; or*
  - (c) *Create a presumption that the record is valid or invalid or that information contained in the record is correct or incorrect.*
- (5) *If the Secretary of State refuses to file a document delivered for filing, then the domestic or foreign limited partnership may appeal the refusal to the Franklin Circuit Court. The appeal shall be commenced by petitioning the court to compel filing the document and by attaching to the petition the document and the Secretary of State's explanation of the refusal to file. The court may summarily order the Secretary of State to file the document or take other action the court considers appropriate. The court's final decision may be appealed as in other civil proceedings.*

SECTION 104. A NEW SECTION OF SUBCHAPTER 2 OF KRS CHAPTER 362 IS CREATED TO READ AS FOLLOWS:

*A certificate from the Secretary of State delivered with a copy of the record filed with the Secretary of State is conclusive evidence that the original record is on file with the Secretary of State.*

SECTION 105. A NEW SECTION OF SUBCHAPTER 2 OF KRS CHAPTER 362 IS CREATED TO READ AS FOLLOWS:

- (1) *In order to form a limited partnership, a certificate of limited partnership shall be delivered to the Secretary of State for filing. The certificate shall state:*
  - (a) *The name of the limited partnership, which shall comply with Section 87 of this Act;*
  - (b) *The street address of the initial designated office;*
  - (c) *The street address of the limited partnership's initial registered office, and the name of its initial registered agent at that office;*
  - (d) *The name and street address of each general partner; and*
  - (e) *Any additional information required by this subchapter.*
- (2) *If the limited partnership elects to be a limited liability limited partnership, then the certificate shall contain a statement that the limited partnership elects to be a limited liability limited partnership.*
- (3) *A certificate of limited partnership may also contain any other matters but shall not vary from the provisions specified in subsection (2) of Section 89 of this Act in a manner inconsistent with that section.*
- (4) *Subject to subsection (2) of this section, if any provision of a partnership agreement is inconsistent with the filed certificate of limited partnership or with a filed statement of dissociation, cancellation, or change, or filed articles of conversion or merger then:*
  - (a) *The partnership agreement prevails as to partners and transferees; and*
  - (b) *The filed certificate of limited partnership, statement of dissociation, cancellation, or change, or articles of conversion or merger prevail as to persons, other than partners and transferees, that reasonably rely on the filed record to their detriment.*

- (5) *A written statement of the initial registered agent consenting to serve in that capacity shall accompany the certificate of limited partnership.*

SECTION 106. A NEW SECTION OF SUBCHAPTER 2 OF KRS CHAPTER 362 IS CREATED TO READ AS FOLLOWS:

- (1) *In order to amend its certificate of limited partnership, a limited partnership shall deliver to the Secretary of State for filing an amendment or, pursuant to Sections 176 to 188 of this Act, articles of merger, stating:*
- (a) *The name of the limited partnership;*
  - (b) *The date of filing of its initial certificate; and*
  - (c) *The changes the amendment makes to the certificate as most recently amended or restated.*
- (2) *A limited partnership shall promptly deliver to the Secretary of State for filing an amendment to a certificate of limited partnership to reflect:*
- (a) *The admission of a new general partner;*
  - (b) *The dissociation of a person as a general partner; or*
  - (c) *The appointment of a person to wind up the limited partnership's activities under subsection (3) or (4) of Section 151 of this Act.*
- (3) *A general partner who knows that any information in a filed certificate of limited partnership was false when the certificate was filed or has become false due to changed circumstances shall promptly:*
- (a) *Cause the certificate to be amended; or*
  - (b) *If appropriate, deliver to the Secretary of State for filing a statement of change pursuant to Section 94 of this Act or a statement of correction pursuant to Section 111 of this Act.*
- (4) *A certificate of limited partnership may be amended at any time for any other proper purpose as determined by the limited partnership.*
- (5) *A restated certificate of limited partnership may be delivered to the Secretary of State for filing in the same manner as an amendment.*
- (6) *Subject to subsection (3) of Section 99 of this Act, an amendment or restated certificate is effective when filed by the Secretary of State.*

SECTION 107. A NEW SECTION OF SUBCHAPTER 2 OF KRS CHAPTER 362 IS CREATED TO READ AS FOLLOWS:

*A dissolved limited partnership that has completed winding up shall deliver to the Secretary of State for filing a statement of cancellation that states:*

- (1) *The name of the limited partnership;*
- (2) *The date of filing of its initial certificate of limited partnership; and*
- (3) *Any other information as determined by the general partners filing the statement or by a person appointed pursuant to subsection (3) or (4) of Section 151 of this Act.*

SECTION 108. A NEW SECTION OF SUBCHAPTER 2 OF KRS CHAPTER 362 IS CREATED TO READ AS FOLLOWS:

- (1) *Each record delivered to the Secretary of State for filing pursuant to this subchapter shall be signed in the following manner:*
- (a) *An initial certificate of limited partnership shall be signed by all general partners listed in the certificate.*
  - (b) *An amendment adding or deleting a statement that the limited partnership is a limited liability limited partnership shall be signed by all general partners listed in the certificate.*
  - (c) *An amendment designating as general partner a person admitted under subsection (3)(b) of Section 151 of this Act following the dissociation of a limited partnership's last general partner shall be signed by that person.*



- (d) *An amendment required by subsection (3) of Section 151 of this Act following the appointment of a person to wind up the dissolved limited partnership's activities shall be signed by that person.*
- (e) *Any other amendment shall be signed by:*
  - 1. *At least one general partner listed in the certificate;*
  - 2. *Each other person designated in the amendment as a new general partner; and*
  - 3. *Each person that the amendment indicates has dissociated as a general partner, unless:*
    - a. *The person is deceased, or a guardian or general conservator has been appointed for the person and the amendment so states; or*
    - b. *The person has previously delivered to the Secretary of State for filing a statement of dissociation.*
- (f) *A restated certificate of limited partnership shall be signed by at least one general partner listed in the certificate, and, to the extent the restated certificate effects a change under any other paragraph of this subsection, the certificate shall be signed in a manner that satisfies that paragraph.*
- (g) *A statement of cancellation shall be signed by all general partners listed in the certificate or, if the certificate of a dissolved limited partnership lists no general partners, then by the person appointed pursuant to subsections (3) or (4) of Section 151 of this Act to wind up the dissolved limited partnership's activities.*
- (h) *Articles of conversion shall be signed by each general partner listed in the certificate of limited partnership.*
- (i) *Articles of merger shall be signed as provided in subsection (1) of Section 183 of this Act.*
- (j) *Any other record delivered on behalf of a limited partnership to the Secretary of State for filing shall be signed by at least one (1) general partner listed in the certificate.*
- (k) *A statement by a person pursuant to subsection (4) of Section 142 of this Act stating that the person has dissociated as a general partner shall be signed by that person.*
- (l) *A statement of withdrawal by a person pursuant to Section 120 of this Act shall be signed by that person.*
- (m) *A record delivered on behalf of a foreign limited partnership to the Secretary of State for filing shall be signed by at least one (1) general partner of the foreign limited partnership.*
- (n) *Any other record delivered on behalf of any person to the Secretary of State for filing shall be signed by that person.*
- (2) *Any person may sign by an attorney in fact any record to be filed pursuant to this subchapter.*

SECTION 109. A NEW SECTION OF SUBCHAPTER 2 OF KRS CHAPTER 362 IS CREATED TO READ AS FOLLOWS:

- (1) *If a person required by this subchapter to sign a record or deliver a record to the Secretary of State for filing fails or refuses to do so, then any other person that is aggrieved by the failure or refusal may petition the Circuit Court in which the limited partnership maintains its registered office to order:*
  - (a) *The person to sign the record or deliver the record to the Secretary of State for filing; or*
  - (b) *The Secretary of State to file the record unsigned.*
- (2) *If the person aggrieved under subsection (1) of this section is not the limited partnership or foreign limited partnership to which the record pertains, then the aggrieved person shall make that limited partnership or foreign limited partnership a party to the action. A person aggrieved under subsection (1) of this section may seek in the alternative all remedies provided in subsection (1)(a) of this section in the same action.*
- (3) *A record filed unsigned pursuant to this section is effective without being signed.*

SECTION 110. A NEW SECTION OF SUBCHAPTER 2 OF KRS CHAPTER 362 IS CREATED TO READ AS FOLLOWS:

- (1) *Unless the Secretary of State determines that a record fails to comply with the filing requirements of this subchapter, and if all filing fees have been paid, then the Secretary of State shall file the record and:*
- (a) *For a statement of dissociation, send:*
    - 1. *A copy of the filed statement to the person which the statement indicates has dissociated as a general partner; and*
    - 2. *A copy of the filed statement to the limited partnership;*
  - (b) *For a statement of withdrawal, send:*
    - 1. *A copy of the filed statement to the person on whose behalf the record was filed; and*
    - 2. *If the statement refers to an existing limited partnership, a copy of the filed statement to the limited partnership; and*
  - (c) *For all other records, send a copy of the filed record to the person, or the duly authorized representative thereof, on whose behalf the record was filed.*
- (2) *Upon request and payment of a fee, the Secretary of State shall send to the requester a certified copy of the requested record.*
- (3) *Except as otherwise provided in Sections 95 and 111 of this Act, a record delivered to the Secretary of State for filing under this subchapter may specify an effective time and a delayed effective date.*

SECTION 111. A NEW SECTION OF SUBCHAPTER 2 OF KRS CHAPTER 362 IS CREATED TO READ AS FOLLOWS:

- (1) *A domestic or foreign limited partnership may correct, in accordance with subsection (2) of this section, a record filed by the Secretary of State if:*
- (a) *The record contains an inaccuracy;*
  - (b) *The record was defectively executed, attested, sealed, verified, or acknowledged; or*
  - (c) *The electronic transmission of the record was defective.*
- (2) *A record shall be corrected:*
- (a) *By preparing articles of correction that:*
    - 1. *Describe the record, including its filing date, or have attached a copy of the record to the statement of correction;*
    - 2. *Specify the inaccuracy or defect to be corrected; and*
    - 3. *Correct the inaccuracy or defect; and*
  - (b) *By delivering the statement of correction to the Secretary of State for filing.*
- (3) *Statements of correction shall be effective on the effective date of the record they correct except as to persons relying on the uncorrected record who are adversely affected by the correction. As to those persons, statement of correction shall be effective when filed.*

SECTION 112. A NEW SECTION OF SUBCHAPTER 2 OF KRS CHAPTER 362 IS CREATED TO READ AS FOLLOWS:

- (1) *If a record delivered to the Secretary of State for filing under this subchapter and filed by the Secretary of State contains false information, then a person that suffers loss by reliance on the information may recover damages for the loss from:*
- (a) *A person that signed the record, or caused another to sign it on the person's behalf, and knew the information to be false at the time the record was signed; and*
  - (b) *A general partner that has notice that the information was false when the record was filed or has become false due to changed circumstances, if the general partner has notice for a reasonably sufficient time before the information is relied upon to enable the general partner to effect an amendment under Section 106 of this Act, file a petition pursuant to Section 109 of this Act, or deliver to the Secretary of State for filing a statement of change pursuant to Section 94 of this Act or a statement of correction pursuant to Section 111 of this Act.*

- (2) *It shall be unlawful for any person to sign a record the person knows is false in any material respect with intent that the record be delivered to the Secretary of State for filing. Any person who violates the provisions of this section shall be guilty of a Class B misdemeanor punishable by a fine not to exceed one hundred dollars (\$100).*

SECTION 113. A NEW SECTION OF SUBCHAPTER 2 OF KRS CHAPTER 362 IS CREATED TO READ AS FOLLOWS:

- (1) *A person may request the Secretary of State to furnish a certificate of existence for a limited partnership or a certificate of authorization for a foreign limited partnership.*
- (2) *Upon payment of a fee, the Secretary of State shall furnish a certificate of existence requested under subsection (1) of this section if the filed records in the office of the Secretary of State show that the Secretary of State has filed a certificate of limited partnership and has not filed a statement of cancellation. A certificate of existence shall state:*
- (a) *The limited partnership's name;*
  - (b) *That it was duly formed under the laws of this Commonwealth and the date of formation;*
  - (c) *Whether all fees, taxes, and penalties due to the Secretary of State under this subchapter or other law have been paid;*
  - (d) *Whether the limited partnership's most recent annual report required by Section 114 of this Act has been filed by the Secretary of State;*
  - (e) *Whether the Secretary of State has administratively dissolved the limited partnership or filed a statement of cancellation; and*
  - (f) *Other facts of record in the office of the Secretary of State which may be requested by the applicant.*
- (3) *Upon payment of a fee, the Secretary of State shall furnish a certificate of authorization requested under subsection (1) of this section if the filed records in the office of the Secretary of State show that the Secretary of State has filed a certificate of authority, has not revoked the certificate of authority, and has not filed a notice of cancellation. A certificate of authorization for a foreign limited partnership shall state:*
- (a) *The foreign limited partnership's name and any fictitious name adopted under subsection (1) of Section 165 of this Act for use in this Commonwealth;*
  - (b) *That it is authorized to transact business in this Commonwealth;*
  - (c) *Whether all fees, taxes, and penalties due to the Secretary of State under this subchapter or other law have been paid;*
  - (d) *Whether the foreign limited partnership's most recent annual report required by Section 114 of this Act has been filed by the Secretary of State;*
  - (e) *That the Secretary of State has not revoked its certificate of authority and has not filed a notice of cancellation; and*
  - (f) *Other facts of record in the office of the Secretary of State which may be requested by the applicant.*
- (4) *Subject to any qualification stated in the certificate, a certificate of existence or authorization issued by the Secretary of State may be relied upon as conclusive evidence that the limited partnership or foreign limited partnership is in existence or is authorized to transact business in this Commonwealth.*

SECTION 114. A NEW SECTION OF SUBCHAPTER 2 OF KRS CHAPTER 362 IS CREATED TO READ AS FOLLOWS:

- (1) *A limited partnership subject to this subchapter or a foreign limited partnership authorized to transact business in this Commonwealth shall deliver to the Secretary of State for filing an annual report that states:*
- (a) *The name of the limited partnership or foreign limited partnership and the state or country under whose law it is organized;*
  - (b) *The street address of its designated office or, if a foreign limited partnership, the street address of its principal office; and*

- (c) *The street address of the limited partnership's registered office and the name of its registered agent at that office.*
- (2) *Information in an annual report shall be current as of the date the annual report is delivered to the Secretary of State for filing.*
- (3) *The first annual report shall be delivered to the Secretary of State between January 1 and June 30 of the year following the calendar year in which a limited partnership was formed or a foreign limited partnership was authorized to transact business. Subsequent annual reports shall be delivered to the Secretary of State between January 1 and June 30 of the ensuing calendar years.*
- (4) *If a filed annual report contains an address of a designated office or the name of a registered agent or registered office address which differs from the information shown upon the records of the Secretary of State immediately before the filing, then the differing information in the annual report is not considered a statement of change under Section 94 of this Act.*

SECTION 115. A NEW SECTION OF SUBCHAPTER 2 OF KRS CHAPTER 362 IS CREATED TO READ AS FOLLOWS:

*A person becomes a limited partner:*

- (1) *As provided in the partnership agreement;*
- (2) *As the result of a merger or conversion under Sections 176 to 188 of this Act; or*
- (3) *With the consent of all the partners.*

SECTION 116. A NEW SECTION OF SUBCHAPTER 2 OF KRS CHAPTER 362 IS CREATED TO READ AS FOLLOWS:

*A limited partner does not have the right or the power as a limited partner to act for or bind the limited partnership.*

SECTION 117. A NEW SECTION OF SUBCHAPTER 2 OF KRS CHAPTER 362 IS CREATED TO READ AS FOLLOWS:

*An obligation of a limited partnership, whether arising in contract, tort, or otherwise, is not the obligation of any limited partner. A limited partner is not personally liable, directly or indirectly, by way of indemnification, contribution, assessment, or otherwise, for an obligation of the limited partnership solely by reason of being a limited partner, even if the limited partner participates in the management and control of the limited partnership.*

SECTION 118. A NEW SECTION OF SUBCHAPTER 2 OF KRS CHAPTER 362 IS CREATED TO READ AS FOLLOWS:

- (1) *On ten (10) days' demand, made in a record received by the limited partnership, a limited partner may inspect and copy during regular business hours in the limited partnership's designated office the information required by Section 90 of this Act. A limited partner making demand pursuant to this subsection need not demonstrate, state, or have any particular purpose for seeking the information.*
- (2) *A limited partner, during regular business hours and at a reasonable location specified by the limited partnership, may obtain from the limited partnership and inspect and copy true and full information regarding the state of the activities and financial condition of the limited partnership and other information regarding the activities of the limited partnership as is just and reasonable if:*
  - (a) *The limited partner seeks the information for a purpose reasonably related to the partner's interest as a limited partner;*
  - (b) *The limited partner makes a demand in a record received by the limited partnership, describing with reasonable particularity the information sought and the purpose for seeking the information; and*
  - (c) *The information sought is directly connected to the limited partner's purpose.*
- (3) *Within ten (10) days after receiving a demand pursuant to subsection (2) of this section, the limited partnership shall in a record inform the limited partner that made the demand:*
  - (a) *What information the limited partnership will provide in response to the demand;*
  - (b) *When and where the limited partnership will provide that information; and*

- (c) *If the limited partnership declines to provide any demanded information, the limited partnership's reasons for declining.*
- (4) *Subject to subsection (6) of this section, a person dissociated as a limited partner may inspect and copy during regular business hours in the limited partnership's designated office the information required by Section 90 of this Act if:*
  - (a) *The information pertains to the period during which the person was a limited partner;*
  - (b) *The person seeks the information in good faith; and*
  - (c) *The person meets the requirements of subsection (2) of this section.*
- (5) *The limited partnership shall respond to a demand made pursuant to subsection (4) of this section in the same manner as provided in subsection (3) of this section.*
- (6) *If a limited partner dies, then Section 148 of this Act applies.*
- (7) *The limited partnership may impose reasonable limitations on the use of information obtained under this section. In a dispute concerning the reasonableness of a restriction under this subsection, the limited partnership has the burden of proving reasonableness.*
- (8) *A limited partnership may charge a limited partner or person dissociated as a limited partner who makes a demand under this section reasonable costs of copying, limited to the costs of labor and material.*
- (9) *Whenever this subchapter or a partnership agreement provides for a limited partner to give or withhold consent to a matter, before the consent is given or withheld, the limited partnership shall, without demand, provide the limited partner with all information that the limited partnership knows and is material to the limited partner's decision.*
- (10) *A limited partner or person dissociated as a limited partner may exercise the rights under this section through an attorney or other agent. In that event, any limitations on availability and use under subsection (7) of this section apply both to the limited partner or person and to the attorney or other agent.*
- (11) *The rights stated in this section do not extend to a transferee, but:*
  - (a) *Subsection (4) of this section creates rights for a person dissociated as a limited partner;*
  - (b) *Subsection (6) of this section recognizes the rights of the executor or administrator of a deceased limited partner; and*
  - (c) *The rights under this section extend to the legal representative of an individual under legal disability who is a limited partner or person dissociated as a limited partner.*

SECTION 119. A NEW SECTION OF SUBCHAPTER 2 OF KRS CHAPTER 362 IS CREATED TO READ AS FOLLOWS:

- (1) *A limited partner does not have any fiduciary duty to the limited partnership or to any other partner solely by reason of being a limited partner.*
- (2) *A limited partner shall discharge the duties to the partnership and the other partners under this subchapter or under the partnership agreement and exercise any rights consistently with the obligation of good faith and fair dealing.*
- (3) *A limited partner does not violate a duty or obligation under this subchapter or under the partnership agreement merely because the limited partner's conduct furthers the limited partner's own interest.*

SECTION 120. A NEW SECTION OF SUBCHAPTER 2 OF KRS CHAPTER 362 IS CREATED TO READ AS FOLLOWS:

- (1) *Except as otherwise provided in subsection (2) of this section, a person that makes an investment in a business enterprise and erroneously but in good faith believes that the person has become a limited partner in the enterprise is not liable for the enterprise's obligations by reason of making the investment, receiving distributions from the enterprise, or exercising any rights of or appropriate to a limited partner, if, on ascertaining the mistake, the person:*

- (a) *Causes an appropriate certificate of limited partnership, amendment, or statement of correction to be signed and delivered to the Secretary of State for filing; or*
  - (b) *Withdraws from future participation as an owner in the enterprise by signing and delivering to the Secretary of State for filing a statement of withdrawal under this section.*
- (2) *A person that makes an investment described in subsection (1) of this section is liable to the same extent as a general partner to any third party that enters into a transaction with the enterprise, believing in good faith that the person is a general partner, before the Secretary of State files a statement of withdrawal, certificate of limited partnership, amendment, or statement of correction to show that the person is not a general partner.*
- (3) *If a person makes a diligent effort in good faith to comply with subsection (1)(a) of this section and is unable to cause the appropriate certificate of limited partnership, amendment, or statement of correction to be signed and delivered to the Secretary of State for filing, then the person has the right to withdraw from the enterprise pursuant to subsection (1)(a) of this section even if otherwise the withdrawal would breach an agreement with others that are or have agreed to become co-owners of the enterprise.*

SECTION 121. A NEW SECTION OF SUBCHAPTER 2 OF KRS CHAPTER 362 IS CREATED TO READ AS FOLLOWS:

*A person becomes a general partner:*

- (1) *As provided in the partnership agreement;*
- (2) *Under subsection (3)(b) of Section 149 of this Act following the dissociation of a limited partnership's last general partner;*
- (3) *As the result of a conversion or merger under Sections 176 to 188 of this Act; or*
- (4) *With the consent of all the partners.*

SECTION 122. A NEW SECTION OF SUBCHAPTER 2 OF KRS CHAPTER 362 IS CREATED TO READ AS FOLLOWS:

- (1) *Each general partner is an agent of the limited partnership for the purposes of its activities. An act of a general partner, including the signing of a record in the partnership's name, for apparently carrying on in the ordinary course the limited partnership's activities or activities of the kind carried on by the limited partnership, binds the limited partnership, unless the general partner did not have authority to act for the limited partnership in the particular matter and the person with which the general partner was dealing knew, had received a notification, or had notice under subsection (4) of Section 82 of this Act that the general partner lacked authority.*
- (2) *An act of a general partner which is not apparently for carrying on in the ordinary course the limited partnership's activities or activities of the kind carried on by the limited partnership binds the limited partnership only if the act was authorized by all the other partners.*

SECTION 123. A NEW SECTION OF SUBCHAPTER 2 OF KRS CHAPTER 362 IS CREATED TO READ AS FOLLOWS:

- (1) *A limited partnership is liable for loss or injury caused to a person, or for a penalty incurred, as a result of a wrongful act or omission, or other actionable conduct, of a general partner acting in the ordinary course of activities of the limited partnership or with authority of the limited partnership.*
- (2) *If, in the course of the limited partnership's activities or while acting with authority of the limited partnership, a general partner receives or causes the limited partnership to receive money or property of a person not a partner, and the money or property is misapplied by a general partner, then limited partnership is liable for the loss.*

SECTION 124. A NEW SECTION OF SUBCHAPTER 2 OF KRS CHAPTER 362 IS CREATED TO READ AS FOLLOWS:

- (1) *Except as otherwise provided in subsections (2) and (3) of this section, all general partners are liable jointly and severally for all obligations of the limited partnership unless otherwise agreed by the claimant or provided by law.*

- (2) *A person admitted as a general partner into an existing limited partnership is not personally liable for any limited partnership obligation incurred before the person's admission as a general partner.*
- (3) *An obligation of a limited partnership incurred while the limited partnership is a limited liability limited partnership, whether arising in contract, tort, or otherwise, is solely the obligation of the limited partnership. A general partner is not personally liable, directly or indirectly, by way of indemnification, contribution, assessment, or otherwise, for such an obligation solely by reason of being or acting as a general partner. This subsection applies despite anything inconsistent in the partnership agreement that existed immediately before the consent required to become a limited liability limited partnership under subsection (2)(b) of Section 126 of this Act.*

SECTION 125. A NEW SECTION OF SUBCHAPTER 2 OF KRS CHAPTER 362 IS CREATED TO READ AS FOLLOWS:

- (1) *To the extent not inconsistent with Section 124 of this Act, any of the general partners may be joined in an action against the limited partnership or named in separate actions.*
- (2) *A judgment against a limited partnership is not by itself a judgment against a general partner. A judgment against a limited partnership may not be satisfied from a general partner's assets unless there is also a judgment against the general partner.*
- (3) *A judgment creditor of a general partner may not levy execution against the assets of the general partner to satisfy a judgment based on a claim against the limited partnership, unless the partner is personally liable for the claim under Section 124 of this Act and:*
  - (a) *A judgment based on the same claim has been obtained against the limited partnership and a writ of execution on the judgment has been returned unsatisfied in whole or in part;*
  - (b) *The limited partnership is a debtor in bankruptcy;*
  - (c) *The general partner has agreed that the creditor need not exhaust limited partnership assets;*
  - (d) *A court grants permission to the judgment creditor to levy execution against the assets of a general partner based on a finding that limited partnership assets subject to execution are clearly insufficient to satisfy the judgment, that exhaustion of limited partnership assets is excessively burdensome, or that the grant of permission is an appropriate exercise of the court's equitable powers; or*
  - (e) *Liability is imposed on the general partner by law or contract independent of the existence of the limited partnership.*

SECTION 126. A NEW SECTION OF SUBCHAPTER 2 OF KRS CHAPTER 362 IS CREATED TO READ AS FOLLOWS:

- (1) *Each general partner has equal rights in the management and conduct of the limited partnership's activities. Except as expressly provided in this subchapter, any matter relating to the activities of the limited partnership may be exclusively decided by the general partner or, if there is more than one general partner, by a majority of the general partners.*
- (2) *The consent of each partner is necessary to:*
  - (a) *Amend the partnership agreement;*
  - (b) *Amend the certificate of limited partnership to add or, subject to Section 185 of this Act, delete a statement that the limited partnership is a limited liability limited partnership; or*
  - (c) *Sell, lease, exchange, or otherwise dispose of all, or substantially all of the limited partnership's property, with or without the good will, other than in the usual and regular course of the limited partnership's activities.*
- (3) *A limited partnership shall reimburse a general partner for payments made and indemnify a general partner for liabilities incurred by the general partner in the ordinary course of the activities of the partnership or for the preservation of its activities or property.*
- (4) *A limited partnership shall reimburse a general partner for an advance to the limited partnership beyond the amount of capital the general partner agreed to contribute.*

- (5) *A payment or advance made by a general partner which gives rise to an obligation of the limited partnership under subsection (3) or (4) of this section constitutes a loan to the limited partnership which accrues interest from the date of the payment or advance.*
- (6) *A general partner is not entitled to remuneration for services performed for the partnership.*

SECTION 127. A NEW SECTION OF SUBCHAPTER 2 OF KRS CHAPTER 362 IS CREATED TO READ AS FOLLOWS:

- (1) *Without having to demonstrate, state, or have any particular purpose for seeking the information, a general partner may during regular business hours inspect and copy:*
  - (a) *In the limited partnership's designated office, the required information; and*
  - (b) *At a reasonable location specified by the limited partnership, any other records maintained by the limited partnership regarding the limited partnership's activities and financial condition.*
- (2) *Each general partner and the limited partnership shall furnish to a general partner:*
  - (a) *Without demand, any information concerning the limited partnership's activities and activities reasonably required for the proper exercise of the general partner's rights and duties under the partnership agreement or this subchapter; and*
  - (b) *On demand, any other information concerning the limited partnership's activities, except to the extent the demand or the information demanded is unreasonable or otherwise improper under the circumstances.*
- (3) *Subject to subsection (5) of this section, on ten (10) days' demand made in a record received by the limited partnership, a person dissociated as a general partner may have access to the information and records described in subsection (1) of this section at the location specified in subsection (1) of this section if:*
  - (a) *The information or record pertains to the period during which the person was a general partner;*
  - (b) *The person seeks the information or record in good faith; and*
  - (c) *The person satisfies the requirements of subsection (2) of Section 118 of this Act.*
- (4) *The limited partnership shall respond to a demand made pursuant to subsection (3) of this section in the same manner as provided in subsection (3) of Section 118 of this Act.*
- (5) *If a general partner dies, then Section 148 of this Act applies.*
- (6) *The limited partnership may impose reasonable limitations on the use of information under this section. In any dispute concerning the reasonableness of a restriction under this subsection, the limited partnership has the burden of proving reasonableness.*
- (7) *A limited partnership may charge a person dissociated as a general partner that makes a demand under this section reasonable costs of copying, limited to the costs of labor and material.*
- (8) *A general partner or person dissociated as a general partner may exercise the rights under this section through an attorney or other agent. In that event, any limitation on availability and use under subsection (6) of this section applies to the attorney or other agent and the general partner or person dissociated as a general partner.*
- (9) *The rights under this section do not extend to a transferee, but:*
  - (a) *Subsection (3) of this section creates rights for a person dissociated as a general partner, and those rights extend to the legal representative of an individual who dissociated as a general partner under subsection (7)(b) or (7)(c) of Section 140 of this Act; and*
  - (b) *Subsection (5) of this section recognizes the rights of the executor or administrator of a deceased general partner.*

SECTION 128. A NEW SECTION OF SUBCHAPTER 2 OF KRS CHAPTER 362 IS CREATED TO READ AS FOLLOWS:

- (1) *The fiduciary duties that a general partner has to the limited partnership and the other partners include the duties of loyalty and care under subsections (2) and (3) of this section.*



- (2) *A general partner's duty of loyalty to the limited partnership and the other partners includes, but it not limited to, the following:*
- (a) *To account to the limited partnership and hold as trustee for it any property, profit, or benefit derived by the general partner in the conduct and winding up of the limited partnership's activities or derived from a use by the general partner of limited partnership property, including the appropriation of a limited partnership opportunity;*
  - (b) *To refrain from dealing with the limited partnership in the conduct or winding up of the limited partnership's activities as or on behalf of a party having an interest adverse to the limited partnership; and*
  - (c) *To refrain from competing with the limited partnership in the conduct or winding up of the limited partnership's activities.*
- (3) *A general partner's duty of care to the limited partnership and the other partners in the conduct and winding up of the limited partnership's activities includes, but it not limited to, acting with the care that a reasonable person in a like position would exercise under similar circumstances and in a manner that the partner believes to be in the best interests of the limited partnership.*
- (4) *A general partner shall discharge the duties to the limited partnership and the other partners under this subchapter or under the partnership agreement and exercise any rights consistently with the obligation of good faith and fair dealing.*
- (5) *A general partner does not violate a duty or obligation under this subchapter or under the partnership agreement merely because the general partner's conduct furthers the general partner's own interest.*

SECTION 129. A NEW SECTION OF SUBCHAPTER 2 OF KRS CHAPTER 362 IS CREATED TO READ AS FOLLOWS:

*A contribution of a partner may consist of tangible or intangible property or other benefit to the limited partnership, including money, services performed, promissory notes, other agreements to contribute cash or property, and contracts for services to be performed.*

SECTION 130. A NEW SECTION OF SUBCHAPTER 2 OF KRS CHAPTER 362 IS CREATED TO READ AS FOLLOWS:

- (1) *A partner's obligation to contribute money, property, or other benefit to, or to perform services for, a limited partnership is not excused by the partner's death, disability, or other inability to perform personally.*
- (2) *If a partner does not make a promised contribution of property or services, then the partner is obligated at the option of the limited partnership to contribute money equal to that portion of the value, as stated in the required information, of the stated contribution which has not been made.*
- (3) *The obligation of a partner to make a contribution or return money or other property paid or distributed in violation of this subchapter may be compromised only by consent of all partners. A creditor of a limited partnership which extends credit or otherwise acts in reliance on an obligation described in subsection (1) of this section, and without notice of any compromise under this subsection, may enforce the original obligation.*

SECTION 131. A NEW SECTION OF SUBCHAPTER 2 OF KRS CHAPTER 362 IS CREATED TO READ AS FOLLOWS:

*A distribution by a limited partnership shall be shared among the partners on the basis of the value, as stated in the required records when the limited partnership decides to make the distribution, of the contributions the limited partnership has received from each partner.*

SECTION 132. A NEW SECTION OF SUBCHAPTER 2 OF KRS CHAPTER 362 IS CREATED TO READ AS FOLLOWS:

*A partner does not have a right to any distribution before the dissolution and winding up of the limited partnership unless the limited partnership decides to make an interim distribution.*

SECTION 133. A NEW SECTION OF SUBCHAPTER 2 OF KRS CHAPTER 362 IS CREATED TO READ AS FOLLOWS:

*A person does not have a right to receive a distribution on account of dissociation.*

SECTION 134. A NEW SECTION OF SUBCHAPTER 2 OF KRS CHAPTER 362 IS CREATED TO READ AS FOLLOWS:

- (1) *A partner, regardless of the nature of the partner's contribution, has no right to demand or receive any distribution from a limited partnership in any form other than cash. A limited partnership may distribute an asset in kind only to the extent that each partner receives a percentage of the asset equal to the partner's share of distributions.*
- (2) *The property of a limited partnership subject to this subchapter shall not be subject to KRS 381.135(1)(a)1.*

SECTION 135. A NEW SECTION OF SUBCHAPTER 2 OF KRS CHAPTER 362 IS CREATED TO READ AS FOLLOWS:

*When a partner becomes entitled to receive a distribution, the partner has the status of, and is entitled to all remedies available to, a creditor of the limited partnership with respect to the distribution. However, the limited partnership's obligation to make a distribution is subject to offset for any amount owed to the limited partnership by the partner or dissociated partner on whose account the distribution is made.*

SECTION 136. A NEW SECTION OF SUBCHAPTER 2 OF KRS CHAPTER 362 IS CREATED TO READ AS FOLLOWS:

- (1) *A limited partnership shall not make a distribution in violation of the partnership agreement.*
- (2) *A limited partnership shall not make a distribution if after the distribution:*
  - (a) *The limited partnership would not be able to pay its debts as they become due in the ordinary course of the limited partnership's activities; or*
  - (b) *The limited partnership's total assets would be less than the sum of its total liabilities plus the amount that would be needed, if the limited partnership were to be dissolved, wound up, and terminated at the time of the distribution, to satisfy the preferential rights upon dissolution, winding up, and termination of partners whose preferential rights are superior to those of persons receiving the distribution.*
- (3) *A limited partnership may base a determination that a distribution is not prohibited under subsection (2) of this section on financial statements prepared on the basis of accounting practices and principles that are reasonable in the circumstances or on a fair valuation or other method that is reasonable in the circumstances.*
- (4) *Except as otherwise provided in subsection (7) of this section, the effect of a distribution under subsection (2) of this section is measured:*
  - (a) *In the case of distribution by purchase, redemption, or other acquisition of a transferable interest in the limited partnership, as of the date money or other property is transferred or debt incurred by the limited partnership; and*
  - (b) *In all other cases, as of the date:*
    1. *The distribution is authorized, if the payment occurs within one hundred twenty (120) days after that date; or*
    2. *The payment is made, if payment occurs more than one hundred twenty (120) days after that date.*
- (5) *A limited partnership's indebtedness to a partner incurred by reason of a distribution made in accordance with this section is at parity with the limited partnership's indebtedness to its general, unsecured creditors.*
- (6) *A limited partnership's indebtedness, including indebtedness issued in connection with or as part of a distribution, is not considered a liability for purposes of determinations under subsection (2) of this section if the terms of the indebtedness provide that payment of principal and interest are made only to the extent that a distribution could then be made to partners under this section.*
- (7) *If indebtedness is issued as a distribution, each payment of principal or interest on the indebtedness is treated as a distribution, the effect of which is measured on the date the payment is made.*

- (8) *For purposes of this section, the term "distribution" shall not include amounts constituting reasonable compensation for present or past services or reasonable payments made in the ordinary course of business pursuant to a bona fide retirement plan or other benefits program.*

SECTION 137. A NEW SECTION OF SUBCHAPTER 2 OF KRS CHAPTER 362 IS CREATED TO READ AS FOLLOWS:

- (1) *A general partner that consents to a distribution made in violation of Section 136 of this Act is personally liable to the limited partnership for the amount of the distribution which exceeds the amount that could have been distributed without the violation if it is established that in consenting to the distribution the general partner failed to comply with Section 128 of this Act.*
- (2) *A partner or transferee that knew a distribution was made in violation of Section 136 of this Act is personally liable to the limited partnership but only to the extent that the distribution received by the partner or transferee exceeded the amount that could have been properly paid under Section 136 of this Act.*
- (3) *A general partner against which an action is brought under subsection (1) of this section may:*
  - (a) *Implead in the action any other person that as a general partner consented to the distribution in violation of subsection (1) of this section and compel contribution from that person; and*
  - (b) *Implead in the action any person that received a distribution in violation of subsection (2) of this section and compel contribution from that person in the amount that person received in violation of subsection (2) of this section.*
- (4) *A proceeding under this section is barred if it is not commenced within two (2) years after the distribution.*

SECTION 138. A NEW SECTION OF SUBCHAPTER 2 OF KRS CHAPTER 362 IS CREATED TO READ AS FOLLOWS:

- (1) *A person does not have a right to dissociate as a limited partner before the termination of the limited partnership.*
- (2) *A person is dissociated from a limited partnership as a limited partner upon the occurrence of any of the following events:*
  - (a) *The limited partnership's having notice of the person's express will to withdraw as a limited partner or on a later date specified by the person;*
  - (b) *An event agreed to in the partnership agreement as causing the person's dissociation as a limited partner;*
  - (c) *The person's expulsion as a limited partner pursuant to the partnership agreement;*
  - (d) *The person's expulsion as a limited partner by the unanimous consent of the other partners if:*
    1. *It is unlawful to carry on the limited partnership's activities with that person as a limited partner;*
    2. *There has been a transfer of all of the person's transferable interest in the limited partnership, other than a transfer for security purposes, or a court order charging the person's interest, which has not been foreclosed;*
    3. *The person is a corporation and, within ninety (90) days after the limited partnership notifies the person that it will be expelled as a limited partner because it has filed a certificate of dissolution or the equivalent, its charter has been revoked, or its right to conduct business has been suspended by the jurisdiction of its incorporation, there is no revocation of the certificate of dissolution or no reinstatement of its charter or its right to conduct business; or*
    4. *The person is a limited liability company or partnership that has been dissolved and whose business is being wound up;*
  - (e) *On application by the limited partnership, the person's expulsion as a limited partner by judicial determination because:*
    1. *The person engaged in wrongful conduct that adversely and materially affected the limited partnership's activities;*

2. *The person willfully or persistently committed a material breach of the partnership agreement or of the obligation of good faith and fair dealing under subsection (2) of Section 119 of this Act; or*
  3. *The person engaged in conduct relating to the limited partnership's activities which makes it not reasonably practicable to carry on the activities with the person as limited partner;*
- (f) *In the case of a person who is an individual, the person's death;*
- (g) *In the case of a person that is a trust or is acting as a limited partner by virtue of being a trustee of a trust, distribution of the trust's entire transferable interest in the limited partnership, but not merely by reason of the substitution of a successor trustee;*
- (h) *In the case of a person that is an estate or is acting as a limited partner by virtue of being a personal representative of an estate, distribution of the estate's entire transferable interest in the limited partnership, but not merely by reason of the substitution of a successor personal representative;*
- (i) *Termination of a limited partner that is not an individual, partnership, limited liability company, corporation, trust, or estate;*
- (j) *The limited partnership's participation in a merger or conversion under Sections 176 to 188 of this Act, if the limited partnership:*
1. *Is not the converted or surviving entity; or*
  2. *Is the converted or surviving entity but, as a result of the conversion or merger, the person ceases to be a limited partner.*

SECTION 139. A NEW SECTION OF SUBCHAPTER 2 OF KRS CHAPTER 362 IS CREATED TO READ AS FOLLOWS:

*Upon a person's dissociation as a limited partner:*

- (1) *Subject to Section 148 of this Act, the person does not have further rights as a limited partner;*
- (2) *The person's obligation of good faith and fair dealing as a limited partner under subsection (2) of Section 119 of this Act continues only as to matters arising and events occurring before the dissociation;*
- (3) *Subject to Section 148 of this Act and Sections 176 to 188 of this Act, any transferable interest owned by the person in the person's capacity as a limited partner immediately before dissociation is owned by the person as a mere transferee; and*
- (4) *The dissociation does not of itself discharge the person from any obligation to the limited partnership or the other partners which the person incurred while a limited partner.*

SECTION 140. A NEW SECTION OF SUBCHAPTER 2 OF KRS CHAPTER 362 IS CREATED TO READ AS FOLLOWS:

*A person is dissociated from a limited partnership as a general partner upon the occurrence of any of the following events:*

- (1) *The limited partnership's having notice of the person's express will to withdraw as a general partner or on a later date specified by the person;*
- (2) *An event agreed to in the partnership agreement as causing the person's dissociation as a general partner;*
- (3) *The person's expulsion as a general partner pursuant to the partnership agreement;*
- (4) *The person's expulsion as a general partner by the unanimous consent of the other partners if:*
  - (a) *It is unlawful to carry on the limited partnership's activities with that person as a general partner;*
  - (b) *There has been a transfer of all or substantially all of the person's transferable interest in the limited partnership, other than a transfer for security purposes, or a court order charging the person's interest, which has not been foreclosed;*
  - (c) *The person is a corporation and, within ninety (90) days after the limited partnership notifies the person that it will be expelled as a general partner because it has filed articles of dissolution or the equivalent, its articles of incorporation have been revoked, or its right to conduct business has been*

*suspended by the jurisdiction of its incorporation, there is no revocation of the articles of dissolution or no reinstatement of its articles of incorporation or its right to conduct business; or*

- (d) *The person is a limited liability company or partnership that has been dissolved and whose business is being wound up;*
- (5) *On application by the limited partnership, the person's expulsion as a general partner by judicial determination because:*
  - (a) *The person engaged in wrongful conduct that adversely and materially affected the limited partnership activities;*
  - (b) *The person willfully or persistently committed a material breach of the partnership agreement or of a duty owed to the partnership or the other partners under Section 128 of this Act; or*
  - (c) *The person engaged in conduct relating to the limited partnership's activities which makes it not reasonably practicable to carry on the activities of the limited partnership with the person as a general partner;*
- (6) *The person's:*
  - (a) *Becoming a debtor in bankruptcy;*
  - (b) *Execution of an assignment for the benefit of creditors;*
  - (c) *Seeking, consenting to, or acquiescing in the appointment of a trustee, receiver, or liquidator of that person or of all or substantially all of that person's property; or*
  - (d) *Failure, within ninety (90) days after the appointment, to have vacated or stayed the appointment of a trustee, receiver, or liquidator of the general partner or of all or substantially all of the person's property obtained without the person's consent or acquiescence, or failing within ninety (90) days after the expiration of a stay to have the appointment vacated;*
- (7) *In the case of a person who is an individual:*
  - (a) *The person's death;*
  - (b) *The appointment of a guardian or general conservator for the person; or*
  - (c) *A judicial determination that the person has otherwise become incapable of performing the person's duties as a general partner under the partnership agreement;*
- (8) *In the case of a person that is a trust or is acting as a general partner by virtue of being a trustee of a trust, distribution of the trust's entire transferable interest in the limited partnership, but not merely by reason of the substitution of a successor trustee;*
- (9) *In the case of a person that is an estate or is acting as a general partner by virtue of being a personal representative of an estate, distribution of the estate's entire transferable interest in the limited partnership, but not merely by reason of the substitution of a successor personal representative;*
- (10) *Termination of a general partner that is not an individual, partnership, limited liability company, corporation, trust, or estate;*
- (11) *The limited partnership's participation in a merger or conversion under Sections 176 to 188 of this Act, if the limited partnership:*
  - (a) *Is not the converted or surviving entity; or*
  - (b) *Is the converted or surviving entity but, as a result of the conversion or merger, the person ceases to be a general partner.*

SECTION 141. A NEW SECTION OF SUBCHAPTER 2 OF KRS CHAPTER 362 IS CREATED TO READ AS FOLLOWS:

- (1) *A person has the power to dissociate as a general partner at any time, rightfully or wrongfully, by express will pursuant to subsection (1) of Section 140 of this Act.*
- (2) *A person's dissociation as a general partner is wrongful only if:*

- (a) *It is in breach of an express provision of the partnership agreement; or*
- (b) *It occurs before the termination of the limited partnership and:*
  - 1. *The person withdraws as a general partner by express will;*
  - 2. *The person is expelled as a general partner by judicial determination under subsection (5) of Section 140 of this Act;*
  - 3. *The person is dissociated as a general partner by becoming a debtor in bankruptcy; or*
  - 4. *In the case of a person that is not an individual, trust other than a business trust, or estate, the person is expelled or otherwise dissociated as a general partner because it willfully dissolved or terminated.*
- (3) *A person that wrongfully dissociates as a general partner is liable to the limited partnership and, subject to Section 171 of this Act, to the other partners for damages caused by the dissociation. The liability is in addition to any other obligation of the general partner to the limited partnership or to the other partners.*

SECTION 142. A NEW SECTION OF SUBCHAPTER 2 OF KRS CHAPTER 362 IS CREATED TO READ AS FOLLOWS:

*Upon a person's dissociation as a general partner:*

- (1) *The person's right to participate as a general partner in the management and conduct of the partnership's activities terminates;*
- (2) *The person's duty of loyalty as a general partner under subsection (2)(c) of Section 128 of this Act terminates;*
- (3) *The person's duty of loyalty as a general partner under subsections (2)(a) and (2)(b) of Section 128 of this Act and duty of care under subsection (3) of Section 128 of this Act continue only with regard to matters arising and events occurring before the person's dissociation as a general partner;*
- (4) *The person may sign and deliver to the Secretary of State for filing a statement of dissociation pertaining to the person and, at the request of the limited partnership, shall sign an amendment to the certificate of limited partnership which states that the person has dissociated;*
- (5) *Subject to Section 148 of this Act and Sections 176 to 188 of this Act, any transferable interest owned by the person immediately before dissociation in the person's capacity as a general partner is owned by the person as a mere transferee; and*
- (6) *The dissociation does not of itself discharge the person from any obligation to the limited partnership or the other partners which the person incurred while a general partner.*

SECTION 143. A NEW SECTION OF SUBCHAPTER 2 OF KRS CHAPTER 362 IS CREATED TO READ AS FOLLOWS:

- (1) *After a person is dissociated as a general partner and before the limited partnership is dissolved, converted under Sections 176 to 188 of this Act or merged out of existence under Sections 176 to 188 of this Act, the limited partnership is bound by an act of the person only if:*
  - (a) *The act would have bound the limited partnership under Section 122 of this Act before the dissociation; and*
  - (b) *At the time the other party enters into the transaction:*
    - 1. *Less than two (2) years has passed since the dissociation; and*
    - 2. *The other party does not have notice of the dissociation and reasonably believes that the person is a general partner.*
- (2) *If a limited partnership is bound under subsection (1) of this section, then the person dissociated as a general partner is liable:*
  - (a) *To the limited partnership for any damage caused to the limited partnership arising from that obligation; and*

- (b) *If a general partner or another person dissociated as a general partner is liable for that obligation, to that general partner or other person for any damage caused to that general partner or other person arising from that liability.*

SECTION 144. A NEW SECTION OF SUBCHAPTER 2 OF KRS CHAPTER 362 IS CREATED TO READ AS FOLLOWS:

- (1) *A person's dissociation as a general partner does not of itself discharge the person's liability as a general partner for a limited partnership's obligation incurred before dissociation. Except as otherwise provided in subsections (2) and (3) of this section, the person is not liable for a limited partnership's obligation incurred after dissociation.*
- (2) *A person whose dissociation as a general partner resulted in a dissolution and winding up of the limited partnership's activities is liable to the same extent as a general partner under Section 124 of this Act on an obligation incurred by the limited partnership under Section 152 of this Act.*
- (3) *A person that has dissociated as a general partner but whose dissociation did not result in a dissolution and winding up of the limited partnership's activities is liable on a transaction entered into by the limited partnership after the dissociation, only if:*
  - (a) *A general partner would be liable on the transaction; and*
  - (b) *At the time the other party enters into the transaction:*
    1. *Less than two (2) years have passed since the dissociation; and*
    2. *The other party does not have notice of the dissociation and reasonably believes that the person is a general partner.*
- (4) *By agreement with the limited partnership's creditor and the limited partnership, a person dissociated as a general partner may be released from liability for a limited partnership's obligation.*
- (5) *A person dissociated as a general partner is released from liability for a limited partnership's obligation if a limited partnership's creditor, with notice of the person's dissociation as a general partner but without the person's consent, agrees to a material alteration in the nature or time of payment of the limited partnership's obligation.*

SECTION 145. A NEW SECTION OF SUBCHAPTER 2 OF KRS CHAPTER 362 IS CREATED TO READ AS FOLLOWS:

*The only transferable interest of a partner is the partner's right to receive distributions. The interest is personal property.*

SECTION 146. A NEW SECTION OF SUBCHAPTER 2 OF KRS CHAPTER 362 IS CREATED TO READ AS FOLLOWS:

- (1) *A transfer, in whole or in part, of a partner's transferable interest in the limited partnership:*
  - (a) *Is permissible;*
  - (b) *Does not by itself cause the partner's dissociation or a dissolution and winding up of the limited partnership's activities; and*
  - (c) *Does not, as against the other partners or the limited partnership, entitle the transferee to participate in the management or conduct of the limited partnership's activities, to require access to information concerning the limited partnership's transactions except as provided in subsection (3) of this section, or to inspect or copy the required information or the limited partnership's other records.*
- (2) *A transferee has a right to receive, in accordance with the transfer:*
  - (a) *Distributions to which the transferor would otherwise be entitled; and*
  - (b) *Upon the dissolution and winding up of the limited partnership's activities the net amount otherwise distributable to the transferor.*
- (3) *In a dissolution and winding up, a transferee is entitled to an account of the limited partnership's transactions only from the date of dissolution.*

- (4) *Upon transfer, the transferor retains the rights of a partner other than the interest in distributions transferred and retains all duties and obligations of a partner.*
- (5) *A limited partnership need not give effect to a transferee's rights under this section until the limited partnership has notice of the transfer.*
- (6) *A transfer of a partner's transferable interest in the limited partnership in violation of a restriction on transfer contained in the partnership agreement is ineffective as to a person having notice of the restriction at the time of transfer.*
- (7) *A transferee that becomes a partner with respect to a transferable interest is liable for the transferor's obligations under Sections 130 and 137 of this Act. However, the transferee is not obligated for liabilities unknown to the transferee at the time the transferee became a partner.*
- (8) *Limitations upon transfer set forth in Sections 145 to 148 of this Act or adopted by the partners in accordance with this subchapter are enforceable notwithstanding KRS 355.9-406 and 355.9-408.*

SECTION 147. A NEW SECTION OF SUBCHAPTER 2 OF KRS CHAPTER 362 IS CREATED TO READ AS FOLLOWS:

- (1) *On application to a court of competent jurisdiction by any judgment creditor of a partner or transferee, the court may charge the transferable interest of the judgment debtor with payment of the unsatisfied amount of the judgment with interest. To the extent so charged, the judgment creditor has only the rights of a transferee. The court may appoint a receiver of the share of the distributions due or to become due to the judgment debtor in respect of the partnership and make all other orders, directions, accounts, and inquiries the judgment debtor might have made or which the circumstances of the case may require to give effect to the charging order.*
- (2) *A charging order constitutes a lien on the judgment debtor's transferable interest. The court may order a foreclosure upon the interest subject to the charging order at any time. The purchaser at the foreclosure sale has the rights of a transferee.*
- (3) *At any time before foreclosure, an interest charged may be redeemed:*
  - (a) *By the judgment debtor;*
  - (b) *With property other than limited partnership property, by one or more of the other partners; or*
  - (c) *With limited partnership property, by the limited partnership with the consent of all partners whose interests are not so charged.*
- (4) *This subchapter does not deprive any partner or transferee of the benefit of any exemption laws applicable to the partner's or transferee's transferable interest.*
- (5) *This section provides the exclusive remedy by which a judgment creditor of a partner or transferee may satisfy a judgment out of the judgment debtor's transferable interest.*

SECTION 148. A NEW SECTION OF SUBCHAPTER 2 OF KRS CHAPTER 362 IS CREATED TO READ AS FOLLOWS:

*If a partner dies, then the deceased partner's executor, administrator, or other legal representative may exercise the rights of a transferee as provided in Section 146 of this Act, and for the purposes of settling the estate, may exercise the rights of a current limited partner under Section 118 of this Act.*

SECTION 149. A NEW SECTION OF SUBCHAPTER 2 OF KRS CHAPTER 362 IS CREATED TO READ AS FOLLOWS:

*Except as otherwise provided in Section 150 of this Act, a limited partnership is dissolved, and its activities shall be wound up, only upon the occurrence of any of the following:*

- (1) *The happening of an event specified in the partnership agreement;*
- (2) *The consent of all general partners and of all limited partners;*
- (3) *After the dissociation of a person as a general partner:*
  - (a) *If the limited partnership has at least one remaining general partner, the consent to dissolve the limited partnership given within ninety (90) days after the dissociation by partners owning a majority of the rights to receive distributions as partners at the time the consent is to be effective; or*



- (b) *If the limited partnership does not have a remaining general partner, the passage of ninety (90) days after the dissociation, unless before the end of that period:*
  - 1. *Consent to continue the activities of the limited partnership and admit at least one (1) general partner is given by limited partners owning a majority of the rights to receive distributions as limited partners at the time the consent is to be effective; and*
  - 2. *At least one (1) person is admitted as a general partner in accordance with that consent;*
- (4) *The passage of ninety (90) days after the dissociation of the limited partnership's last limited partner, unless before the end of that period the limited partnership admits at least one (1) limited partner; or*
- (5) *The administrative dissolution of the limited partnership by the Secretary of State under Section 157 of this Act.*

SECTION 150. A NEW SECTION OF SUBCHAPTER 2 OF KRS CHAPTER 362 IS CREATED TO READ AS FOLLOWS:

*On application by a partner, the Circuit Court of the county in which the limited partnership maintains its registered agent may decree dissolution of a limited partnership if it is not reasonably practicable to carry on the activities of the limited partnership in conformity with the partnership agreement.*

SECTION 151. A NEW SECTION OF SUBCHAPTER 2 OF KRS CHAPTER 362 IS CREATED TO READ AS FOLLOWS:

- (1) *A limited partnership continues after dissolution only for the purpose of winding up its activities.*
- (2) *In winding up its business the limited partnership:*
  - (a) *May amend its certificate of limited partnership to state that the limited partnership is dissolved, preserve the limited partnership business or property as a going concern for a reasonable time, prosecute and defend actions and proceedings, whether civil, criminal, or administrative, transfer the limited partnership's property, settle disputes by mediation or arbitration, file a statement of cancellation as provided in Section 107 of this Act, and perform other necessary acts; and*
  - (b) *Shall discharge the limited partnership's liabilities, settle and close the limited partnership's activities, and marshal and distribute the assets of the partnership.*
- (3) *If a dissolved limited partnership does not have a general partner, a person to wind up the dissolved limited partnership's activities may be appointed by the consent of limited partners owning a majority of the rights to receive distributions as limited partners at the time the consent is to be effective. A person appointed under this subsection:*
  - (a) *Has the powers of a general partner under Section 152 of this Act; and*
  - (b) *Shall promptly amend the certificate of limited partnership to:*
    - 1. *State that the limited partnership does not have a general partner and that the person has been appointed to wind up the limited partnership; and*
    - 2. *State the street and mailing address of the person.*
- (4) *On the application of any partner, the Circuit Court of the county in which the limited partnership maintains its registered agent may order judicial supervision of the winding up, including the appointment of a person to wind up the dissolved limited partnership's activities, if:*
  - (a) *A limited partnership does not have a general partner and within a reasonable time following the dissolution no person has been appointed pursuant to subsection (3) of this section; or*
  - (b) *The applicant establishes other good cause.*

SECTION 152. A NEW SECTION OF SUBCHAPTER 2 OF KRS CHAPTER 362 IS CREATED TO READ AS FOLLOWS:

- (1) *A limited partnership is bound by a general partner's act after dissolution which:*
  - (a) *Is appropriate for winding up the limited partnership's activities; or*

- (b) *Would have bound the limited partnership under Section 122 of this Act before dissolution, if, at the time the other party enters into the transaction, the other party does not have notice of the dissolution.*
- (2) *A person dissociated as a general partner binds a limited partnership through an act occurring after dissolution if:*
  - (a) *At the time the other party enters into the transaction:*
    - 1. *Less than two (2) years has passed since the dissociation; and*
    - 2. *The other party does not have notice of the dissociation and reasonably believes that the person is a general partner; and*
  - (b) *The act:*
    - 1. *Is appropriate for winding up the limited partnership's activities; or*
    - 2. *Would have bound the limited partnership under Section 122 of this Act before dissolution and at the time the other party enters into the transaction the other party does not have notice of the dissolution.*

SECTION 153. A NEW SECTION OF SUBCHAPTER 2 OF KRS CHAPTER 362 IS CREATED TO READ AS FOLLOWS:

- (1) *If a general partner having knowledge of the dissolution causes a limited partnership to incur an obligation under subsection (1) of Section 152 of this Act by an act that is not appropriate for winding up the partnership's activities, then the general partner is liable:*
  - (a) *To the limited partnership for any damage caused to the limited partnership arising from the obligation; and*
  - (b) *If another general partner or a person dissociated as a general partner is liable for the obligation, to that other general partner or person for any damage caused to that other general partner or person arising from that liability.*
- (2) *If a person dissociated as a general partner causes a limited partnership to incur an obligation under subsection (2) of Section 152 of this Act, then the person is liable:*
  - (a) *To the limited partnership for any damage caused to the limited partnership arising from the obligation; and*
  - (b) *If a general partner or another person dissociated as a general partner is liable for that obligation, then to that general partner or other person for any damage caused to that general partner or other person arising from that liability.*

SECTION 154. A NEW SECTION OF SUBCHAPTER 2 OF KRS CHAPTER 362 IS CREATED TO READ AS FOLLOWS:

- (1) *A dissolved limited partnership may dispose of the known claims against it by following the procedure described in subsection (2) of this section.*
- (2) *A dissolved limited partnership may in a record notify its known claimants of the dissolution. The notice shall:*
  - (a) *Specify the information required to be included in a claim;*
  - (b) *Provide a mailing address to which the claim is to be sent;*
  - (c) *State the deadline for receipt of the claim, which shall not be less than one-hundred twenty (120) days after the date the notice in a record is received by the claimant;*
  - (d) *State that the claim will be barred if not received by the deadline; and*
  - (e) *Unless the limited partnership has been throughout its existence a limited liability limited partnership, state that the barring of a claim against the limited partnership will also bar any corresponding claim against any present or dissociated general partner which is based on Section 124 of this Act.*

- (3) *A claim against a dissolved limited partnership is barred if the requirements of subsection (2) of this section are met and:*
- (a) *The claim is not received by the specified deadline; or*
  - (b) *In the case of a claim that is timely received but rejected by the dissolved limited partnership, the claimant does not commence a proceeding to enforce the claim against the limited partnership within ninety (90) days after the receipt of the notice of the rejection.*
- (4) *This section does not apply to a contingent liability or a claim based on an event occurring after the effective date of dissolution.*

SECTION 155. A NEW SECTION OF SUBCHAPTER 2 OF KRS CHAPTER 362 IS CREATED TO READ AS FOLLOWS:

- (1) *A dissolved limited partnership may publish notice of its dissolution and request persons having claims against the limited partnership to present them in accordance with the notice.*
- (2) *The notice shall:*
- (a) *Be published at least once in a newspaper of general circulation in the county in which the dissolved limited partnership's principal office is located or, if it has none in this Commonwealth, then in the county in which the limited partnership's registered office is or was last located;*
  - (b) *Describe the information required to be contained in a claim and provide a mailing address to which the claim is to be sent;*
  - (c) *State that a claim against the limited partnership is barred unless a proceeding to enforce the claim is commenced within five (5) years after publication of the notice; and*
  - (d) *Unless the limited partnership has been throughout its existence a limited liability limited partnership, state that the barring of a claim against the limited partnership will also bar any corresponding claim against any present or dissociated general partner which is based on Section 124 of this Act.*
- (3) *If a dissolved limited partnership publishes a notice in accordance with subsection (2) of this section, the claim of each of the following claimants is barred unless the claimant commences a proceeding to enforce the claim against the dissolved limited partnership within five (5) years after the publication date of the notice:*
- (a) *A claimant that did not receive notice in a record under Section 154 of this Act;*
  - (b) *A claimant whose claim was timely sent to the dissolved limited partnership but not acted on; and*
  - (c) *A claimant whose claim is contingent or based on an event occurring after the effective date of dissolution.*
- (4) *A claim not barred under this section may be enforced:*
- (a) *Against the dissolved limited partnership, to the extent of its undistributed assets;*
  - (b) *If the assets have been distributed in liquidation, against a partner or transferee to the extent of that person's proportionate share of the claim or the limited partnership's assets distributed to the partner or transferee in liquidation, whichever is less, but a person's total liability for all claims under this paragraph does not exceed the total amount of assets distributed to the person as part of the winding up of the dissolved limited partnership; or*
  - (c) *Against any person liable on the claim under Section 124 of this Act.*

SECTION 156. A NEW SECTION OF SUBCHAPTER 2 OF KRS CHAPTER 362 IS CREATED TO READ AS FOLLOWS:

*If a claim against a dissolved limited partnership is barred under Section 154 or 155 of this Act, then any corresponding claim under Section 124 of this Act is also barred.*

SECTION 157. A NEW SECTION OF SUBCHAPTER 2 OF KRS CHAPTER 362 IS CREATED TO READ AS FOLLOWS:

- (1) *The Secretary of State may commence a proceeding to administratively dissolve a domestic limited partnership if:*
  - (a) *The limited partnership does not file its annual report with the Secretary of State within sixty (60) days after it is due;*
  - (b) *The limited partnership is without a registered agent or registered office in this Commonwealth for sixty (60) days or more; or*
  - (c) *The partnership does not notify the Secretary of State within sixty (60) days that its registered agent or registered office has been changed, that its registered agent has resigned, or that its registered office has been discontinued.*
- (2) *If the Secretary of State determines that one (1) or more grounds exist for the administrative dissolution of a limited partnership, then he shall send to the partnership at its registered office by first class mail a written notice of that determination.*
- (3) *If the limited partnership 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 the notice was mailed, then the Secretary of State shall administratively dissolve the limited partnership by signing a certificate of dissolution that recites the ground or grounds for dissolution and its effective date. The Secretary of State shall file the original certificate and serve a copy on the limited partnership by mailing such certificate by first class mail to the limited partnership at its registered office.*
- (4) *A limited partnership administratively dissolved continues its existence but shall not carry on any business except that necessary to wind up and liquidate its business and affairs as provided in Sections 151 to 160 of this Act.*
- (5) *The administrative dissolution of a limited partnership shall not terminate the authority of its registered agent.*

SECTION 158. A NEW SECTION OF SUBCHAPTER 2 OF KRS CHAPTER 362 IS CREATED TO READ AS FOLLOWS:

- (1) *A limited partnership administratively dissolved may apply to the Secretary of State for reinstatement at any time after the effective date of the dissolution by filing an application that:*
  - (a) *Recites the name of the limited partnership and identifies the effective date of that administrative dissolution;*
  - (b) *States that the ground or grounds for dissolution either did not exist or have been eliminated;*
  - (c) *States that the name of the limited partnership satisfies the requirements of Section 87 of this Act; and*
  - (d) *Is accompanied by the reinstatement penalty and the current fee for filing each delinquent annual report.*
- (2) *If the Secretary of State determines that the application contains the information required by subsection (1) of this section and that the information provided therein is correct, then he shall cancel the certificate of administrative dissolution, prepare a certificate reciting the cancellation of the administrative dissolution and the effective date thereof, file the original of the certificate, and send a copy of the certificate to the limited partnership by first class mail at its registered office.*
- (3) *When the revocation of the administrative dissolution is effective, it shall relate back to and take effect as of the effective date of the administrative dissolution, and the limited partnership 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 limited partnership that was administratively dissolved or revoked and has taken the action necessary to wind up and liquidate its business and affairs under Section 151 of this Act and to notify claimants under Sections 154 and 155 of this Act shall be prohibited from reinstatement.*

SECTION 159. A NEW SECTION OF SUBCHAPTER 2 OF KRS CHAPTER 362 IS CREATED TO READ AS FOLLOWS:

- (1) *If the Secretary of State denies a limited partnership's application for reinstatement following administrative dissolution, then he shall serve the limited partnership with written notice that explains the reason or reasons for denial by mailing the notice by first class mail to the limited partnership at its registered office.*
- (2) *The limited partnership may appeal the denial of reinstatement to the Franklin Circuit Court within thirty (30) days after the service of the notice of the denial transmitted to the partnership. The limited partnership may appeal by petitioning the court to set aside the administrative dissolution and attaching to the petition copies of the Secretary of State's certificate of administrative dissolution, the limited partnership's application for reinstatement, and the Secretary of State's notice of denial.*
- (3) *The court may summarily order the Secretary of State to reinstate the limited partnership, or may take any other action the court considers appropriate.*
- (4) *The court's final decision may be appealed as in any other civil proceedings.*

SECTION 160. A NEW SECTION OF SUBCHAPTER 2 OF KRS CHAPTER 362 IS CREATED TO READ AS FOLLOWS:

- (1) *In winding up a limited partnership's activities, the assets of the limited partnership, including the contributions required by this section, shall be applied to satisfy the limited partnership's obligations to creditors, including, to the extent permitted by law, partners that are creditors.*
- (2) *Any surplus remaining after the limited partnership complies with subsection (1) of this section may be distributed in cash or, subject to subsection (1) of Section 134 of this Act, in kind.*
- (3) *If the limited partnership's assets are insufficient to satisfy all of its obligations under subsection (1) of this section, with respect to each unsatisfied obligation incurred when the limited partnership was not a limited liability limited partnership, then the following rules apply:*
  - (a) *Each person that was a general partner when the obligation was incurred and that has not been released from that obligation under Section 144 of this Act shall contribute to the limited partnership for the purpose of enabling the limited partnership to satisfy that obligation. The contribution due from each of those persons is in proportion to the right to receive distributions in the capacity of general partner in effect for each of those persons when the obligation was incurred.*
  - (b) *If a person fails to contribute the full amount required under subsection (3)(a) of this section with respect to an unsatisfied obligation of the limited partnership, then the other persons required to contribute by subsection (3)(a) of this section on account of that obligation shall contribute the additional amount necessary to discharge the obligation. The additional contribution due from each of those other persons is in proportion to the right to receive distributions in the capacity of general partner in effect for each of those other persons when the obligation was incurred.*
  - (c) *If a person fails to make the additional contribution required by subsection (3)(b) of this section, further additional contributions are determined and due in the same manner as provided in that subsection.*
- (4) *A person that makes an additional contribution under subsection (3)(b) or (3)(c) of this section may recover from any person whose failure to contribute under subsection (3)(a) or (3)(b) of this section necessitated the additional contribution. A person shall not recover under this subsection more than the amount additionally contributed. A person's liability under this subsection shall not exceed the amount the person failed to contribute.*
- (5) *The estate of a deceased individual is liable for the person's obligations under this section.*
- (6) *An assignee for the benefit of creditors of a limited partnership or a partner, or a person appointed by a court to represent creditors of a limited partnership or a partner, may enforce a person's obligation to contribute under subsection (3) of this section.*

SECTION 161. A NEW SECTION OF SUBCHAPTER 2 OF KRS CHAPTER 362 IS CREATED TO READ AS FOLLOWS:

- (1) *The laws of the state or other jurisdiction under which a foreign limited partnership is organized govern its organization and internal affairs and the liability of its partners as partners.*

- (2) *A foreign limited partnership shall not be denied a certificate of authority by reason of any difference between the laws of the jurisdiction under which the foreign limited partnership is organized and the laws of this Commonwealth.*
- (3) *A certificate of authority does not authorize a foreign limited partnership to engage in any business or exercise any power that a limited partnership may not engage in or exercise in this Commonwealth.*

SECTION 162. A NEW SECTION OF SUBCHAPTER 2 OF KRS CHAPTER 362 IS CREATED TO READ AS FOLLOWS:

- (1) *A foreign limited partnership may apply for a certificate of authority to transact business in this Commonwealth by delivering an application to the Secretary of State for filing. The application shall state:*
  - (a) *The name of the foreign limited partnership and, if that name does not comply with Section 87 of this Act, a fictitious name adopted pursuant to subsection (1) of Section 165 of this Act;*
  - (b) *The name of the state or other jurisdiction under whose law the foreign limited partnership is organized;*
  - (c) *The street and mailing address of the foreign limited partnership's principal office and, if the laws of the jurisdiction under which the foreign limited partnership is organized require the foreign limited partnership to maintain an office in that jurisdiction, then the street and mailing address of that required office;*
  - (d) *The street address of the foreign limited partnership's initial registered office, and the name of its initial registered agent at that office;*
  - (e) *The name and street and mailing address of each of the foreign limited partnership's general partners; and*
  - (f) *Whether the foreign limited partnership is a foreign limited liability limited partnership.*
- (2) *A foreign limited partnership shall deliver with the completed application a certificate of existence or a record of similar import signed by the Secretary of State or other official having custody of the foreign limited partnership's publicly filed records in the state or other jurisdiction under whose law the foreign limited partnership is organized.*
- (3) *A written statement of the initial registered agent consenting to serve in that capacity shall accompany the application for a certificate of authority.*

SECTION 163. A NEW SECTION OF SUBCHAPTER 2 OF KRS CHAPTER 362 IS CREATED TO READ AS FOLLOWS:

- (1) *Activities of a foreign limited partnership which do not constitute transacting business in this Commonwealth within the meaning of Sections 161 to 168 of this Act include:*
  - (a) *Maintaining, defending, and settling an action or proceeding;*
  - (b) *Holding meetings of its partners or carrying on any other activity concerning its internal affairs;*
  - (c) *Maintaining accounts in financial institutions;*
  - (d) *Maintaining offices or agencies for the transfer, exchange, and registration of the foreign limited partnership's own securities or maintaining trustees or depositories with respect to those securities;*
  - (e) *Selling through independent contractors;*
  - (f) *Soliciting or obtaining orders, whether by mail or electronic means or through employees or agents or otherwise, if the orders require acceptance outside this Commonwealth before they become contracts;*
  - (g) *Creating or acquiring indebtedness, mortgages, or security interests in real or personal property;*
  - (h) *Securing or collecting debts or enforcing mortgages or other security interests in property securing the debts, and holding, protecting, and maintaining property so acquired;*
  - (i) *Conducting an isolated transaction that is completed within thirty (30) days and is not one in the course of similar transactions of a like manner; and*
  - (j) *Transacting business in interstate commerce.*

- (2) *For purposes of Sections 161 to 168 of this Act, the ownership in this Commonwealth of income-producing real property or tangible personal property, other than property excluded under subsection (1) of this section, constitutes transacting business in this Commonwealth.*
- (3) *This section does not apply in determining the contacts or activities that may subject a foreign limited partnership to service of process, taxation, or regulation under any other law of this Commonwealth.*

SECTION 164. A NEW SECTION OF SUBCHAPTER 2 OF KRS CHAPTER 362 IS CREATED TO READ AS FOLLOWS:

*Unless the Secretary of State determines that an application for a certificate of authority fails to comply with the filing requirements of this subchapter, the Secretary of State, upon payment of all filing fees, shall file the application, prepare, sign and file a certificate of authority to transact business in this Commonwealth, and send a copy of the filed certificate, together with a receipt for the fees, to the foreign limited partnership or its representative.*

SECTION 165. A NEW SECTION OF SUBCHAPTER 2 OF KRS CHAPTER 362 IS CREATED TO READ AS FOLLOWS:

- (1) *A foreign limited partnership whose name does not comply with Section 87 of this Act shall not obtain a certificate of authority until it adopts, for the purpose of transacting business in this Commonwealth, a fictitious name that complies with Section 87 of this Act. A foreign limited partnership that adopts a fictitious name under this subsection and then obtains a certificate of authority with that name need not comply with KRS 365.015 for that name. After obtaining a certificate of authority with an alternate name, a foreign limited partnership shall transact business in this Commonwealth under that name unless the foreign limited partnership is authorized under KRS 365.015 to transact business in this Commonwealth under another name.*
- (2) *If a foreign limited partnership authorized to transact business in this Commonwealth changes its name to one that does not comply with Section 87 of this Act, then it shall not thereafter transact business in this Commonwealth until it complies with subsection (1) of this section and obtains an amended certificate of authority.*

SECTION 166. A NEW SECTION OF SUBCHAPTER 2 OF KRS CHAPTER 362 IS CREATED TO READ AS FOLLOWS:

*The Secretary of State may commence a proceeding under Section 167 of this Act to revoke the certificate of authority of a foreign partnership authorized to transact business in this Commonwealth if:*

- (1) *The foreign partnership does not file its annual report to the Secretary of State within sixty (60) days after it is due;*
- (2) *The foreign partnership is without a registered agent or registered office in this Commonwealth for sixty (60) days or more;*
- (3) *The foreign partnership does not inform the Secretary of State that its registered agent or registered office has changed, that its registered agent has resigned, or that its registered office has been discontinued within sixty (60) days of the change, resignation, or discontinuance; or*
- (4) *The Secretary of State receives a duly authenticated certificate from the Secretary of State or other official having custody of partnership records in the state or other jurisdiction under whose law the foreign corporation is incorporated stating that it has been dissolved or disappeared as the result of a merger.*

SECTION 167. A NEW SECTION OF SUBCHAPTER 2 OF KRS CHAPTER 362 IS CREATED TO READ AS FOLLOWS:

- (1) *If the Secretary of State determines that one (1) or more grounds exist for the revocation of a certificate of authority, then he shall serve the foreign limited partnership with written notice of his determination by mailing the notice by first class mail to the foreign limited partnership at its registered office.*
- (2) *If the foreign partnership does not correct each ground for revocation 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 after the mailing of the notice, then the Secretary of State may revoke the foreign partnership's certificate of authority by signing a certificate of revocation that recites the ground or*

*grounds for revocation and its effective date. The Secretary of State shall file the original of the certificate and serve a copy on the foreign limited partnership by mailing the notice by first class mail to the limited partnership at its registered office.*

- (3) *The authority of a foreign limited partnership to transact business in this Commonwealth shall cease on the date shown on the certificate revoking its certificate of authority.*
- (4) *The Secretary of State's revocation of a foreign limited partnership's certificate of authority shall be considered to appoint the Secretary of State the foreign partnership's agent for service of process in any proceeding based on the cause of action which arose during the time the foreign partnership was authorized to transact business in this Commonwealth. Service of process on the Secretary of State under this subsection shall be service on the foreign partnership. Upon receipt of process, the Secretary of State shall mail a copy of the process to the foreign partnership at its principal office shown in its most recent annual report or any subsequent communication received from the partnership stating the current mailing address of its registered office, or, if none are on file, in its certificate of authority.*
- (5) *Revocation of a foreign partnership's certificate of authority shall not terminate the authority of the registered agent of the partnership.*
- (6) *A foreign limited partnership may appeal the Secretary of State's revocation of its certificate of authority to the Franklin Circuit Court within thirty (30) days after service of the certificate of revocation. The foreign limited partnership may appeal by petitioning the court to set aside the revocation and attaching to the petition copies of its certificate of authority and the Secretary of State's certificate of revocation.*
- (7) *The court may summarily order the Secretary of State to reinstate the certificate of authority or may take any other action the court considers appropriate.*
- (8) *The court's final decision may be appealed as in other civil proceedings.*

SECTION 168. A NEW SECTION OF SUBCHAPTER 2 OF KRS CHAPTER 362 IS CREATED TO READ AS FOLLOWS:

*If the statement in the application for registration of a foreign limited partnership was false when made, or any arrangements or other facts described in the application have changed, making the application false in any respect, then the foreign limited partnership shall file with the Secretary of State a certificate in the form prescribed by the Secretary of State, signed by a general partner, correcting the statement. The certificate shall be effective upon filing with the Secretary of State.*

SECTION 169. A NEW SECTION OF SUBCHAPTER 2 OF KRS CHAPTER 362 IS CREATED TO READ AS FOLLOWS:

*A foreign limited partnership may cancel its registration by filing with the Secretary of State a certificate of cancellation in the form prescribed by the Secretary of State and signed by a general partner. A cancellation shall not terminate the authority of the Secretary of State to accept service of process on the foreign limited partnership with respect to causes of action arising out of the transaction of business in this Commonwealth.*

SECTION 170. A NEW SECTION OF SUBCHAPTER 2 OF KRS CHAPTER 362 IS CREATED TO READ AS FOLLOWS:

*The Attorney General may maintain an action to restrain a foreign limited partnership from transacting business in this Commonwealth in violation of this subchapter.*

SECTION 171. A NEW SECTION OF SUBCHAPTER 2 OF KRS CHAPTER 362 IS CREATED TO READ AS FOLLOWS:

- (1) *Subject to subsection (2) of this section, a partner may maintain a direct action against the partnership or another partner for legal or equitable relief, with or without an accounting as to partnership's activities, to enforce the rights and otherwise protect the interests of the partner, including rights and interests under the partnership agreement or this subchapter or arising independently of the partnership relationship.*
- (2) *A partner bringing a direct action under this section is required to plead and prove an actual or threatened injury that is not solely the result of an injury suffered or threatened to be suffered by the limited partnership.*



- (3) *The accrual of, and any time limitation on, a right of action for a remedy under this section is governed by other law. A right to an accounting upon a dissolution and winding up does not revive a claim barred by law.*

SECTION 172. A NEW SECTION OF SUBCHAPTER 2 OF KRS CHAPTER 362 IS CREATED TO READ AS FOLLOWS:

*A partner may bring a derivative action to enforce a right of a limited partnership if the partner first makes a demand on the general partners, requesting that they cause the limited partnership to bring an action to enforce the right, and the general partners do not bring the action within a reasonable time.*

SECTION 173. A NEW SECTION OF SUBCHAPTER 2 OF KRS CHAPTER 362 IS CREATED TO READ AS FOLLOWS:

*A derivative action may be maintained only by a person that is a partner at the time the action is commenced and:*

- (1) *That was a partner when the conduct giving rise to action occurred; or*
- (2) *Whose status as a partner devolved upon the person by operation of law or pursuant to the terms of the partnership agreement from a person that was a partner at the time of that conduct.*

SECTION 174. A NEW SECTION OF SUBCHAPTER 2 OF KRS CHAPTER 362 IS CREATED TO READ AS FOLLOWS:

*In a derivative action, the complaint shall state with particularity the date and content of the plaintiff's demand and the general partners' response to the demand.*

SECTION 175. A NEW SECTION OF SUBCHAPTER 2 OF KRS CHAPTER 362 IS CREATED TO READ AS FOLLOWS:

- (1) *Except as otherwise provided in subsection (2) of this section:*
  - (a) *Any proceeds or other benefits of a derivative action, whether by judgment, compromise, or settlement, belong to the limited partnership and not to the derivative plaintiff;*
  - (b) *If the derivative plaintiff receives any of those proceeds, then the derivative plaintiff shall immediately remit them to the limited partnership.*
- (2) *If a derivative action is successful in whole or in part, then the court may award the plaintiff reasonable expenses, including reasonable attorney's fees, from the recovery of the limited partnership.*

SECTION 176. A NEW SECTION OF SUBCHAPTER 2 OF KRS CHAPTER 362 IS CREATED TO READ AS FOLLOWS:

*As used in Sections 176 to 188 of this Act, unless the context otherwise requires:*

- (1) *"Constituent limited partnership" means a constituent organization that is a limited partnership;*
- (2) *"Constituent organization" means an organization that is party to a merger;*
- (3) *"Converted limited partnership" means the limited partnership into which a converting organization converts pursuant to Sections 177, 178, 179, and 180 of this Act;*
- (4) *"Converting limited partnership" means a converting organization that is a limited partnership;*
- (5) *"Converting organization" means an organization that converts into another organization pursuant to Section 177 of this Act;*
- (6) *"General partner" means a general partner of a limited partnership;*
- (7) *"Governing statute" of an organization means the statute that governs the organization's internal affairs;*
- (8) *"Organization" means a general partnership, including a limited liability partnership; limited partnership, including a limited liability limited partnership; limited liability company; business trust; corporation; or any other entity having a governing statute. The term includes domestic and foreign entities regardless of whether organized for profit;*
- (9) *"Organizational documents" means:*

- (a) *For a domestic or foreign general partnership, its partnership agreement;*
- (b) *For a limited partnership or foreign limited partnership, its certificate of limited partnership and partnership agreement; and*
- (c) *For a domestic or foreign limited liability company, its articles of organization and operating agreement, or comparable records as provided in its governing statute;*
- (10) *"Person dissociated as a general partner" means a person dissociated as a general partner of a limited partnership;*
- (11) *"Personal liability" means personal liability for a debt, liability, or other obligation of an organization which is imposed on a person that co-owns, has an interest in, or is a member of the organization:*
  - (a) *By the organization's governing statute solely by reason of the person co-owning, having an interest in, or being a member of the organization; or*
  - (b) *By the organization's organizational documents under a provision of the organization's governing statute authorizing those documents to make one (1) or more specified persons liable for all or specified debts, liabilities, and obligations of the organization solely by reason of the person or persons co-owning, having an interest in, or being a member of the organization; and*
- (12) *"Surviving organization" means an organization into which one or more other organizations are merged. A surviving organization may preexist the merger or be created by the merger.*

SECTION 177. A NEW SECTION OF SUBCHAPTER 2 OF KRS CHAPTER 362 IS CREATED TO READ AS FOLLOWS:

- (1) *Subject to Section 185 of this Act, a partnership may be converted to a limited partnership as provided in Section 62 of this Act.*
- (2) *Subject to Section 185 of this Act, a limited partnership may be converted to a partnership as provided in Section 63 of this Act.*
- (3) *Subject to Section 185 of this Act, a limited partnership may be converted to a limited liability company as provided in KRS 275.370.*
- (4) *A limited liability company may be converted to a limited partnership pursuant to this section and Sections 178, 179, and 180 of this Act and a plan of conversion, if:*
  - (a) *The limited liability companies' governing statute authorizes the conversion;*
  - (b) *The conversion is not prohibited by the law of the jurisdiction that enacted that governing statute; and*
  - (c) *The limited liability company complies with its governing statute in effecting the conversion.*
- (5) *A plan of conversion of a limited liability company into a limited partnership shall be in a record and shall include:*
  - (a) *The name of the limited liability company before conversion;*
  - (b) *The name of the converted limited partnership;*
  - (c) *The terms and conditions of the conversion, including the manner and basis for converting interests in the converting organization into any combination of money, interests in the converted limited partnership, and other consideration; and*
  - (d) *The organizational documents of the converted limited partnership.*

SECTION 178. A NEW SECTION OF SUBCHAPTER 2 OF KRS CHAPTER 362 IS CREATED TO READ AS FOLLOWS:

- (1) *Subject to Section 185 of this Act, a plan of conversion shall be approved by all the partners of a converting limited partnership.*
- (2) *Subject to Section 185 of this Act and any contractual rights, after a conversion is approved, and at any time before a filing is made under Section 179 of this Act, a converting limited partnership may amend the plan or abandon the planned conversion:*

- (a) *As provided in the plan; and*
- (b) *Except as prohibited by the plan, by the same consent as was required to approve the plan.*
- (3) *Unless otherwise provided in the partnership agreement, a partner has no right to dissent from a conversion.*

SECTION 179. A NEW SECTION OF SUBCHAPTER 2 OF KRS CHAPTER 362 IS CREATED TO READ AS FOLLOWS:

- (1) *After a plan of conversion is approved, a converting limited liability company shall deliver to the Secretary of State for filing a certificate of limited partnership, which shall include:*
  - (a) *A statement that the limited liability company has been converted into a limited partnership;*
  - (b) *The name of that limited liability company and its jurisdiction;*
  - (c) *The effective date of the conversion;*
  - (d) *A statement that the conversion was approved as required by this subchapter;*
  - (e) *A statement that the conversion was approved as required by the governing statute of the converted limited liability company; and*
  - (f) *If the converted limited liability company is a foreign limited liability company not authorized to transact business in this Commonwealth, the street and mailing address of an office which the Secretary of State may use for the purposes of subsection (3) of Section 180 of this Act.*
- (2) *A conversion of a limited liability company into a limited partnership becomes effective when the certificate of limited partnership takes effect.*

SECTION 180. A NEW SECTION OF SUBCHAPTER 2 OF KRS CHAPTER 362 IS CREATED TO READ AS FOLLOWS:

- (1) *An organization that has been converted pursuant to Sections 176 to 188 of this Act is for all purposes the same entity that existed before the conversion.*
- (2) *When a conversion takes effect:*
  - (a) *All property and contract rights owned by, and all rights, privileges, and immunities of, the converting partnership or limited partnership shall remain vested in the converted partnership or limited partnership without assignment, reversion, or impairment;*
  - (b) *All obligations of the converting partnership or limited partnership shall continue as obligations of the converted partnership or limited partnership;*
  - (c) *An action or proceeding pending against the converting partnership or limited partnership may be continued as if the conversion had not occurred, and the name of the converted partnership or limited partnership may be substituted in any pending action or proceeding for the name of the converting partnership or limited partnership; and*
  - (d) *Any written partnership agreement of the converted partnership or limited partnership shall be binding upon each person who becomes a partner in the converted partnership or limited partnership.*
- (3) *A converted organization that is a foreign entity consents to the jurisdiction of the courts of this Commonwealth to enforce any obligation owed by the converting limited partnership, if before the conversion the converting limited partnership was subject to suit in this Commonwealth on that obligation. A converted organization that is a foreign entity and not authorized to transact business in this Commonwealth appoints the Secretary of State as its agent for service of process for purposes of enforcing an obligation under this subsection. Service on the Secretary of State under this subsection is made in the same manner and with the same consequences as in subsection (3) or (4) of Section 96 of this Act.*
- (4) *A person who becomes a general partner in a limited partnership that is not a limited liability limited partnership as a result of a conversion shall be personally liable as a general partner for only those obligations incurred by the limited partnership after the conversion takes effect.*

SECTION 181. A NEW SECTION OF SUBCHAPTER 2 OF KRS CHAPTER 362 IS CREATED TO READ AS FOLLOWS:

- (1) *One (1) or more domestic limited partnerships may merge pursuant to a written plan of merger described in subsection (2) of this section with one (1) or more domestic or foreign partnerships, limited partnerships, limited liability companies, or corporations if:*
  - (a) *The merger is not prohibited by the partnership agreement of any domestic limited partnership that is a party to the merger, and each domestic limited partnership that is a party to the merger approves the plan of merger in accordance with this subchapter and complies with the applicable terms of its partnership agreement in effecting the merger;*
  - (b) *Each domestic partnership, as a party to the merger, complies with the applicable merger provisions of Subchapter 1 of this chapter;*
  - (c) *Each domestic limited liability company, as a party to the merger, complies with the applicable merger provisions of KRS Chapter 275;*
  - (d) *Each domestic corporation, as a party to the merger, complies with the applicable merger provisions of KRS Chapter 271B; and*
  - (e) *The merger is permitted by the laws of the jurisdiction under which each foreign partnership, limited partnership, foreign limited liability company, or foreign corporation party to the merger is formed, organized, or incorporated, and each foreign partnership, limited partnership, limited liability company, or corporation complies with those laws in effecting the merger.*
- (2) *The written plan of merger shall set forth:*
  - (a) *The name of each constituent business entity that is a party to the merger and the name of the surviving business entity into which each constituent business entity proposes to merge;*
  - (b) *The terms and conditions of the proposed merger, including but not limited to, a statement which sets forth whether limited liability is retained by the surviving business entity;*
  - (c) *The manner and basis of converting the partnership interests in each limited partnership and the interests in each business entity that is a party to the merger into interests, shares, or other securities or obligations, as the case may be, of the surviving entity, or of any other business entity, or, in whole or in part, into cash or other property;*
  - (d) *The amendments to the articles of organization of a limited liability company, or articles of incorporation of a corporation or certificate of limited partnership, as the case may be, of the surviving business entity as are desired to be effected by the merger, or that no changes are desired; and*
  - (e) *Other provisions relating to the proposed merger that are deemed necessary or desirable.*

SECTION 182. A NEW SECTION OF SUBCHAPTER 2 OF KRS CHAPTER 362 IS CREATED TO READ AS FOLLOWS:

- (1) *Each domestic limited partnership that is to be a party to a proposed merger shall approve the proposed merger, unless the partnership agreement of that limited partnership provides otherwise, by the unanimous vote of the partners of the partnership.*
- (2) *A plan of merger may provide for the manner, if any, in which the plan may be amended at any time before the filing of the articles of merger with the Secretary of State.*
- (3) *Unless the domestic limited partnership's partnership agreement or the plan of merger, once authorized, provides otherwise, the merger may be abandoned at any time before the filing of the articles of merger with the Secretary of State by the affirmative vote of all partners of the domestic limited partnership, subject to any contractual rights, in accordance with the procedure set forth in the plan of merger, if any.*
- (4) *Unless otherwise provided in the partnership agreement, a partner has no right to dissent from a merger.*

SECTION 183. A NEW SECTION OF SUBCHAPTER 2 OF KRS CHAPTER 362 IS CREATED TO READ AS FOLLOWS:

- (1) *After a plan of merger is approved by each domestic or foreign partnership, limited partnership, limited liability company, or corporation that is a party to the merger, the surviving domestic or foreign*

*partnership, limited partnership, limited liability company, or corporation shall deliver to the Secretary of State for filing articles of merger duly executed by each party to the merger setting forth:*

- (a) *The name of jurisdiction of formation or organization of each constituent business entity which is to merge;*
  - (b) *The plan of merger;*
  - (c) *The name of the surviving business entity;*
  - (d) *A statement that the plan of merger was duly authorized and approved by each constituent business entity in accordance with the laws applicable to such business entity; and*
  - (e) *If the surviving entity is not a business entity organized under the laws of this Commonwealth, a statement that the surviving business entity:*
    - 1. *Agrees that it may be served with process in this Commonwealth in any proceeding for enforcement of any obligation of any constituent business entity party to the merger that was organized under the laws of this Commonwealth, as well as for enforcement of any obligation of the surviving business entity arising from the merger; and*
    - 2. *Appoints the Secretary of State as its agent for service of process in any such proceedings. The surviving entity shall specify the address to which a copy of process shall be mailed to it by the Secretary of State.*
- (2) *The merger shall take effect on the later of the date of the filing of the articles of merger or the date set forth in the articles of merger, in which case it shall not be later than ninety (90) days after the date on which the articles of merger were filed.*
  - (3) *Upon the merger taking effect, if the surviving entity in the merger is a foreign partnership, limited partnership, or limited liability company, the entity shall be deemed:*
    - (a) *To appoint the Secretary of State as its agent for service of process in a proceeding to enforce any obligation or rights of dissenting shareholders of each domestic corporation party to the merger; and*
    - (b) *To agree that it will promptly pay to the dissenting shareholders of each domestic corporation party to the merger the amount, if any, to which they are entitled under Subtitle 13 of KRS Chapter 271B.*
  - (4) *The articles of merger filed by the surviving entity in accordance with this section shall also be deemed to have been filed for any domestic limited liability company party to the merger in accordance with the applicable provisions of KRS Chapter 275 and for any domestic corporation party to the merger in accordance with KRS Chapter 271B.*
  - (5) *The filing of articles of merger shall act to cancel the certificate of limited partnership for a domestic limited partnership that is not the surviving entity of the merger and that partnership's certificate of limited partnership shall be canceled upon the effective date of the articles of merger.*

SECTION 184. A NEW SECTION OF SUBCHAPTER 2 OF KRS CHAPTER 362 IS CREATED TO READ AS FOLLOWS:

*When a merger takes effect:*

- (1) *The separate existence of every domestic limited partnership that is a party to the merger except the surviving domestic limited partnership, if any, shall cease;*
- (2) *The title to all real estate and other property owned by each domestic limited partnership that is a party to the merger shall be vested in the surviving entity without reversion or impairment;*
- (3) *The surviving entity shall be responsible for all liabilities of each domestic limited partnership that is a party to the merger;*
- (4) *A proceeding pending by or against any domestic limited partnership party to the merger may be continued as if the merger had not occurred, or the surviving entity may be substituted in the proceeding for the domestic limited partnership whose existence ceased;*

- (5) *If a domestic limited partnership is the surviving entity of the merger, then the certificate of limited partnership and partnership agreement of that limited partnership shall be amended to the extent provided in the plan of merger; and*
- (6) *The partnership interests of every domestic limited partnership that is a party to the merger that are to be converted into partnership interests, membership interests, shares, or other securities or obligations of the surviving limited partnership, limited liability company, or corporation or into cash or other property, in whole or in part, shall be so converted and the former holders of such partnership interests shall be entitled only to the rights provided in the plan of merger.*

SECTION 185. A NEW SECTION OF SUBCHAPTER 2 OF KRS CHAPTER 362 IS CREATED TO READ AS FOLLOWS:

- (1) *If a partner of a converting or constituent limited partnership will have personal liability with respect to a converted or surviving organization, then approval and amendment of a plan of conversion or merger are ineffective without the consent of that partner, unless:*
  - (a) *The limited partnership's partnership agreement provides for the approval of the conversion or merger with the consent of less than all the partners; and*
  - (b) *That partner has consented to that provision of the partnership agreement.*
- (2) *An amendment to a certificate of limited partnership which deletes a statement that the limited partnership is a limited liability limited partnership is ineffective without the consent of each general partner unless:*
  - (a) *The limited partnership's partnership agreement provides for that amendment with the consent of less than all the general partners; and*
  - (b) *Each general partner that does not consent to the amendment has consented to that provision of the partnership agreement.*
- (3) *A partner does not give the consent required by subsection (1) or (2) of this section merely by consenting to a provision of the partnership agreement which permits the partnership agreement to be amended with the consent of less than all the partners.*

SECTION 186. A NEW SECTION OF SUBCHAPTER 2 OF KRS CHAPTER 362 IS CREATED TO READ AS FOLLOWS:

- (1) *A conversion or merger under Sections 176 to 188 of this Act does not discharge any liability under Sections 124 and 144 of this Act of a person that was a general partner in or dissociated as a general partner from a converting or constituent limited partnership, but:*
  - (a) *The provisions of this subchapter pertaining to the collection or discharge of that liability continue to apply to that liability;*
  - (b) *For the purposes of applying those provisions, the converted or surviving organization is deemed to be the converting or constituent limited partnership; and*
  - (c) *If a person is required to pay any amount under this subsection, then:*
    - 1. *The person has a right of contribution from each other person that was liable as a general partner under Section 124 of this Act when the obligation was incurred and has not been released from that obligation under Section 144 of this Act; and*
    - 2. *The contribution due from each of those persons is in proportion to the right to receive distributions in the capacity of general partner in effect for each of those persons when the obligation was incurred.*
- (2) *In addition to any other liability provided by law:*
  - (a) *A person who immediately before a conversion or merger became effective was a general partner in a converting or constituent limited partnership that was not a limited liability limited partnership is personally liable for each obligation of the converted or surviving organization arising from a transaction with a third party after the conversion or merger becomes effective, if, at the time the third party enters into the transaction, the third party:*
    - 1. *Does not have notice of the conversion or merger; and*

2. *Reasonably believes that:*
  - a. *The converted or surviving business is the converting or constituent limited partnership;*
  - b. *The converting or constituent limited partnership is not a limited liability limited partnership; and*
  - c. *The person is a general partner in the converting or constituent limited partnership; and*
- (b) *A person who was dissociated as a general partner from a converting or constituent limited partnership before the conversion or merger became effective is personally liable for each obligation of the converted or surviving organization arising from a transaction with a third party after the conversion or merger becomes effective, if:*
  1. *Immediately before the conversion or merger became effective the converting or surviving limited partnership was a not a limited liability limited partnership; and*
  2. *At the time the third party enters into the transaction less than two years have passed since the person dissociated as a general partner and the third party:*
    - a. *Does not have notice of the dissociation;*
    - b. *Does not have notice of the conversion or merger; and*
    - c. *Reasonably believes that the converted or surviving organization is the converting or constituent limited partnership, the converting or constituent limited partnership is not a limited liability limited partnership, and the person is a general partner in the converting or constituent limited partnership.*

SECTION 187. A NEW SECTION OF SUBCHAPTER 2 OF KRS CHAPTER 362 IS CREATED TO READ AS FOLLOWS:

- (1) *An act of a person who immediately before a conversion or merger became effective was a general partner in a converting or constituent limited partnership binds the converted or surviving organization after the conversion or merger becomes effective, if:*
  - (a) *Before the conversion or merger became effective, the act would have bound the converting or constituent limited partnership under Section 122 of this Act; and*
  - (b) *At the time the third party enters into the transaction, the third party:*
    1. *Does not have notice of the conversion or merger; and*
    2. *Reasonably believes that the converted or surviving business is the converting or constituent limited partnership and that the person is a general partner in the converting or constituent limited partnership.*
- (2) *An act of a person who before a conversion or merger became effective was dissociated as a general partner from a converting or constituent limited partnership binds the converted or surviving organization after the conversion or merger becomes effective, if:*
  - (a) *Before the conversion or merger became effective, the act would have bound the converting or constituent limited partnership under Section 122 of this Act if the person had been a general partner; and*
  - (b) *At the time the third party enters into the transaction, less than two (2) years have passed since the person dissociated as a general partner and the third party:*
    1. *Does not have notice of the dissociation;*
    2. *Does not have notice of the conversion or merger; and*
    3. *Reasonably believes that the converted or surviving organization is the converting or constituent limited partnership and that the person is a general partner in the converting or constituent limited partnership.*

- (3) *If a person having knowledge of the conversion or merger causes a converted or surviving organization to incur an obligation under subsection (1) or (2) of this section, then the person is liable:*
- (a) *To the converted or surviving organization for any damage caused to the organization arising from the obligation; and*
  - (b) *If another person is liable for the obligation, to that other person for any damage caused to that other person arising from that liability.*

SECTION 188. A NEW SECTION OF SUBCHAPTER 2 OF KRS CHAPTER 362 IS CREATED TO READ AS FOLLOWS:

*Sections 176 to 188 of this Act do not preclude an entity from being converted or merged under other law.*

SECTION 189. A NEW SECTION OF SUBCHAPTER 2 OF KRS CHAPTER 362 IS CREATED TO READ AS FOLLOWS:

*In applying and construing this uniform act, consideration shall be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.*

SECTION 190. A NEW SECTION OF SUBCHAPTER 2 OF KRS CHAPTER 362 IS CREATED TO READ AS FOLLOWS:

*If any provision of this subchapter or its application to any person or circumstance is held invalid, then the invalidity shall not affect other provisions or applications of this subchapter which can be given effect without the invalid provision or application, and to this end the provisions of this subchapter are severable.*

SECTION 191. A NEW SECTION OF SUBCHAPTER 2 OF KRS CHAPTER 362 IS CREATED TO READ AS FOLLOWS:

*The provisions of this subchapter governing the legal effect, validity, or enforceability of electronic records or signatures, and of contracts formed or performed with the use of such records or signatures conform to the requirements of Section 102 of the Electronic Signatures in Global and National Commerce Act, Pub. L. No. 106-229, and supersede, modify, and limit the Electronic Signatures in Global and National Commerce Act.*

SECTION 192. A NEW SECTION OF SUBCHAPTER 2 OF KRS CHAPTER 362 IS CREATED TO READ AS FOLLOWS:

- (1) *A limited partnership formed under any statute of this Commonwealth prior to July 15, 1988, until or unless it becomes a limited partnership under this subchapter, shall continue to be governed by the provisions of the statute under which it was formed.*
- (2) *A limited partnership formed under any statute of this Commonwealth prior to July 15, 1988, may elect to become subject to this subchapter upon the filing of an amended and restated certificate of limited partnership which complies with the provisions of Section 105 of this Act.*
- (3) *Upon the occurrence of any event which would require the filing of a certificate of amendment by a limited partnership under the Kentucky Revised Uniform Limited Partnership Act, KRS 362.401 to 362.525, as it exists on the effective date of this Act, or under the statute under which the limited partnership was formed, the limited partnership shall file an amended and restated certificate of limited partnership which complies with the provisions of Section 105 of this Act.*
- (4) *A limited partnership formed under any statute of this Commonwealth prior to July 15, 1988, shall not be required to change its name to include the word "Limited" or the abbreviation "Ltd." until such time as it becomes subject to this subchapter.*
- (5) *The enactment of this subchapter shall not impair, or otherwise affect, the organization or the continued existence of a limited partnership existing on July 15, 1988, nor does any repeal of any statutory provision by 1988 Ky. Acts ch. 284, sec. 65, impair any contract or affect any right accrued before July 15, 1988.*

SECTION 193. A NEW SECTION OF SUBCHAPTER 2 OF KRS CHAPTER 363 IS CREATED TO READ AS FOLLOWS:

- (1) *This subchapter governs only:*
  - (a) *A limited partnership formed on or after the effective date of Sections 81 to 195 of this Act; and*



- (b) *Except as otherwise provided in subsection (2)(c) and (d) of this section, a limited partnership formed before the effective date of Sections 81 to 195 of this Act which elects, in the manner provided in its partnership agreement or by law for amending the partnership agreement, to be subject to this subchapter. The filing of an amended or an amended and restated certificate of limited partnership electing limited liability limited partnership status shall constitute an election to be governed by Sections 81 to 195 of this Act.*
- (2) *With respect to a limited partnership formed before the effective date of Sections 81 to 195 of this Act that elects to be governed by Sections 81 to 195 of this Act, the following rules apply except as the partners otherwise elect in the manner provided in the partnership agreement or by law for amending the partnership agreement:*
  - (a) *Subsection (3) of Section 83 of this Act does not apply and the limited partnership has whatever duration it had under the law applicable immediately before the effective date of Sections 81 to 195 of this Act;*
  - (b) *Sections 138 and 139 of this Act do not apply and a limited partner has the same right and power to dissociate from the limited partnership, with the same consequences, as existed immediately before the effective date of Sections 81 to 195 of this Act;*
  - (c) *Subsection (4) of Section 140 of this Act does not apply;*
  - (d) *Subsection (4) of Section 140 of this Act does not apply and a court has the same power to expel a general partner as the court had before the effective date of Sections 81 to 195 of this Act; and*
  - (e) *Subsection (3) of Section 149 of this Act does not apply and the connection between a general partner's dissociation and the dissolution of the limited partnership is the same as existed before the effective date of Sections 81 to 195 of this Act.*
- (3) *With respect to a limited partnership that elects, pursuant to subsection (1)(b) of this section, to be subject to this subchapter, after the election takes effect the provisions of this subchapter relating to the liability of the limited partnership's general partners to third parties apply:*
  - (a) *Before January 1, 2009, to:*
    - 1. *A third party that had not done business with the limited partnership in the year before the election took effect; and*
    - 2. *A third party that had done business with the limited partnership in the year before the election took effect only if the third party knows or has received a notification of the election; and*
  - (b) *On or after January 1, 2009, to all third parties.*

SECTION 194. A NEW SECTION OF SUBCHAPTER 2 OF KRS CHAPTER 362 IS CREATED TO READ AS FOLLOWS:

*This subchapter does not affect an action or proceeding commenced or right accrued before this subchapter takes effect.*

SECTION 195. A NEW SECTION OF SUBCHAPTER 2 OF KRS CHAPTER 362 IS CREATED TO READ AS FOLLOWS:

*This subchapter may be cited as the Kentucky Uniform Limited Partnership Act (2006).*

SECTION 196. A NEW SECTION OF KRS CHAPTER 275 IS CREATED TO READ AS FOLLOWS:

*A limited liability company may be converted to a limited partnership as provided in Section 177 of this Act.*

Section 197. KRS 67.750 is amended to read as follows:

As used in KRS 67.750 to 67.790, unless the context requires otherwise:

- (1) "Business entity" means each separate corporation, limited liability company, business development corporation, partnership, limited partnership, ~~registered limited liability partnership,~~ sole proprietorship, association, joint stock company, receivership, trust, professional service organization, or other legal entity through which business is conducted;

- (2) "Compensation" means wages, salaries, commissions, or any other form of remuneration paid or payable by an employer for services performed by an employee, which are required to be reported for federal income tax purposes and adjusted as follows:
  - (a) Include any amounts contributed by an employee to any retirement, profit sharing, or deferred compensation plan, which are deferred for federal income tax purposes under a salary reduction agreement or similar arrangement, including but not limited to salary reduction arrangements under Section 401(a), 401(k), 402(e), 403(a), 403(b), 408, 414(h), or 457 of the Internal Revenue Code; and
  - (b) Include any amounts contributed by an employee to any welfare benefit, fringe benefit, or other benefit plan made by salary reduction or other payment method which permits employees to elect to reduce federal taxable compensation under the Internal Revenue Code, including but not limited to Sections 125 and 132 of the Internal Revenue Code;
- (3) "Fiscal year" means fiscal year as defined in Section 7701(a)(24) of the Internal Revenue Code;
- (4) "Employee" means any person who renders services to another person or business entity for compensation, including an officer of a corporation and any officer, employee, or elected official of the United States, a state, or any political subdivision of a state, or any agency or instrumentality of any one (1) or more of the above. A person classified as an independent contractor under the Internal Revenue Code shall not be considered an employee;
- (5) "Employer" means employer as defined in Section 3401(d) of the Internal Revenue Code;
- (6) "Gross receipts" means all revenues or proceeds derived from the sale, lease, or rental of goods, services, or property by a business entity reduced by the following:
  - (a) Sales and excise taxes paid; and
  - (b) Returns and allowances;
- (7) "Internal Revenue Code" means the Internal Revenue Code in effect on December 31, 2004, exclusive of any amendments made subsequent to that date, other than amendments that extend provisions in effect on December 31, 2004, that would otherwise terminate;
- (8) "Net profit" means gross income as defined in Section 61 of the Internal Revenue Code minus all the deductions from gross income allowed by Chapter 1 of the Internal Revenue Code, and adjusted as follows:
  - (a) Include any amount claimed as a deduction for state tax or local tax which is computed, in whole or in part, by reference to gross or net income and which is paid or accrued to any state of the United States, local taxing authority in a state, the District of Columbia, the Commonwealth of Puerto Rico, any territory or possession of the United States, or any foreign country or political subdivision thereof;
  - (b) Include any amount claimed as a deduction that directly or indirectly is allocable to income which is either exempt from taxation or otherwise not taxed;
  - (c) Include any amount claimed as a net operating loss carryback or carryforward allowed under Section 172 of the Internal Revenue Code;
  - (d) Include any amount of income and expenses passed through separately as required by the Internal Revenue Code to an owner of a business entity that is a pass-through entity for federal tax purposes; and
  - (e) Exclude any amount of income that is exempt from state taxation by the Kentucky Constitution, or the Constitution and statutory laws of the United States;
- (9) "Sales revenue" means receipts from the sale, lease, or rental of goods, services, or property;
- (10) "Tax district" means a city of the first to fifth class, county, urban-county, charter county, consolidated local government, school district, special taxing district, or any other statutorily created entity with the authority to levy net profits, gross receipts, or occupational license taxes;
- (11) "Taxable gross receipts" in case of a business entity having payroll or sales revenues both within and without a tax district means gross receipts as defined in subsection (6) of this section, as apportioned under KRS 67.753;
- (12) "Taxable gross receipts" in case of a business entity having payroll or sales revenue only in one (1) tax district means gross receipts as defined in subsection (6) of this section;

- (13) "Taxable net profit" in case of a business entity having payroll or sales revenue only in one (1) tax district means net profit as defined in subsection (8) of this section;
- (14) "Taxable net profit" in case of a business entity having payroll or sales revenue both within and without a tax district means net profit as defined in subsection (8) of this section, as apportioned under KRS 67.753; and
- (15) "Taxable year" means the calendar year or fiscal year ending during the calendar year, upon the basis of which net income or gross receipts is computed.

Section 198. KRS 136.638 is amended to read as follows:

- (1) Notwithstanding any other provision of law 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 136.600 to 136.660 shall be personally and individually liable, both jointly and severally, for the taxes imposed under KRS 136.604 or 136.616. Neither the corporate dissolution or withdrawal of the corporation from the state nor the cessation of holding any corporate office shall discharge the foregoing liability of any person. The personal and individual liability shall apply to each and every person holding the corporate office at the time the taxes become or became due. No person shall be personally and individually liable under this subsection if that person did not have authority to collect, account for, or pay over the tax at the time that the tax imposed by KRS 136.604 or 136.616 become or became due.
- (2) Notwithstanding KRS 275.150, *subsection (3) of Section 33 of this Act or predecessor law, subsection (3) of Section 124 of this Act*~~{362.220(2)}~~, or any other provision of law to the contrary, the managers of a limited liability company, ~~and~~ the partners of a ~~registered~~ limited liability partnership, *and the partners of a limited liability limited partnership* or any other person holding any equivalent office of a limited liability company, ~~or a registered~~ limited liability partnership, *or limited liability limited partnership* subject to KRS 136.600 to 136.660 shall be personally and individually liable, both jointly and severally, for the taxes imposed under KRS 136.604 and 136.616. Neither the dissolution or withdrawal of the limited liability company, ~~or registered~~ limited liability partnership, *or limited liability limited partnership* from the state nor the cessation of holding any office shall discharge the foregoing 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, *and general partner of a limited liability limited partnership* at the time the taxes become or became due. No person shall be personally and individually liable under this subsection, if that person had no authority to collect, account for, or pay over the tax at the time that the taxes imposed by KRS 136.604 become or became due or account for or pay over the tax at the time that the taxes imposed by KRS 136.616 become or became due.
- (3) "Taxes," as used in this section, shall include interest accrued at the rate provided by KRS 131.183 and all applicable penalties and fees imposed under this chapter and under KRS 131.180, 131.410 to 131.445, and 131.990.

Section 199. KRS 138.183 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 138.130 to 138.205 shall be personally and individually liable, both jointly and severally, for the taxes imposed under KRS 138.130 to 138.205.
- (2) 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 every person holding a corporate office at the time the tax becomes or became due.
- (3) Notwithstanding any other provision of this chapter, KRS 275.150, *subsection (3) of Section 33 of this Act or predecessor law, or subsection (3) of Section 124 of this Act*~~{or KRS 362.220(2)}~~ to the contrary, the managers of a limited liability company, ~~and~~ the partners of a ~~registered~~ limited liability partnership, *and the general partners of a limited liability limited partnership* or any other person holding any equivalent office of a limited liability company, ~~or a registered~~ limited liability partnership *or limited liability limited partnership* subject to the provisions of KRS 138.130 to 138.205 shall be personally and individually liable, both jointly and severally, for the tax imposed under KRS 138.130 to 138.205.
- (4) Dissolution, withdrawal of the limited liability company, ~~or registered~~ limited liability partnership, *or limited liability limited 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 every manager of a limited liability company, ~~and~~ partner of a ~~registered~~ limited liability partnership **or general partner of a limited liability limited partnership** at the time the tax becomes or became due.

- (5) No person shall be personally and individually liable under this section who had no authority to collect, truthfully account for, or pay over any tax imposed by KRS 138.130 to 138.205 at the time the tax imposed becomes or became due.
- (6) "Taxes" as used in this section 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.

Section 200. 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 a financial instrument in an amount not to exceed two (2) months' estimated liability, as calculated by the department, or five thousand dollars (\$5,000), whichever is greater;
    2. Certifying by an electronic method acceptable by both the dealer and the department 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 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, **subsection (3) of Section 33 of this Act or predecessor law, or subsection (3) of Section 124 of this Act**~~or KRS 362.220(2)~~ to the contrary, the managers of a limited liability company, ~~and~~ the partners of a ~~registered~~ limited liability partnership, **and the general partners of a limited liability limited partnership** or any other person holding any equivalent office of a limited liability company, ~~or a registered~~ limited liability partnership, **or limited liability limited 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, **or limited liability limited 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 **and general partner of a limited liability limited 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, ~~for a~~ ~~registered~~ limited liability partnership, **or limited liability limited partnership** on an annual basis elects to be exempt from the provisions of KRS 138.224 by:
1. Filing with the department a financial instrument in an amount not to exceed two (2) months' estimated liability, as calculated by the department, or five thousand dollars (\$5,000), whichever is greater;
  2. Certifying by an electronic method acceptable by both the dealer and the department 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 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 201. KRS 139.185 is amended to read as follows:

- (1) Notwithstanding any other provisions 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 this chapter shall be personally and individually liable, both jointly and severally, for the taxes imposed under this chapter, and neither the corporate dissolution nor withdrawal of the corporation from the state nor the cessation of holding any corporate office shall discharge the foregoing liability of any person. The personal and individual liability shall apply to each and every person holding the corporate office at the time the taxes become or became due. No person will be personally and individually liable pursuant to this section who had no authority in the management of the business or financial affairs of the corporation at the time that the taxes imposed by this chapter become or became due. Taxes as used in this section shall include interest accrued at the rate provided by KRS 139.650 and all applicable penalties imposed under this chapter and all applicable penalties and fees imposed under KRS 131.180, 131.410 to 131.445, and 131.990.
- (2) Notwithstanding any other provisions of this chapter, KRS 275.150, **subsection (3) of Section 33 of this Act or predecessor law, or subsection (3) of Section 124 of this Act** ~~for KRS 362.220(2)~~ to the contrary, the managers of a limited liability company, ~~and~~ the partners of a ~~registered~~ limited liability partnership, **and the general partners of a limited liability limited partnership** or any other person holding any equivalent office of a limited liability company, ~~or a registered~~ limited liability partnership, **or limited liability limited partnership** subject to the provisions of this chapter shall be personally and individually liable, both jointly and severally, for the taxes imposed under this chapter. Dissolution, withdrawal of the limited liability company, ~~or registered~~ limited liability partnership, **or limited liability limited 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, **and the general partners of a limited liability limited partnership** at the time the taxes become 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 this chapter at the time that the taxes imposed by this chapter become 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 this chapter, and all applicable penalties and fees imposed under KRS 131.180, 131.410 to 131.445, and 131.990.

Section 202. KRS 141.010 is amended to read as follows:

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

- (1) "Commissioner" means the commissioner of the Department of Revenue;
- (2) "Department" means the Department of Revenue;
- (3) "Internal Revenue Code" means the Internal Revenue Code in effect on December 31, 2004, exclusive of any amendments made subsequent to that date, other than amendments that extend provisions in effect on December 31, 2004, that would otherwise terminate, and as modified by KRS 141.0101, except that for property placed in service after September 10, 2001, only the depreciation and expense deductions allowed under Sections 168 and 179 of the Internal Revenue Code in effect on December 31, 2001, exclusive of any amendments made subsequent to that date, shall be allowed, and including the provisions of the Military Family Tax Relief Act of 2003, Pub. L. No. 108-121, effective on the dates specified in that Act;
- (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) "Modified gross income" means adjusted gross income as defined in Section 62 of the Internal Revenue Code of 1986, including any subsequent amendments in effect on December 31 of the taxable year, and adjusted as follows:
  - (a) Include interest income derived from obligations of sister states and political subdivisions thereof; and
  - (b) Include lump-sum pension distributions taxed under the special transition rules of Pub. L. No. 104-188, sec. 1401(c)(2);
- (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. For taxable years ending prior to December 31, 2005, exclude the applicable amount of total distributions from pension plans, annuity contracts, profit-sharing plans, retirement plans, or employee savings plans.
- The "applicable amount" shall be:
- 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;
  - 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;
  - 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
  - One hundred percent (100%), but not more than thirty-five thousand dollars (\$35,000), for taxable years beginning after December 31, 1997.
2. For taxable years beginning after December 31, 2005, exclude up to forty-one thousand one hundred ten dollars (\$41,110) of total distributions from pension plans, annuity contracts, profit-sharing plans, retirement plans, or employee savings plans.
3. As used in this paragraph:
- "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;
  - "Annuity contract" has the same meaning as set forth in Section 1035 of the Internal Revenue Code; and
  - "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 portion of 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;
  - (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; and
  - (s) Exclude state Phase II payments received by a producer of tobacco or a tobacco quota owner;
- (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 or foreign taxes measured by gross or net income, including state and local general sales taxes allowed in lieu of state and local income taxes under the provisions of Section 164(b)(5) of the Internal Revenue Code;
  - (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;
  - (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;
  - (m) Exclude the distributive share income or loss received from a corporation subject to the tax imposed by KRS 141.040 ; and
  - (n) Exclude state Phase II payments received by a producer of tobacco or a tobacco quota owner;
- (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);
  - (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; and
  - (g) Any deduction prohibited by KRS 141.205;
- (14) (a) "Taxable net income," in the case of corporations that are taxable in this state, means "net income" as defined in subsection (13) of this section;

- (b) "Taxable net income," in the case of corporations that are taxable in this state and taxable in another state, means "net income" as defined in subsection (13) of this section and as allocated and apportioned under KRS 141.120. A corporation is taxable in another state if, in any state other than Kentucky, the corporation is required to file a return for or pay a net income tax, franchise tax measured by net income, franchise tax for the privilege of doing business, or corporate stock tax;
- (c) "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
- (d) "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 commissioner, "taxable year" means the period for which the 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:
  - (a) "Corporations" as defined in Section 7701(a)(3) of the Internal Revenue Code;
  - (b) S corporations as defined in Section 1361(a) of the Internal Revenue Code;
  - (c) A foreign limited liability company as defined in KRS 275.015(6);
  - (d) A limited liability company as defined in KRS 275.015(8);
  - (e) A professional limited liability company as defined in *subsection (18) of Section 232 of this Act* ~~KRS 275.015(19)~~;
  - (f) A foreign limited partnership as defined in KRS 362.401(4) *or in subsection (9) of Section 81 of this Act*;
  - (g) A limited partnership as defined in KRS 362.401(7) *or in subsection (14) of Section 81 of this Act*;
  - (h) A ~~registered~~ limited liability partnership as defined in KRS 362.155(7) *or in either subsection (7) or subsection (8) of Section 1 of this Act*;
  - (i) A real estate investment trust as defined in Section 856 of the Internal Revenue Code;
  - (j) A regulated investment company as defined in Section 851 of the Internal Revenue Code;
  - (k) A real estate mortgage investment conduit as defined in Section 860D of the Internal Revenue Code;

- (l) A financial asset securitization investment trust as defined in Section 860L of the Internal Revenue Code; and
- (m) Other similar entities created with limited liability for their partners, members, or shareholders.

"Corporation" shall not include any publicly traded partnership as defined by Section 7704(b) of the Internal Revenue Code that is treated as a partnership for federal tax purposes under Section 7704(c) of the Internal Revenue Code or its publicly traded partnership affiliates. "Publicly traded partnership affiliates" shall include any limited liability company or limited partnership for which at least eighty percent (80%) of the limited liability company member interests or limited partner interests are owned directly or indirectly by the publicly traded partnership;

- (25) "Doing business in this state" includes but is not limited to:

- (a) Being organized under the laws of this state;
- (b) Having a commercial domicile in this state;
- (c) Owning or leasing property in this state;
- (d) Having one (1) or more individuals performing services in this state;
- (e) Maintaining an interest in a general partnership doing business in this state;
- (f) Deriving income from or attributable to sources within this state, including deriving income directly or indirectly from a trust doing business in this state; or
- (g) Directing activities at Kentucky customers for the purpose of selling them goods or services.

Nothing in this subsection shall be interpreted in a manner that goes beyond the limitations imposed and protections provided by the United States Constitution or Pub. L. No. 86-272;

- (26) "Cost of goods sold" means the cost of goods sold calculated using the same method specified by the Internal Revenue Service for the purpose of computing federal income tax. In determining cost of goods sold:
- (a) Labor costs shall be limited to direct labor costs as defined in subsection (28) of this section; and
  - (b) Bulk delivery costs as defined in subsection (29) of this section may be included;
- (27) "Kentucky gross profits" means Kentucky gross receipts reduced by returns and allowances attributable to Kentucky gross receipts, less the cost of goods sold attributable to Kentucky gross receipts;
- (28) "Direct labor" means labor that is incorporated into the product sold or is an integral part of the manufacturing process; and
- (29) "Bulk delivery costs" means the cost of delivering the product to the consumer if the product is delivered in bulk and requires specialized equipment that generally precludes commercial shipping and is taxable under KRS 138.220.

Section 203. KRS 141.340 is amended to read as follows:

- (1) An employer shall be liable for the payment of the tax required to be deducted and withheld under KRS 141.310 and 141.315, and shall not be liable to any person for the amount of any such payment.
- (2) The president, vice president, secretary, treasurer or any other person holding an equivalent corporate office of any corporation subject to KRS 141.310 or 141.315 shall be personally and individually liable, both jointly and severally, for any tax required to be withheld under this chapter from wages paid to one (1) or more employees of any such corporation, and neither the corporate dissolution or withdrawal of the corporation from the state nor the cessation of holding any such corporate office shall discharge the foregoing liability of any such person; provided that the personal and individual liability shall apply to each or every person holding such corporate office at the time such tax becomes or became obligated. No person shall be personally and individually liable under this subsection who had no authority to collect, truthfully account for, or pay over any tax imposed by this chapter at the time that taxes imposed by this chapter become or became due. "Taxes" as used in this section shall include interest accrued at the rate provided by KRS 131.138, all applicable penalties and fees imposed under KRS 131.180, 131.410 to 131.445, and 131.990.

- (3) Notwithstanding any other provisions of this chapter, KRS 275.150, ***subsection (3) of Section 33 of this Act or predecessor law, or subsection (3) of Section 124 of this Act***~~[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 the general partners of a limited liability limited partnership*** or any other person holding any equivalent office of a limited liability company,~~[or a registered]~~ limited liability partnership, ***or limited liability limited partnership*** subject to KRS 141.310 or 141.315 shall be personally and individually liable, both jointly and severally, for any tax required to be withheld under this chapter from wages paid to one (1) or more employees of any such limited liability company,~~[or registered]~~ limited liability partnership, ***or limited liability limited partnership***. Dissolution, withdrawal of the limited liability company,~~[or registered]~~ limited liability partnership, ***or limited liability limited 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 in a ~~[registered]~~ limited liability partnership, ***and general partner of a limited liability limited partnership*** at the time the taxes become 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 this chapter at the time that the taxes imposed by this chapter become 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 this chapter, and all applicable penalties and fees imposed under KRS 131.180, 131.410 to 131.445, and 131.990.

Section 204. 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 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. ~~Any~~~~The~~ conversion of a ~~general~~ partnership~~, including a registered limited liability partnership,~~~~or a~~ limited partnership **corporation, or limited liability company** into a **partnership, limited partnership, corporation, or** 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 205. KRS 142.404 is amended to read as follows:

Notwithstanding any other provision of law to the contrary, the president, vice president, secretary, treasurer, manager, partner, or any other person holding any equivalent office or position in any corporation, limited liability company,~~or registered~~ limited liability partnership, **or limited liability limited partnership** subject to KRS 142.400 and 142.402 shall be personally and individually liable, both jointly and severally, for the tax imposed under KRS 142.400. Dissolution, withdrawal of the corporation, **limited liability company, limited liability partnership, or**

**limited liability limited partnership**~~[company, or partnership]~~ from the state, or the cessation of holding any office shall not discharge the liability of any person. The liability shall attach at the time the tax becomes or became due. No person shall be held liable under this section if the person did not have authority to collect, truthfully account for, or pay over the tax at the time it became due. "Taxes" as used in this section shall include interest accrued under KRS 131.183 and all applicable penalties imposed under this chapter or KRS 131.180, 131.410 to 131.445, and 131.990.

Section 206. KRS 148.851 is amended to read as follows:

As used in KRS 139.536 and KRS 148.851 to 148.860, unless the context clearly indicates otherwise:

- (1) "Agreement" means a tourism attraction agreement entered into, pursuant to KRS 148.859, on behalf of the authority and an approved company, with respect to a tourism attraction project;
- (2) "Approved company" means any eligible company approved by the secretary of the Commerce Cabinet and the authority pursuant to KRS 148.859 that is seeking to undertake a tourism attraction project;
- (3) "Approved costs" means:
  - (a) Obligations incurred for labor and to vendors, contractors, subcontractors, builders, suppliers, deliverymen, and materialmen in connection with the acquisition, construction, equipping, and installation of a tourism attraction project;
  - (b) The costs of acquiring real property or rights in real property and any costs incidental thereto;
  - (c) The cost of contract bonds and of insurance of all kinds that may be required or necessary during the course of the acquisition, construction, equipping, and installation of a tourism attraction project which is not paid by the vendor, supplier, deliveryman, contractor, or otherwise provided;
  - (d) All costs of architectural and engineering services, including but not limited to: estimates, plans and specifications, preliminary investigations, and supervision of construction and installation, as well as for the performance of all the duties required by or consequent to the acquisition, construction, equipping, and installation of a tourism attraction project;
  - (e) All costs required to be paid under the terms of any contract for the acquisition, construction, equipping, and installation of a tourism attraction project;
  - (f) All costs required for the installation of utilities, including but not limited to: water, sewer, sewer treatment, gas, electricity and communications, and including off-site construction of the facilities paid for by the approved company; and
  - (g) All other costs comparable with those described in this subsection, excluding costs subject to refund under KRS 154.20-202, 154.20-204, 154.20-206, 154.20-208, and 154.20-210;
- (4) "Authority" means the Kentucky Tourism Development Finance Authority as set forth in KRS 148.850;
- (5) "Crafts and products center" means a facility primarily devoted to the display, promotion, and sale of Kentucky products, and at which a minimum of eighty percent (80%) of the sales occurring at the facility are of Kentucky arts, crafts, or agricultural products;
- (6) "Eligible company" means any corporation, limited liability company, partnership, **limited partnership**,~~registered limited liability partnership,~~ sole proprietorship, business trust, or any other entity operating or intending to operate a tourism attraction project, whether owned or leased, within the Commonwealth that meets the standards promulgated by the secretary of the Commerce Cabinet pursuant to KRS 148.855. An eligible company may operate or intend to operate directly or indirectly through a lessee;
- (7) "Entertainment destination center" means a facility containing a minimum of two hundred thousand (200,000) square feet of building space adjacent or complementary to an existing tourism attraction, an approved tourism attraction project, or a major convention facility, and which provides a variety of entertainment and leisure options that contain at least one (1) major themed restaurant and at least three (3) additional entertainment venues, including but not limited to live entertainment, multiplex theaters, large format theaters, motion simulators, family entertainment centers, concert halls, virtual reality or other interactive games, museums, exhibitions, or other cultural and leisure time activities. Entertainment and food and drink options shall occupy a minimum of sixty percent (60%) of total gross area available for lease, and other retail stores shall occupy no more than forty percent (40%) of the total gross area available for lease;

- (8) "Final approval" means the action taken by the authority authorizing the eligible company to receive inducements under KRS 139.536 and KRS 148.851 to 148.860;
- (9) "Inducements" means the Kentucky sales tax refund as prescribed in KRS 139.536;
- (10) "Preliminary approval" means the action taken by the authority conditioning final approval by the authority upon satisfaction by the eligible company of the requirements of KRS 139.536 and KRS 148.851 to 148.860;
- (11) "State agency" means any state administrative body, agency, department, or division as defined in KRS 42.005, or any board, commission, institution, or division exercising any function of the state that is not an independent municipal corporation or political subdivision;
- (12) "Theme restaurant destination attraction" means a restaurant facility that:
  - (a) Has construction, equipment, and furnishing costs in excess of five million dollars (\$5,000,000);
  - (b) Has an annual average of not less than fifty percent (50%) of guests who are not residents of the Commonwealth;
  - (c) Is in operation and open to the public no less than three hundred (300) days per year and for no less than eight (8) hours per day;
  - (d) Has food and nonalcoholic drink options that constitute a minimum of fifty percent (50%) of total gross sales receipts; and
  - (e)
    - 1. Has seating capacity of four hundred fifty (450) guests and offers live music or live musical and theatrical entertainment during the peak business hours that the facility is in operation and open to the public;
    - 2. Within three (3) years of the completion date pursuant to KRS 148.859(1)(b), holds a top two (2) tier rating by a nationally accredited service; or
    - 3. Offers a unique dining experience that is not available in the Commonwealth within a one hundred (100) mile radius of the attraction;
- (13) "Tourism attraction" means a cultural or historical site, a recreation or entertainment facility, an area of natural phenomenon or scenic beauty, a Kentucky crafts and products center, a theme restaurant destination attraction, or an entertainment destination center.
  - (a) A tourism attraction may include lodging facilities if:
    - 1. The facilities constitute a portion of a tourism attraction project and represent less than fifty percent (50%) of the total approved cost of the tourism attraction project, or the facilities are to be located on recreational property owned or leased by the Commonwealth or federal government and the facilities have received prior approval from the appropriate state or federal agency;
    - 2. The facilities involve the restoration or rehabilitation of a structure that is listed individually in the National Register of Historic Places or are located in a National Register Historic District and certified by the Kentucky Heritage Council as contributing to the historic significance of the district, and the rehabilitation or restoration project has been approved in advance by the Kentucky Heritage Council;
    - 3. The facilities involve the reconstruction, restoration, rehabilitation, or upgrade of a full-service lodging facility having not less than five hundred (500) guest rooms, with reconstruction, restoration, rehabilitation, or upgrade costs exceeding ten million dollars (\$10,000,000);
    - 4. The facilities involve the construction, restoration, rehabilitation, or upgrade of a full-service lodging facility which is or will be an integral part of a major convention or sports facility, with construction, restoration, rehabilitation, or upgrade costs exceeding six million dollars (\$6,000,000); or
    - 5. The facilities involve the construction, restoration, rehabilitation, or upgrade of a lodging facility which is or will be located:

- a. In the Commonwealth within a fifty (50) mile radius of a property listed on the National Register of Historic Places with a current function of recreation and culture; and
  - b. Within any of the one hundred (100) least populated counties in the Commonwealth, in terms of population density, according to the most recent census;
- (b) A tourism attraction shall not include the following:
  - 1. Facilities that are primarily devoted to the retail sale of goods, other than an entertainment destination center, a theme restaurant destination attraction, a Kentucky crafts and products center, or a tourism attraction where the sale of goods is a secondary and subordinate component of the attraction; and
  - 2. Recreational facilities that do not serve as a likely destination where individuals who are not residents of the Commonwealth would remain overnight in commercial lodging at or near the tourism attraction project; and
- (14) "Tourism attraction project" or "project" means the acquisition, including the acquisition of real estate by a leasehold interest with a minimum term of ten (10) years, construction, and equipping of a tourism attraction; the construction, and installation of improvements to facilities necessary or desirable for the acquisition, construction, and installation of a tourism attraction, including but not limited to surveys; installation of utilities, which may include water, sewer, sewage treatment, gas, electricity, communications, and similar facilities; and off-site construction of utility extensions to the boundaries of the real estate on which the facilities are located, all of which are to be used to improve the economic situation of the approved company in a manner that shall allow the approved company to attract persons.

Section 207. KRS 154.01-010 is amended to read as follows:

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

- (1) "Agribusiness" or "agricultural business entity" means any person, partnership, **limited partnership**, ~~registered limited liability partnership,~~ corporation, limited liability company, or any other entity engaged in a business that processes raw agricultural products, including timber, or provides value-added functions with regard to raw agricultural products;
- (2) "Approved business network" or "approved flexible industrial network" means a business network comprising three (3) or more business firms or industries which have been identified as key industries and targeted by the state's strategic economic development plan for special consideration and assistance by the agencies of the Commonwealth;
- (3) "Authority" means the Kentucky Economic Development Finance Authority, consisting of a committee as set forth in KRS 154.20-010;
- (4) "Board" means the Kentucky Economic Development Partnership, an administrative body within the meaning of KRS 12.010, and the governing body of the Cabinet for Economic Development, as created and established in KRS 154.10-010;
- (5) "Business network" or "flexible industrial network" means a formalized, collaborative mechanism organized by and operating among three (3) or more industrial entities, business enterprises, or private sector firms for the purposes of, but not limited to: pooling expertise; improving responses to changing technology or markets; lowering the risks to individual entities of accelerated modernization; encouraging new technology investments, new market development, and employee skills improvement; and developing a system of collective intelligence among participating entities;
- (6) "Cabinet" means the Cabinet for Economic Development as established under KRS 12.250, and governed by the Kentucky Economic Development Partnership;
- (7) "Commonwealth" means the Commonwealth of Kentucky;
- (8) "Cost of a project" means the cost of the acquisition, construction, reconstruction, conversion, or leasing of any industrial, commercial, health care, agricultural, or forestry enterprise, or any part thereof, to carry out the purposes and objectives of this chapter, including, but not limited to, acquisition of land or interest in land, buildings, structures, or other planned or existing planned improvements to land, including leasehold improvements, machinery, equipment, or furnishings; working capital; and administrative costs including, but not limited to, engineering, architectural, legal, and accounting fees which are necessary for the project;



- (9) "Local and regional economic development interest" means any local business or economic development interest, including, but not limited to, chambers of commerce, business development associations, industrial development organizations, area development districts, and public economic development entities;
- (10) "Industrial entity" means any corporation, limited liability company, partnership, *limited partnership*, ~~registered limited liability partnership,~~ person, or any other legal entity, domestic or foreign, which will itself or through its subsidiaries or affiliates, engage in an industrial improvement project in the Commonwealth;
- (11) "Industrial improvement project" means and includes the acquisition, construction, or implementation of new manufacturing, processing, or assembling facilities, equipment, methods or processes, or improvements to or repair of existing manufacturing, processing, or assembling facilities, equipment, methods, or processes, as well as improvements to the real estate upon which the facilities are located, and includes any capital improvement to any existing facility, including any restructuring, retooling, rebuilding, reequipping, or any other form of upgrading such existing facility and equipment and any other improvements to such real estate, existing facility, or manufacturing, processing, or assembling equipment, method, or process;
- (12) "Key industry" means an industry or business within an industrial sector which has been identified in and targeted by the state's economic development strategic plan as having major importance to the sustained economic growth of the Commonwealth and in which member firms sell goods or services into markets for which national or international competition exists, including, but not limited to, secondary forest products manufacturing, agribusiness, and high technology and biotechnology manufacturing and services;
- (13) "Military" and "defense" mean all military and defense installations, entities, activities, and personnel located, operating, or living in Kentucky;
- (14) "Municipality" means a county, city, village, township, development organization, an institution of higher education, a community or junior college, a subdivision or instrumentality of any of the foregoing, or any entity created by two (2) or more municipalities pursuant to the Interlocal Cooperation Act, KRS 65.210 to 65.300;
- (15) "Network broker" means a person who is trained to assist private sector firms to form business networks and make other similar efforts to provide for joint manufacturing, marketing, technology development, information dissemination, and other activities;
- (16) "Non-appropriation-supported bond" means any long-term financial borrowing instrument for which regular debt service does not originate from an appropriation of the General Assembly;
- (17) "Non-appropriation-supported note" means any short-term financial borrowing instrument for which loan payments do not originate from an appropriation of the General Assembly;
- (18) "Person" means an individual, partnership, ~~registered limited liability partnership,~~ joint venture, military facility operated by a department or agency of the United States, profit or nonprofit corporation including a public or private college or university, limited liability company, or other entity or association of persons organized for agricultural, commercial, health care, or industrial purposes; or a public utility or local industrial development corporation;
- (19) "Private sector" means any source other than the authority, a state or federal entity, or an agency thereof;
- (20) "Project" means an endeavor approved by the cabinet or authority and related to industrial, manufacturing, mining, mining reclamation for economic development, commercial, health care, or agricultural enterprise. Project shall include, but is not limited to, agribusiness, agricultural or forestry production, harvesting, storage, or processing facilities or equipment; equipment or facilities designed to produce energy from renewable resources; research parks; office facilities; engineering facilities; research and development laboratories; warehousing facilities; parts distribution facilities; depots or storage facilities; port facilities; railroad facilities, including trackage, right-of-way, and appurtenances; airports and airport renovation; water and air pollution control equipment or waste disposal facilities; tourist facilities; theme or recreational parks; health care and health related facilities; farms, ranches, forests, and other agricultural or forestry commodity producers; agricultural harvesting, storage, transportation, or processing facilities or equipment; grain elevators; shipping heads and livestock pens; livestock; wharves and dock facilities; water, electricity, hydroelectric, coal, petroleum, or natural gas provision facilities; dams and irrigation facilities; sewage, liquid, and solid waste collection, disposal treatment, and drainage services and facilities. Except for airport-related facilities, project shall not include that portion of an endeavor devoted to the sale of goods at retail or that portion of an endeavor devoted to housing which does not consist of the manufacture of housing;

- (21) "Reclamation development fund" means the fund administered by the Kentucky Economic Development Finance Authority to foster economic development on surface mining land;
- (22) "Reclamation development project" means only that reconditioning of land affected by surface mining, which will directly promote and benefit an economic undertaking which constitutes a project under subsection (20) of this section;
- (23) "Reclamation development plan" means a plan submitted to the Environmental and Public Protection Cabinet to show compliance with reclamation standards, and submitted to the Kentucky Economic Development Finance Authority to seek moneys from the reclamation development fund for a reclamation development project;
- (24) "Secretary" means the chief executive officer and secretary of the Cabinet for Economic Development;
- (25) "State" means the Commonwealth of Kentucky; and
- (26) "Tax revenues" means any revenues received by the Commonwealth directly or indirectly as a result of the industrial improvement project, including state corporate income taxes, state income taxes paid by employees who work in the project, state property taxes, state corporation license taxes, or state sales and use taxes.

Section 208. KRS 154.10-030 is amended to read as follows:

The board shall have all the powers and authority, not explicitly prohibited by statute, necessary or convenient to carry out and effectuate the functions, duties, and responsibilities of the board and the cabinet, including, but not limited to, the following:

- (1) Serving as the governing body of the Cabinet for Economic Development;
- (2) Suing and being sued;
- (3) Adopting, using, and altering at will a corporate seal;
- (4) Approving economic development programs and projects;
- (5) Discharging the secretary of the Cabinet for Economic Development;
- (6) Approving the state's strategic economic development plan and subsequent implementation plans;
- (7) Providing for and directing the state's economic development strategic planning process;
- (8) Evaluating the performance and effectiveness of the Commonwealth's economic development systems, including:
  - (a) The establishment of benchmarks; and
  - (b) Program review;
- (9) Reporting to the Governor, the General Assembly, and the people of the Commonwealth regarding its functions, duties, and responsibilities, including, but not limited to:
  - (a) The Commonwealth's strategic economic development plan;
  - (b) Program initiatives and implementation plans;
  - (c) Systems evaluations;
  - (d) Benchmarks;
  - (e) Program evaluation; and
  - (f) Activities of the cabinet;
- (10) Soliciting, borrowing, accepting, receiving, investing, and expending funds from any public or private source;
- (11) Making grants, loans, and investments; guaranteeing and insuring loans, leases, bonds, notes, or other indebtedness, whether public or private; issuing letters of credit; and making loans to financial institutions to facilitate financing of all or part of an export-related transaction including, but not limited to, pre-export working capital financing and post-export receivable financing;

- (12) Constructing, acquiring by gift, purchase, installment purchase, or lease, and reconstructing, improving, repairing, or equipping any project or any part of a project; and entering into a lease for the use or sale of a project;
- (13) Making loans and participating in the making of loans; undertaking commitments to make loans and mortgages; buying and selling loans and mortgages at public or private sale; rewriting loans and mortgages; discharging loans and mortgages; foreclosing on mortgages and commencing any action to protect or enforce a right conferred upon the cabinet or placed within the control, authority, and responsibility of the cabinet under the provisions of this chapter; bidding for and purchasing property which was the subject of the mortgage at a foreclosure or other sale, and acquiring or taking possession of the property and, in that event, completing, administering, paying the principal and interest on obligations incurred in connection with the property; and disposing of and otherwise dealing with the property in a manner as may be necessary or desirable to protect the interests of the cabinet;
- (14) Entering into a lease for the use or sale of a project; acquiring or contracting from any person, public entity, corporation, limited liability company, partnership, **limited partnership**, ~~registered limited liability partnership,~~ or entity, leaseholds, real or personal property, or any interest in real or personal property; owning, holding, clearing, improving, and rehabilitating and selling, assigning, exchanging, transferring, conveying, leasing, mortgaging, or otherwise disposing of or encumbering leaseholds, real or personal property, or any interest in real or personal property as is convenient for the accomplishment of the purposes of this chapter;
- (15) Procuring insurance against any loss in connection with the cabinet's property, assets, or activities;
- (16) Charging, imposing and collecting fees and charges in connection with any transaction, and providing for reasonable penalties for delinquent payment of fees or charges;
- (17) Indemnifying and procuring insurance indemnifying members and officers of the board, and the cabinet and members and officers of the finance committee of the Kentucky Economic Development Finance Authority as provided in KRS 154.20-010, from personal loss or accountability from liability asserted by any person on the bonds or notes of the cabinet or authority, or any personal liability or accountability by reason of the issuance of bonds, notes, insurance, or guarantees; or by reason of acquisition, construction, ownership, or operation of any project funded in whole or part by the cabinet or authority; or by reason of any other action taken or the failure to act by the cabinet or authority;
- (18) Mortgaging or creating security interests in a project or any part of a project, or in a lease or loan, or in the rents, revenues, or sums to be paid in favor of the holders of the bonds or notes issued by the cabinet;
- (19) Conveying or releasing a project or any part of a project to a lessee, purchaser, or borrower under any agreement after provision has been made for the retirement in full of the bonds or notes issued for that project under the terms and conditions provided in the agreement, or as may be agreed with the holders of the bonds or notes, or as may otherwise be agreed with the holders of the bonds or notes;
- (20) Issuing non-appropriation-supported bonds and notes including, but not limited to, commercial paper, refund bonds, and notes; paying the costs of issuance of bonds and notes; paying interest on bonds and notes;
- (21) Making and entering into contracts and agreements necessary or incidental to the performance of its duties and execution of its powers;
- (22) Employing consultants and other persons and employees as may be required in the judgment of the board, essential to the cabinet's operations, functions, and responsibilities;
- (23) Providing technical assistance regarding any economic or job development project, program, or activity;
- (24) Delegating any powers, duties, responsibilities, and authority to any division, agency, or authority under its control and administration;
- (25) Reorganizing, pursuant to KRS 12.028, any organizational unit or administrative body under its control and jurisdiction;
- (26) Promulgating administrative regulations, in accordance with KRS Chapter 13A, governing its powers, duties, and responsibilities as prescribed in this chapter and governing the powers, duties, and responsibilities delegated to any administrative body transferred to the cabinet by law or otherwise placed within its control and responsibility; and

- (27) Doing all other things necessary or convenient to achieve its objectives and purposes which are not explicitly prohibited by statute.

Section 209. KRS 154.12-204 is amended to read as follows:

As used in KRS 154.12-205 to 154.12-208, unless the context requires otherwise:

- (1) "Applicant" means an educational institution, business, or industry that has made application for a grant-in-aid as authorized by KRS 154.12-205 to 154.12-208;
- (2) "Board" means the board of directors of the Bluegrass State Skills Corporation;
- (3) "Business and industry" means a private corporation, limited liability company, *limited partnership*, ~~registered limited liability partnership,~~ institution, firm, person, group, or other entity or association of the same, concerned with commerce, trade, manufacturing, or the provision of services within the Commonwealth, or a public or nonprofit hospital licensed by the Commonwealth, or any company whose primary purpose is the sale of goods at retail, if specific funds for grants-in-aid to retail business and industry are appropriated by the General Assembly;
- (4) "Corporation" means the Bluegrass State Skills Corporation, or BSSC;
- (5) "Educational institution" means a public or nonpublic secondary or postsecondary institution or an independent provider within the Commonwealth authorized by law to provide a program of skills training or education;
- (6) "Grant-in-aid" means funding that is provided to an educational institution and business and industry by the BSSC for the development or expansion of a program as provided in this chapter;
- (7) "Program" or "program of skills training or education consistent with employment needs" means a coordinated course of instruction which is designed to prepare individuals for employment in a specific trade, occupation, or profession. Such instruction may include:
  - (a) Classroom instruction;
  - (b) Classroom-related field, shop, factory, office, or laboratory work; and
  - (c) Basic skills, entry level training, job upgrading, retraining, and advance training.
- (8) "Technical assistance" means professional and any other assistance provided by business and industry to an educational institution, which is reasonably calculated to support directly the development and expansion of a particular program as defined herein.

Section 210. KRS 154.12-2084 is amended to read as follows:

As used in KRS 154.12-2084 to 154.12-2089, unless the context requires otherwise:

- (1) "Approved company" means any qualified company seeking to sponsor an occupational upgrade training program or skills upgrade training program for the benefit of one (1) or more of its employees, which is approved by the authority to receive skills training investment credits in accordance with KRS 154.12-2084 to 154.12-2089;
- (2) "Approved costs" means:
  - (a) Fees or salaries required to be paid to instructors who are employees of the approved company, instructors who are full-time, part-time, or adjunct instructors with an educational institution, and instructors who are consultants on contract with an approved company in connection with an occupational upgrade training program or skills upgrade training program sponsored by an approved company;
  - (b) Administrative fees charged by educational institutions in connection with an occupational upgrade training program or skills upgrade training program sponsored by an approved company and specifically approved by the Bluegrass State Skills Corporation;
  - (c) The cost of supplies, materials, and equipment used exclusively in an occupational upgrade training program or skills upgrade training program sponsored by an approved company;
  - (d) The cost of leasing a training facility where space is unavailable at an educational institution or at the premises of an approved company in connection with an occupational upgrade training program or skills upgrade training program sponsored by an approved company;

- (e) Employee wages to be paid in connection with an occupational upgrade training program or skills upgrade training program sponsored by an approved company; and
- (f) All other costs of a nature comparable to those described in this subsection;
- (3) "Bluegrass State Skills Corporation" means the Bluegrass State Skills Corporation created by KRS 154.12-205;
- (4) "Commonwealth" means the Commonwealth of Kentucky;
- (5) "Educational institution" means a public or nonpublic secondary or postsecondary institution or an independent provider within the Commonwealth authorized by law to provide a program of skills training or education beyond the secondary school level or to adult persons without a high school diploma or its equivalent;
- (6) "Employee" means any person:
  - (a) Who is currently a permanent full-time employee of the qualified company;
  - (b) Who has been employed by the qualified company for the last twelve (12) calendar months immediately preceding the filing of the application for skills training investment credits by the qualified company;
  - (c) Who is a Kentucky resident, as that term is defined in KRS 141.010; and
  - (d) Who receives a base hourly wage which is one hundred fifty percent (150%) of the federal minimum wage plus employee benefits equal to at least fifteen percent (15%) of the applicable base hourly wage, if the qualified company is located in a county of Kentucky which has had an average countywide rate of unemployment of fifteen percent (15%) or greater in the most recent twelve (12) consecutive months for which unemployment figures are available, on the basis of the final unemployment figures calculated by the Department for Employment Services within the Cabinet for Workforce Development.

For purposes of this subsection, a "full-time employee" means an employee who has been employed by the qualified company for a minimum of thirty-five (35) hours per week for more than two hundred fifty (250) work days during the most recently ended calendar year and is subject to the tax imposed by KRS 141.020;

- (7) "Occupational upgrade training" means employee training sponsored by a qualified company that is designed to qualify the employee for a promotional opportunity with the qualified company;
- (8) "Preliminarily approved company" means a qualified company seeking to sponsor an occupational upgrade training program or skills upgrade training program, which has received preliminarily approval from the authority under KRS 154.12-2088 to receive a certain maximum amount of skills training investment credits;
- (9) "Qualified company" means any person, corporation, limited liability company, partnership, limited partnership, ~~registered limited liability partnership,~~ sole proprietorship, firm, enterprise, franchise, association, organization, holding company, joint stock company, professional service corporation, or any other legal entity through which business is conducted that has been actively engaged in any of the following qualified activities within the Commonwealth for not less than three (3) consecutive years: manufacturing, including the processing, assembling, production, or warehousing of any property; processing of agricultural and forestry products; telecommunications; health care; product research and engineering; tool and die and machine technology; mining; tourism and operation of facilities to be used in the entertainment, recreation, and convention industry; and transportation in support of manufacturing. Notwithstanding the provisions of this subsection, any company whose primary purpose is the sale of goods at retail shall not constitute a qualified company;
- (10) "Skills upgrade training" means employee training sponsored by a qualified company that is designed to provide the employee with new skills necessary to enhance productivity, improve performance, or retain employment, including but not limited to technical and interpersonal skills training, and training that is designed to enhance the computer skills, communication skills, problem solving, reading, writing, or math skills of employees who are unable to function effectively on the job due to deficiencies in these areas, are unable to advance on the job, or who risk displacement because their skill deficiencies inhibit their training potential for new technology; and
- (11) "Skills training investment credit" means the credit against Kentucky income tax imposed by KRS 141.020 or 141.040, as provided in KRS 154.12-2086(1).

Section 211. KRS 154.12-214 is amended to read as follows:

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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 Department for Existing Business 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 212. KRS 154.12-325 is amended to read as follows:

As used in KRS 154.12-325 and 154.12-330:

- (1) "Affiliate" has the same meaning as provided in KRS 154.22-010(2);
- (2) "Full-time employee" means a person employed for a minimum of thirty-five (35) hours per week and subject to the tax imposed by KRS 141.020;
- (3) "Service or technology" has the same meaning as provided in KRS 154.24-010(19) and shall include regional or headquarters operations of an entity engaged in the defined activities, but shall not include work involving direct service to the public pursuant to a license issued by the state or an association that issues licenses in lieu of the state; and
- (4) "Small business" means any business entity organized for profit, including a sole proprietorship, ~~individual~~ partnership, **limited partnership,** ~~registered limited liability partnership,~~ corporation, limited liability company, joint venture, association, or cooperative, that has fifty (50) or fewer full-time employees at the time it applies for a loan under KRS 154.12-330 and is not an affiliate or subsidiary of a larger corporate structure, unless the total number of employees of all the affiliates and subsidiaries within that structure is fifty (50) or fewer.

Section 213. KRS 154.20-010 is amended to read as follows:

- (1) There is created and established within the cabinet, subject to the authority of the board, the Kentucky Economic Development Finance Authority as an agency, instrumentality, and political subdivision of the

Commonwealth and a public body corporate and politic with all powers, duties, and responsibilities delegated to it by the board or as otherwise provided by law, including all programs, powers, duties, rights, and obligations of the Kentucky Development Finance Authority and the Kentucky Rural Economic Development Authority.

- (2) Any interest, right, or cause of action held in whole or in part by any person, corporation, limited liability company, partnership, **limited partnership**, ~~registered limited liability partnership,~~ government agency, or other entity under any agreement, contract, lease, mortgage, guarantee, bond, note, refund bond, or other financial transaction or obligation, made, issued, or otherwise entered into by any of the authorities, programs, or funds specified in subsection (1) of this section or that may be delegated to the authority by the board, shall not be impaired or otherwise diminished.
- (3) Any interest, right, or cause of action held in whole or in part by any of the authorities, programs, or funds specified in subsection (1) of this section shall not be impaired or otherwise diminished, but shall be assumed by the authority, for and on behalf of the cabinet.
- (4) The authority shall consist of a committee of seven (7) persons, including six (6) persons appointed by the board who shall be private citizens of the Commonwealth, and the secretary of the Finance and Administration Cabinet who shall serve ex officio. Any person appointed to the committee shall have experience and expertise in business or finance.
- (5) Two (2) members initially appointed to the committee shall have a term of one (1) year each, two (2) members initially appointed to the committee shall have a term of two (2) years each, and two (2) members initially appointed to the committee shall have a term of three (3) years each, except that any person appointed to fill a vacancy shall serve only for the remainder of the unexpired term. All subsequent appointments shall be for a term of three (3) years.
- (6) Any person appointed to the committee shall be eligible for reappointment, including any member of the committee appointed prior to July 15, 1994.
- (7) The members of the committee shall elect biennially from the committee's private citizen membership the following officers: chairman, vice chairman, secretary-treasurer, and any assistant secretaries and assistant treasurers the committee deems necessary.
- (8) A majority of the members of the committee, determined by excluding any existing vacancies from the total number of members, shall constitute a quorum. A majority vote of the members present at a duly called meeting of the committee shall be required for the purposes of conducting its business and exercising its powers and for all other purposes.
- (9) The committee shall prepare bylaws and procedures applicable to the operations of the authority and submit them to the board to be promulgated as administrative regulations in accordance with KRS Chapter 13A.
- (10) Members of the committee shall be entitled to compensation for their services in an amount of one hundred dollars (\$100) for each regular meeting of the committee and shall be entitled to reimbursement for all necessary expenses in connection with the performance of their duties.

Section 214. KRS 154.20-200 is amended to read as follows:

As used in KRS 154.20-200 to 154.20-216, unless the context clearly indicates otherwise:

- (1) "Agreement" means any agreement made pursuant to KRS 154.20-210 between the authority and an approved company with respect to an economic development project in which inducements are granted.
- (2) "Approval" means action taken by the authority that authorizes the eligible company to receive inducements in connection with an economic development project under KRS 154.20-200 to 154.20-216 and that designates the eligible company as an approved company.
- (3) "Approved company" means an eligible company that initiates an economic development project in the Commonwealth whose application has been approved by the authority.
- (4) "Approved expense" means:
  - (a) For an approved company that establishes a new facility or expands an existing facility:

1. The cost of building and construction materials, upon which Kentucky sales and use tax as defined in KRS Chapter 139 is paid, purchased in connection with the acquisition, construction, installation, equipping, and rehabilitation of an economic development project; and
  2. The cost of equipment purchased and used in research and development, at the economic development project, upon which Kentucky sales and use tax as defined in KRS Chapter 139 is paid.
- (b) Approved expenses may only be incurred during the life of the project, not to exceed eighteen (18) months from the date an eligible company is designated an approved company by the authority. Provided, however, that the authority may grant a twelve (12) month extension of the project for good cause shown. Approved expenses shall not include any expenditure made before the date the company is approved by the authority.
- (5) "Authority" means the Kentucky Economic Development Finance Authority.
- (6) "Economic development project" or "project" means a new or expanded service or technology, manufacturing, or tourism attraction activity, conducted by the approved company at a specific site in the Commonwealth, including the acquisition of real property by an approved company and the construction, installation, and rehabilitation of fixtures, and facilities, necessary or desirable for improvement of real estate owned, used, or occupied by the approved company, excluding the cost of labor. The minimum investment for an economic development project located in a preference zone shall be one hundred thousand dollars (\$100,000) and for a project not located in a preference zone, five hundred thousand dollars (\$500,000).
- (7) "Eligible company" means any corporation, limited liability company, partnership, *limited partnership*, ~~registered limited liability partnership,~~ sole proprietorship, business trust, or other legal entity that is primarily engaged in manufacturing, service or technology, or operating or developing a tourism attraction. Any company whose primary purpose is retail sales shall not be an eligible company.
- (8) "Equipment used in research and development" means:
- (a) "Equipment" means assets used in the operation of a business which are subject to depreciation under Sections 167 and 168 of the Internal Revenue Code, including assets which are expensed under Section 179 of the Internal Revenue Code. The term "equipment" shall not include any tangible personal property used to maintain, restore, mend, or repair machinery or equipment, consumable operating supplies, office supplies, or maintenance supplies; and
  - (b) "Research and development" means experimental or laboratory activity that has as its ultimate goals the development of new products, the improvement of existing products, the development of new uses for existing products, or the development or improvement of methods for producing products. "Research and development" does not include testing or inspection of materials or products for quality control purposes, efficiency surveys, management studies, consumer surveys, or other market research, advertising or promotional activities, or research in connection with literary, historical or similar projects.
- (9) "Inducements" means the sales and use tax refund allowed to an approved company for approved expenses under 154.20-200 to 154.20-216.
- (10) "Life of the project" or "project life" means the eighteen (18) month period beginning on the date the company is designated as an approved company by the authority and the twelve (12) month extension if the extension is granted by the authority.
- (11) (a) "Manufacturing" means to make, assemble, process, produce, or perform any other activity that changes the form or conditions of raw materials and other property, and shall include any ancillary activity to the manufacturing process, such as storage, warehousing, distribution, and related office facilities;
- (b) "Manufacturing" does not include any activity involving the performance of work classified by the divisions, including successor divisions, of mining in accordance with the "North American Industry Classification System," as revised by the United States Office of Management and Budget from time to time, or any successor publication.
- (12) "Preference zone" or "zone" means the geographic area that was designated as an enterprise zone pursuant to KRS 154.45-050, and that was in existence as an enterprise zone on December 31, 2003. No enterprise zone



may be expanded after March 18, 2005. Enterprise zone designations that are scheduled to expire, pursuant to 154.45-050(2), shall expire as scheduled. All preference zones shall expire on December 31, 2007.

- (13) "Sales and use tax" means those taxes paid to the Commonwealth for the purchase of goods pursuant to KRS Chapter 139.
- (14) (a) "Service or technology" means either:
  - 1. Any activity involving the performance of work except work classified by the divisions, including successor divisions, of agriculture, forestry and fishing, mining, utilities, construction, manufacturing, wholesale trade, retail trade, real estate rental and leasing, educational services, accommodation and food services, and public administration in accordance with the "North American Industry Classification System," as revised by the United States Office of Management and Budget from time to time, or any successor publication; or
  - 2. Regional or headquarters operations of an entity engaged in an activity listed in subparagraph 1. of this paragraph.
- (b) Notwithstanding paragraph (a) of this subsection, "service or technology" shall not include any activity involving the performance of work by an individual who is providing direct service to the public pursuant to a license issued by the state or an association that licenses in lieu of the state.
- (15) "Tourism attraction" shall have the meaning assigned in KRS 148.851.

Section 215. 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 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 216. KRS 154.22-010 is amended to read as follows:

The following words and terms as used in KRS 154.22-010 to 154.22-080, unless the context clearly indicates a different meaning, shall have the following meanings:

- (1) "Activation date" means a date selected by an approved company in the tax incentive agreement at any time within a two (2) year period after the date of final approval of the tax incentive agreement by the authority;
- (2) "Affiliate" means the following:
  - (a) Members of a family, including only brothers and sisters of the whole or half blood, spouse, ancestors, and lineal descendants of an individual;

- (b) An individual, and a corporation more than fifty percent (50%) in value of the outstanding stock of which is owned, directly or indirectly, by or for that individual;
- (c) An individual, and a limited liability company of which more than fifty percent (50%) of the capital interest or profits are owned or controlled, directly or indirectly, by or for that individual;
- (d) Two (2) corporations which are members of the same controlled group, which includes and is limited to:
  - 1. One (1) or more chains of corporations connected through stock ownership with a common parent corporation if:
    - a. Stock possessing more than fifty percent (50%) of the total combined voting power of all classes of stock entitled to vote or more than fifty percent (50%) of the total value of shares of all classes of stock of each of the corporations, except the common parent corporation, is owned by one (1) or more of the other corporations; and
    - b. The common parent corporation owns stock possessing more than fifty percent (50%) of the total combined voting power of all classes of stock entitled to vote or more than fifty percent (50%) of the total value of shares of all classes of stock of at least one (1) of the other corporations, excluding, in computing the voting power or value, stock owned directly by the other corporations; or
  - 2. Two (2) or more corporations if five (5) or fewer persons who are individuals, estates, or trusts own stock possessing more than fifty percent (50%) of the total combined voting power of all classes of stock entitled to vote or more than fifty percent (50%) of the total value of shares of all classes of stock of each corporation, taking into account the stock ownership of each person only to the extent the stock ownership is identical with respect to each corporation;
- (e) A grantor and a fiduciary of any trust;
- (f) A fiduciary of a trust and a fiduciary of another trust, if the same person is a grantor of both trusts;
- (g) A fiduciary of a trust and a beneficiary of that trust;
- (h) A fiduciary of a trust and a beneficiary of another trust, if the same person is a grantor of both trusts;
- (i) A fiduciary of a trust and a corporation more than fifty percent (50%) in value of the outstanding stock of which is owned, directly or indirectly, by or for the trust or by or for a person who is a grantor of the trust;
- (j) A fiduciary of a trust and a limited liability company more than fifty percent (50%) of the capital interest, or the interest in profits, of which is owned directly or indirectly, by or for the trust or by or for a person who is a grantor of the trust;
- (k) A corporation, **a partnership, and a limited partnership**, ~~and a partnership, including a registered limited liability partnership,~~ if the same persons own:
  - 1. More than fifty percent (50%) in value of the outstanding stock of the corporation; and
  - 2. More than fifty percent (50%) of the capital interest, or the profits interest, in the partnership **or limited partnership**, ~~including a registered limited liability partnership~~;
- (l) A corporation and a limited liability company if the same persons own:
  - 1. More than fifty percent (50%) in value of the outstanding stock of the corporation; and
  - 2. More than fifty percent (50%) of the capital interest or the profits in the limited liability company;
- (m) A partnership, **limited partnership**, ~~including a registered limited liability partnership,~~ and a limited liability company if the same persons own:
  - 1. More than fifty percent (50%) of the capital interest or profits in the partnership **or limited partnership**, ~~including a registered limited liability partnership~~; and
  - 2. More than fifty percent (50%) of the capital interest or the profits in the limited liability company;

- (n) An S corporation and another S corporation if the same persons own more than fifty percent (50%) in value of the outstanding stock of each corporation, S corporation designation being the same as that designation under the Internal Revenue Code of 1986, as amended; or
- (o) An S corporation and a C corporation, if the same persons own more than fifty percent (50%) in value of the outstanding stock of each corporation; S and C corporation designations being the same as those designations under the Internal Revenue Code of 1986, as amended;
- (3) "Agribusiness" means any activity involving the processing of raw agricultural products, including timber, or the providing of value-added functions with regard to raw agricultural products;
- (4) "Approved company" means any eligible company seeking to locate an economic development project in a qualified county, which eligible company is approved by the authority pursuant to KRS 154.22-010 to 154.22-080;
- (5) "Approved costs" means:
  - (a) Obligations incurred for labor and to contractors, subcontractors, builders, and materialmen in connection with the acquisition, construction, installation, equipping, and rehabilitation of an economic development project;
  - (b) The cost of acquiring land or rights in land and any cost incidental thereto, including recording fees;
  - (c) The cost of contract bonds and of insurance of all kinds that may be required or necessary during the course of acquisition, construction, installation, equipping, and rehabilitation of an economic development project which is not paid by the contractor or contractors or otherwise provided for;
  - (d) All costs of architectural and engineering services, including test borings, surveys, estimates, plans and specifications, preliminary investigations, and supervision of construction, as well as for the performance of all the duties required by or consequent upon the acquisition, construction, installation, equipping, and rehabilitation of an economic development project;
  - (e) All costs which shall be required to be paid under the terms of any contract or contracts for the acquisition, construction, installation, equipping, and rehabilitation of an economic development project; and
  - (f) All other costs of a nature comparable to those described above;
- (6) "Assessment" means the job development assessment fee authorized by KRS 154.22-010 to 154.22-080;
- (7) "Authority" means the Kentucky Economic Development Finance Authority as created in KRS 154.20-010;
- (8) "Average hourly wage" means the wage and employment data published by the Department for Employment Services in the Kentucky Cabinet for Workforce Development collectively translated into wages per hour based on a two thousand eighty (2,080) hour work year for the following sectors:
  - (a) Manufacturing;
  - (b) Transportation, communications and public utilities;
  - (c) Wholesale and retail trade;
  - (d) Finance, insurance, and real estate; and
  - (e) Services;
- (9) "Commonwealth" means the Commonwealth of Kentucky;
- (10) (a) "Economic development project" means and includes:
  - 1. The acquisition of ownership in any real estate in a qualified county by the authority, the approved manufacturing or agribusiness company, or its affiliate;
  - 2. The present ownership of real estate in a qualified county by the approved manufacturing or agribusiness company or its affiliate;
  - 3. The acquisition or present ownership of improvements or facilities, as described in paragraph (b) of this subsection, on land which is possessed or is to be possessed by the approved

manufacturing or agribusiness company pursuant to a ground lease having a term of sixty (60) years or more; and

4. The new construction of an electric generation facility;
- (b) For purposes of subparagraphs 1. and 2. of paragraph (a) of this subsection, ownership of real estate shall only include fee ownership of real estate and possession of real estate pursuant to a capital lease as determined in accordance with Statement of Financial Accounting Standards No. 13, Accounting for Leases, issued by the Financial Accounting Standards Board, November 1976. With respect to subparagraphs 1., 2., and 3. of paragraph (a) or paragraph (b) of this subsection, the construction, installation, equipping, and rehabilitation of improvements, including fixtures and equipment, and facilities necessary or desirable for improvement of the real estate, including surveys; site tests and inspections; subsurface site work; excavation; removal of structures, roadways, cemeteries, and other surface obstructions; filling, grading, and provision of drainage, storm water retention, installation of utilities such as water, sewer, sewage treatment, gas, electricity, communications, and similar facilities; off-site construction of utility extensions to the boundaries of the real estate; and the acquisition, installation, equipping, and rehabilitation of manufacturing facilities on the real estate, for use and occupancy by the approved company or its affiliates for manufacturing purposes, electric generation, or for agribusiness purposes. Pursuant to subparagraph 3. of paragraph (a) of this subsection, an economic development project shall not include lease payments made pursuant to a ground lease for purposes of the tax credits provided under the provisions of KRS 154.22-010 to 154.22-080;
- (11) "Electric generation" means the generation of electricity for resale by means of combusting at least fifty percent (50%) of the total fuel used to generate electricity from coal or from gas derived from coal;
- (12) "Eligible company" means any corporation, limited liability company, partnership, registered limited liability partnership, sole proprietorship, business trust, or any other entity engaged in manufacturing, electric generation, or in agribusiness;
- (13) "Employee benefits" means nonmandated costs paid by an eligible company for its full-time employees for health insurance, life insurance, dental insurance, vision insurance, defined benefits, 401(k) or similar plans;
- (14) "Final approval" means the action taken by the authority authorizing the eligible company to receive inducements under this subchapter;
- (15) "Full-time employee" means a person employed by an approved company for a minimum of thirty-five (35) hours per week and subject to the state income tax imposed by KRS 141.020;
- (16) "Inducements" means the assessment and the income tax credits allowed by KRS 154.22-060;
- (17) "Manufacturing" means any activity involving the manufacturing, processing, assembling, or production of any property, including the processing resulting in a change in the conditions of the property and any activity related to it, together with the storage, warehousing, distribution, and related office facilities; however, "manufacturing" shall not include mining, coal or mineral processing, or extraction of minerals;
- (18) "Preliminary approval" means the action taken by the authority conditioning final approval by the authority upon satisfaction by the eligible company of the requirements under this subchapter;
- (19) "Qualified county" means any county certified as such by the authority pursuant to KRS 154.22-010 to 154.22-080;
- (20) "Revenues" shall not be considered state funds;
- (21) "State agency" shall have the meaning assigned to the term in KRS 56.440(8); and
- (22) "Tax incentive agreement" means the agreement entered into, pursuant to KRS 154.22-050, between the authority and an approved company with respect to an economic development project.

Section 217. KRS 154.23-010 is amended to read as follows:

As used in KRS 154.23-005 to 154.23-079, unless the context clearly indicates otherwise:

- (1) ***"Affiliate" has the same meaning as in Section 216 of this Act;***

(2) "Approved company" means an eligible company that locates an economic development project in a qualified zone, as provided for in KRS 154.23-030;

~~(3)~~~~(2)~~ "Approved costs" means:

- (a) For an approved company that establishes a new manufacturing facility or expands an existing manufacturing facility, the following obligations incurred in its economic development project, including rent under leases subject to subsection (6)(b)4. of this section:
  - 1. The cost of labor, contractors, subcontractors, builders, and material workers in connection with the acquisition, construction, installation, equipping, and rehabilitation of an economic development project;
  - 2. The cost of acquiring real estate or rights in land and any cost incidental thereto, including recording fees;
  - 3. The cost of contract bonds and insurance of all kinds that may be required or necessary during the course of acquisition, construction, installation, equipping, and rehabilitation of an economic development project that is not paid by the contractor or contractors or otherwise provided for;
  - 4. The cost of architectural and engineering services, including test borings, surveys, estimates, plans and specifications, preliminary investigations, and supervision of construction, as well as for the performance of all duties required by or consequent to the acquisition, construction, installation, equipping, and rehabilitation of an economic development project;
  - 5. All costs required to be paid under the terms of any contract for the acquisition, construction, installation, equipping, and rehabilitation of an economic development project; and
  - 6. All other costs of a nature comparable to those described above; or
- (b) For an approved company that establishes a new service or technology business or expands existing service or technology operations, up to a maximum of fifty percent (50%) of the total start-up costs during the term of the service and technology agreement, plus up to a maximum of fifty percent (50%) of the annual rent for each elapsed year of the service and technology agreement;

~~(4)~~~~(3)~~ "Assessment" means the job development assessment fee authorized by KRS 154.23-055;

~~(5)~~~~(4)~~ "Authority" means the Kentucky Economic Development Finance Authority, as created in KRS 154.20-010;

~~(6)~~~~(5)~~ "Average hourly wage" means the wage and employment data published by the Department for Employment Services in the Kentucky Cabinet for Workforce Development collectively translated into wages per hour based on a two thousand eighty (2,080) hour work year for the following sectors:

- (a) Manufacturing;
- (b) Transportation, communications, and public utilities;
- (c) Wholesale and retail trade;
- (d) Finance, insurance, and real estate; and
- (e) Services;

~~(7)~~~~(6)~~ "Commonwealth" means the Commonwealth of Kentucky;

~~(8)~~~~(7)~~ "Economic development project" or "project" means:

- (a) A new or expanded service or technology activity conducted at a new or expanded site by:
  - 1. An approved company; or
  - 2. An approved company and its affiliate or affiliates; or
- (b) Any of the following activities of an approved company engaged in manufacturing:
  - 1. The acquisition of or present ownership in any real estate in a qualified zone for the purposes described in KRS 154.23-005 to 154.23-079, which ownership shall include only fee simple ownership of real estate and possession of real estate according to a capital lease as determined in

accordance with Statement of Financial Accounting Standards No. 13, Accounting for Leases, issued by the Financial Accounting Standards Board, November 1976;

2. The acquisition or present ownership of improvements or facilities on land that is possessed or is to be possessed by the approved company in a ground lease having a term of sixty (60) years or more; provided, however, that this project shall not include lease payments made under a ground lease for purposes of calculating the tax credits offered under KRS 154.23-005 to 154.23-079;
  3. The construction, installation, equipping, and rehabilitation of improvements, fixtures, equipment, and facilities necessary or desirable for improvement of the real estate owned, used, or occupied by the approved company for manufacturing purposes. Construction activities include surveys; site tests and inspections; subsurface site work; excavation; removal of structures, roadways, cemeteries, and other surface obstructions; filling, grading, and providing drainage and storm water retention; installation of utilities such as water, sewer, sewage treatment, gas, electric, communications, and similar facilities; off-site construction of utility extensions to the boundaries of the real estate; or similar activities as the authority may determine necessary for construction; and
  4. The leasing of real estate and the buildings and fixtures thereon acquired, constructed, and installed with funds from grants under KRS 154.23-060;
- (9)(8) "Eligible company" means any corporation, limited liability company, partnership, registered limited liability partnership, sole proprietorship, business trust, or any other legal entity engaged in manufacturing, or service or technology; however, any company whose primary purpose is retail sales shall not be an eligible company;
- (10)(9) "Employee benefits" means nonmandated costs paid by an eligible company for its full-time employees for health insurance, life insurance, dental insurance, vision insurance, defined benefits, 401(k) or similar plans;
- (11)(10) "Final approval" means action taken by the authority that authorizes the eligible company to receive inducements in connection with a project under KRS 154.23-005 to 154.23-079;
- (12)(11) "Full-time employee" means a person employed by an approved company for a minimum of thirty-five (35) hours per week and subject to the state income tax imposed by KRS 141.020;
- (13)(12) "Inducements" means the assessment and the income tax credits allowed to an approved company under KRS 154.23-050 and 154.23-055;
- (14)(13) "Local government" means a city, county, or urban-county government;
- (15)(14) "Manufacturing" means to make, assemble, process, produce, or perform any other activity that changes the form or conditions of raw materials and other property, and shall include any ancillary activity to the manufacturing process, such as storage, warehousing, distribution, and related office facilities; however, "manufacturing" shall not include mining, the extraction of minerals or coal, or processing of these resources;
- (16)(15) "Person" means an individual, sole proprietorship, partnership, **limited partnership**, ~~registered limited liability partnership,~~ joint venture, trust, unincorporated organization, association, corporation, limited liability company, institution, entity or government, whether federal, state, county, city, or otherwise, including without limitation any instrumentality, division, political subdivision, district, court, agency, or department thereof;
- (17)(16) "Preliminary approval" means action taken by the authority that conditions final approval of an eligible company and its economic development project upon satisfaction by the eligible company of the applicable requirements under KRS 154.23-005 to 154.23-079;
- (18)(17) "Qualified employee" means an individual subject to Kentucky income tax who has resided in the qualified zone where the project exists for at least twelve (12) consecutive months preceding full-time employment by an approved company;
- (19)(18) "Qualified statewide employee" means an individual subject to Kentucky income tax who has resided in any census tract or county in the Commonwealth that meets the criteria in KRS 154.23-015, regardless of

whether the tract or county is in a qualified zone, for at least twelve (12) consecutive months preceding full-time employment by an approved company;

~~(20)~~~~(19)~~ "Qualified zone" means any census tract or county certified as such by the authority in KRS 154.23-015 and 154.23-020;

~~(21)~~~~(20)~~ "Rent" means:

- (a) The actual annual rent or leasing fee paid by an approved company to a bona fide entity negotiated at arms length for the use of a building by the approved company to conduct the approved project for which the inducement has been granted; or
- (b) The fair rental value on an annual basis in a building owned by the approved company of the space used by the approved company to conduct the approved project for which the inducement has been granted as determined by the authority using criteria that are customary in the real estate industry for the type of building being used. The fair rental value shall include an analysis of the cost of amortizing the cost of land and building over the period of time customary in the real estate industry for the type of building and for the land being utilized; and
- (c) Rent shall include the customary cost of occupancy, including but not limited to property taxes, heating and air conditioning, electricity, water, sewer, and insurance;

~~(22)~~~~(21)~~ "Service and technology agreement" means any agreement entered into, under KRS 154.23-040, on behalf of the authority, an approved company engaged in service or technology, and third-party lessors, if applicable, with respect to an economic development project;

~~(23)~~~~(22)~~ (a) "Service or technology" means either:

- 1. Any activity involving the performance of work, except work classified by the divisions, including successor divisions, of agriculture, forestry and fishing, mining, utilities, construction, manufacturing, wholesale trade, retail trade, real estate rental and leasing, educational services, accommodation and food services, and public administration in accordance with the "North American Industry Classification System," as revised by the United States Office of Management and Budget from time to time, or any successor publication; or
- 2. Regional or headquarters operations of an entity engaged in an activity listed in subparagraph 1. of this paragraph.

- (b) Notwithstanding paragraph (a) of this subsection, "service or technology" shall not include any activity involving the performance of work by an individual who is providing direct service to the public pursuant to a license issued by the state or an association that licenses in lieu of the state;

~~(24)~~~~(23)~~ "Start-up costs" means the acquisition cost associated with the project and related to furnishing and equipping a building for ordinary business functions, including computers, nonrecurring costs of fixed telecommunication equipment, furnishings, office equipment, and the relocation of out-of-state equipment, as verified and approved by the authority in accordance with KRS 154.23-040; **and**

~~(25)~~~~(24)~~ "Tax incentive agreement" means that agreement entered into, pursuant to KRS 154.23-035, between the authority and an approved company with respect to an economic development project; ~~and~~

~~(25)~~ "Affiliate" means the following:

- ~~(a) Members of a family, including only brothers and sisters of the whole or half blood, spouse, ancestors, and lineal descendants of an individual;~~
- ~~(b) An individual, and a corporation more than fifty percent (50%) in value of the outstanding stock of which is owned, directly or indirectly, by or for that individual;~~
- ~~(c) An individual, and a limited liability company of which more than fifty percent (50%) of the capital interest or profits are owned or controlled, directly or indirectly, by or for that individual;~~
- ~~(d) Two (2) corporations which are members of the same controlled group, which includes and is limited to:~~
  - ~~1. One (1) or more chains of corporations connected through stock ownership with a common parent corporation if:~~



- a. ~~Stock possessing more than fifty percent (50%) of the total combined voting power of all classes of stock entitled to vote or more than fifty percent (50%) of the total value of shares of all classes of stock of each of the corporations, except the common parent corporation, is owned by one (1) or more of the other corporations; and~~
- b. ~~The common parent corporation owns stock possessing more than fifty percent (50%) of the total combined voting power of all classes of stock entitled to vote or more than fifty percent (50%) of the total value of shares of all classes of stock of at least one (1) of the other corporations, excluding, in computing the voting power or value, stock owned directly by the other corporations; or~~
- 2. ~~Two (2) or more corporations if five (5) or fewer persons who are individuals, estates, or trusts own stock possessing more than fifty percent (50%) of the total combined voting power of all classes of stock entitled to vote or more than fifty percent (50%) of the total value of shares of all classes of stock of each corporation, taking into account the stock ownership of each person only to the extent the stock ownership is identical with respect to each corporation;~~
- (e) ~~A grantor and a fiduciary of any trust;~~
- (f) ~~A fiduciary of a trust and a fiduciary of another trust, if the same person is a grantor of both trusts;~~
- (g) ~~A fiduciary of a trust and a beneficiary of that trust;~~
- (h) ~~A fiduciary of a trust and a beneficiary of another trust, if the same person is a grantor of both trusts;~~
- (i) ~~A fiduciary of a trust and a corporation more than fifty percent (50%) in value of the outstanding stock of which is owned, directly or indirectly, by or for the trust or by or for a person who is a grantor of the trust;~~
- (j) ~~A fiduciary of a trust and a limited liability company, of which more than fifty percent (50%) of the capital interest, or the interest in profits, is owned directly or indirectly, by or for the trust or by or for a person who is a grantor of the trust;~~
- (k) ~~A corporation and a partnership, including a registered limited liability partnership, if the same persons own:~~
  - 1. ~~More than fifty percent (50%) in value of the outstanding stock of the corporation; and~~
  - 2. ~~More than fifty percent (50%) of the capital interest, or the profits interest, in the partnership, including a registered limited liability partnership;~~
- (l) ~~A corporation and a limited liability company if the same persons own:~~
  - 1. ~~More than fifty percent (50%) in value of the outstanding stock of the corporation; and~~
  - 2. ~~More than fifty percent (50%) of the capital interest or the profits in the limited liability company;~~
- (m) ~~A partnership, including a registered limited liability partnership, and a limited liability company if the same persons own:~~
  - 1. ~~More than fifty percent (50%) of the capital interest or profits in the partnership, including a registered limited liability partnership; and~~
  - 2. ~~More than fifty percent (50%) of the capital interest or the profits in the limited liability company;~~
- (n) ~~An S corporation and another S corporation if the same persons own more than fifty percent (50%) in value of the outstanding stock of each corporation, S corporation designation being the same as that designation under the Internal Revenue Code of 1986, as amended; or~~
- (o) ~~An S corporation and a C corporation, if the same persons own more than fifty percent (50%) in value of the outstanding stock of each corporation; S and C corporation designations being the same as those designations under the Internal Revenue Code of 1986, as amended}.~~

Section 218. KRS 154.24-010 is amended to read as follows:

The following words and terms, unless the context clearly indicates a different meaning, shall have the following respective meanings in KRS 154.24-010 to 154.24-150:

(1) "Affiliate" *has the same meaning as in Section 216 of this Act*~~means the following:~~

- ~~(a) Members of a family, including only brothers and sisters of the whole or half blood, spouse, ancestors, and lineal descendants of an individual;~~
- ~~(b) An individual, and a corporation more than fifty percent (50%) in value of the outstanding stock of which is owned, directly or indirectly, by or for that individual;~~
- ~~(c) An individual, and a limited liability company of which more than fifty percent (50%) of the capital interest or profits are owned or controlled, directly or indirectly, by or for that individual;~~
- ~~(d) Two (2) corporations which are members of the same controlled group, which includes and is limited to:~~
  - ~~1. One (1) or more chains of corporations connected through stock ownership with a common parent corporation if:~~
    - ~~a. Stock possessing more than fifty percent (50%) of the total combined voting power of all classes of stock entitled to vote or more than fifty percent (50%) of the total value of shares of all classes of stock of each of the corporations, except the common parent corporation, is owned by one (1) or more of the other corporations; and~~
    - ~~b. The common parent corporation owns stock possessing more than fifty percent (50%) of the total combined voting power of all classes of stock entitled to vote or more than fifty percent (50%) of the total value of shares of all classes of stock of at least one (1) of the other corporations, excluding, in computing the voting power or value, stock owned directly by the other corporations; or~~
  - ~~2. Two (2) or more corporations if five (5) or fewer persons who are individuals, estates, or trusts own stock possessing more than fifty percent (50%) of the total combined voting power of all classes of stock entitled to vote or more than fifty percent (50%) of the total value of shares of all classes of stock of each corporation, taking into account the stock ownership of each person only to the extent the stock ownership is identical with respect to each corporation;~~
- ~~(e) A grantor and a fiduciary of any trust;~~
- ~~(f) A fiduciary of a trust and a fiduciary of another trust, if the same person is a grantor of both trusts;~~
- ~~(g) A fiduciary of a trust and a beneficiary of that trust;~~
- ~~(h) A fiduciary of a trust and a beneficiary of another trust, if the same person is a grantor of both trusts;~~
- ~~(i) A fiduciary of a trust and a corporation more than fifty percent (50%) in value of the outstanding stock of which is owned, directly or indirectly, by or for the trust or by or for a person who is a grantor of the trust;~~
- ~~(j) A fiduciary of a trust and a limited liability company, of which more than fifty percent (50%) of the capital interest, or the interest in profits, is owned directly or indirectly, by or for the trust or by or for a person who is a grantor of the trust;~~
- ~~(k) A corporation and a partnership, including a registered limited liability partnership, if the same persons own:~~
  - ~~1. More than fifty percent (50%) in value of the outstanding stock of the corporation; and~~
  - ~~2. More than fifty percent (50%) of the capital interest, or the profits interest, in the partnership, including a registered limited liability partnership;~~
- ~~(l) A corporation and a limited liability company if the same persons own:~~
  - ~~1. More than fifty percent (50%) in value of the outstanding stock of the corporation; and~~
  - ~~2. More than fifty percent (50%) of the capital interest or the profits in the limited liability company;~~
- ~~(m) A partnership, including a registered limited liability partnership, and a limited liability company if the same persons own:~~

- ~~1. More than fifty percent (50%) of the capital interest or profits in the partnership, including a registered limited liability partnership; and~~
- ~~2. More than fifty percent (50%) of the capital interest or the profits in the limited liability company;~~
- ~~(n) An S corporation and another S corporation if the same persons own more than fifty percent (50%) in value of the outstanding stock of each corporation, S corporation designation being the same as that designation under the Internal Revenue Code of 1986, as amended; or~~
- ~~(o) An S corporation and a C corporation, if the same persons own more than fifty percent (50%) in value of the outstanding stock of each corporation; S and C corporation designations being the same as those designations under the Internal Revenue Code of 1986, as amended;~~
- (2) "Agreement" means the service and technology agreement made pursuant to KRS 154.24-120, between the authority and an approved company with respect to an economic development project;
- (3) "Approved company" means any eligible company seeking to locate an economic development project from outside the Commonwealth into the Commonwealth, or undertaking an economic development project in the Commonwealth for which it is approved pursuant to KRS 154.24-100;
- (4) "Approved costs" means fifty percent (50%) of the total of the start-up costs up to a maximum of ten thousand dollars (\$10,000) per new full-time job created and to be held by a Kentucky resident subject to the personal income tax of the Commonwealth, plus fifty percent (50%) of the annual rent for each elapsed year of the service and technology agreement;
- (5) "Assessment" means the "service and technology job creation assessment fee" authorized by KRS 154.24-110;
- (6) "Authority" means the Kentucky Economic Development Finance Authority, as created in KRS 154.20-010;
- (7) "Average hourly wage" means the wage and employment data published by the Department for Employment Services in the Kentucky Cabinet for Workforce Development collectively translated into wages per hour based on a two thousand eighty (2,080) hour work year for the following sectors:
  - (a) Manufacturing;
  - (b) Transportation, communications, and public utilities;
  - (c) Wholesale and retail trade;
  - (d) Finance, insurance, and real estate; and
  - (e) Services;
- (8) "Commonwealth" means the Commonwealth of Kentucky;
- (9) "Economic development project" or "project" means a new or expanded service or technology activity conducted at a new or expanded site by:
  - (a) An approved company; or
  - (b) An approved company and its affiliate or affiliates;
- (10) "Eligible company" means any corporation, limited liability company, partnership, **limited partnership**, ~~registered limited liability partnership,~~ sole proprietorship, business trust, or any other entity engaged in service or technology and meeting the standards promulgated by the authority in accordance with KRS Chapter 13A;
- (11) "Employee benefits" means nonmandated costs paid by an approved company for its full-time employees for health insurance, life insurance, dental insurance, vision insurance, defined benefits, 401(k) or similar plans;
- (12) "Final approval" means the action taken by the authority authorizing the eligible company to receive inducements under this subchapter;
- (13) "Full-time employee" means a person employed by an approved company for a minimum of thirty-five (35) hours per week and subject to the state tax imposed by KRS 141.020;

- (14) "In lieu of credits" means a local government appropriation to the extent permitted by law, or other form of local government grant or service benefit, directly related to the economic development project and in an amount equal to one percent (1%) of employees' gross wages, exclusive of any noncash benefits provided to an employee, or the provision by a local government of an in-kind contribution directly related to the economic development project and in an amount equal to one half (1/2) of the rent for the duration of the agreement;
- (15) "Inducements" means the income tax credits allowed and the assessment authorized by KRS 154.24-110, which are intended to induce companies engaged in service and technology industries to locate or expand in the Commonwealth;
- (16) "Person" means an individual, sole proprietorship, partnership, **limited partnership**, ~~registered limited liability partnership,~~ joint venture, trust, unincorporated organization, association, corporation, limited liability company, institution, entity or government, whether federal, state, county, city, or otherwise, including without limitation any instrumentality, division, political subdivision, district, court, agency, or department thereof;
- (17) "Preliminary approval" means the action taken by the authority conditioning final approval by the authority upon satisfaction by the eligible company of the requirements under this subchapter;
- (18) "Rent" means:
  - (a) The actual annual rent or leasing fee paid by an approved company to a bona fide entity negotiated at arms length for the use of a building by the approved company to conduct the approved activity for which the inducement has been granted; or
  - (b) The fair rental value on an annual basis in a building owned by the approved company of the space used by the approved company to conduct the approved activity for which the inducement has been granted as determined by the authority using criteria which is customary in the real estate industry for the type of building being used. The fair rental value shall include an analysis of the cost of amortizing the cost of land and building over the period of time customary in the real estate industry for the type of building and for the land being utilized;
  - (c) Rent shall include the customary cost of occupancy, including but not limited to property taxes, heating and air-conditioning, electricity, water, sewer, and insurance;
- (19) (a) "Service or technology" means either:
  - 1. Any activity involving the performance of work, except work classified by the divisions, including successor divisions, of agriculture, forestry and fishing, mining, utilities, construction, manufacturing, wholesale trade, retail trade, real estate rental and leasing, educational services, accommodation and food services, and public administration in accordance with the "North American Industry Classification System," as revised by the United States Office of Management and Budget from time to time, or any successor publication; or
  - 2. Regional or headquarters operations of an entity engaged in an activity listed in subparagraph 1. of this paragraph.
- (b) Notwithstanding paragraph (a) of this subsection, "service or technology" shall not include any activity involving the performance of work by an individual who is providing direct service to the public pursuant to a license issued by the state or an association that licenses in lieu of the state; and
- (20) "Start-up costs" means the acquisition cost associated with the project related to the furnishing and equipping the building for ordinary business functions, including computers, furnishings, office equipment, the relocation of out-of-state equipment, and nonrecurring costs of fixed telecommunication equipment as verified and approved by the authority in accordance with KRS 154.24-130.

Section 219. KRS 154.26-010 is amended to read as follows:

As used in this subchapter, unless the context clearly indicates otherwise:

- (1) "Agreement" means a revitalization agreement entered into, pursuant to KRS 154.26-090, on behalf of the authority and an approved company with respect to an economic revitalization project;
- (2) "Agribusiness" means any activity involving the processing of raw agricultural products, including timber, or the providing of value-added functions with regard to raw agricultural products;

- (3) "Appropriation agreement" means an agreement entered into, pursuant to KRS 154.26-090(1)(f)2., among the approved company, the authority, and local governmental entities with respect to appropriations by these local governmental entities for the benefit of the approved company;
- (4) "Approved company" means any eligible company approved by the authority pursuant to KRS 154.26-080 requiring an economic revitalization project;
- (5) "Approved costs" means:
  - (a) Obligations incurred for labor and to vendors, contractors, subcontractors, builders, suppliers, deliverymen, and materialmen in connection with the acquisition, construction, equipping, rehabilitation, and installation of an economic revitalization project;
  - (b) The cost of contract bonds and of insurance of all kinds that may be required or necessary during the course of acquisition, construction, equipping, rehabilitation, and installation of an economic revitalization project which is not paid by the vendor, supplier, deliveryman, contractor, or otherwise provided;
  - (c) All costs of architectural and engineering services, including estimates, plans and specifications, preliminary investigations, and supervision of construction, rehabilitation and installation, as well as for the performance of all the duties required by or consequent upon the acquisition, construction, equipping, rehabilitation, and installation of an economic revitalization project;
  - (d) All costs required to be paid under the terms of any contract for the acquisition, construction, equipping, rehabilitation, and installation of an economic revitalization project;
  - (e) All costs required for the installation of utilities, including, but not limited to, water, sewer, sewer treatment, gas, electricity, communications, and railroads, and including off-site construction of the facilities paid for by the approved company; and
  - (f) All other costs comparable with those described above;
- (6) "Assessment" means the job revitalization assessment fee authorized by KRS 154.26-100;
- (7) "Authority" means the Kentucky Economic Development Finance Authority created by KRS 154.20-010;
- (8) "Commonwealth" means the Commonwealth of Kentucky;
- (9) "Economic revitalization project" or "project" means the acquisition, construction, equipping, and rehabilitation of machinery and equipment, constituting fixtures or otherwise, and with respect thereto, the construction, rehabilitation, and installation of improvements of facilities necessary or desirable for the acquisition, construction, installation, and rehabilitation of the machinery and equipment, including surveys; installation of utilities, including water, sewer, sewage treatment, gas, electricity, communications, and similar facilities; and off-site construction of utility extensions to the boundaries of the real estate on which the facilities are located, all of which are utilized to improve the economic situation of the approved company to allow the approved company to remain in operation and retain or create jobs;
- (10) "Eligible company" means any corporation, limited liability company, partnership, *limited partnership*, ~~registered limited liability partnership~~, sole proprietorship, business trust, or any other entity:
  - (a) Employing or intending to employ full-time a minimum of twenty-five (25) persons engaged in manufacturing or agribusiness operations at the same facility, whether owned or leased, located and operating within the Commonwealth on a permanent basis for a reasonable period of time preceding the request for approval by the authority of an economic revitalization project, including facilities where manufacturing or agribusiness operations has been temporarily suspended and which meets the standards promulgated by the authority pursuant to KRS 154.26-080; or
  - (b) Having a base contract for annual delivery of at least four (4) million tons of coal mined within the Commonwealth and employing a minimum of five hundred (500) persons engaged in coal mining and processing operations at facilities, whether owned or leased, located and operating within the Commonwealth on a permanent basis for a reasonable period of time preceding the request for approval by the authority of an economic revitalization project, including facilities on or adjacent to where coal mining and processing operations have been temporarily suspended or severely reduced, and which meets the standards promulgated by the authority under KRS 154.26-080;

- (11) "Final approval" means the action taken by the authority authorizing the eligible company to receive inducements under this subchapter;
- (12) "Inducements" means the Kentucky tax credit and the job revitalization assessment fee as prescribed in KRS 154.26-090 and 154.26-100;
- (13) "Manufacturing" means any activity involving the manufacturing, processing, assembling, or production of any property, including the processing that results in a change in the condition of the property and any related activity or function, together with the storage, warehousing, distribution, and related office facilities;
- (14) "Coal mining and processing" means activities resulting in the eligible company being subject to the tax imposed by KRS Chapter 143;
- (15) "Preliminary approval" means the action taken by the authority conditioning final approval by the authority upon satisfaction by the eligible company of the requirements under this subchapter; and
- (16) "State agency" means any state administrative body, agency, department, or division as defined in KRS 42.010, or any board, commission, institution, or division exercising any function of the state which is not an independent municipal corporation or political subdivision.

Section 220. KRS 154.28-010 is amended to read as follows:

As used in KRS 154.28-010 to 154.28-100, unless the context clearly indicates otherwise:

- (1) "Activation date" means a date selected by an approved company in the agreement at any time within the two (2) year period after the date of final approval of the agreement by the authority;
- (2) "Affiliate" *has the same meaning as in Section 216 of this Act* ~~means the following:~~
  - ~~(a) Members of a family, including only brothers and sisters of the whole or half blood, spouse, ancestors, and lineal descendants of an individual;~~
  - ~~(b) An individual and a corporation more than fifty percent (50%) in value of the outstanding stock of which is owned, directly or indirectly, by or for that individual;~~
  - ~~(c) An individual, and a limited liability company of which more than fifty percent (50%) of the capital interest or the profits interest of which is owned, directly or indirectly, by or for that individual;~~
  - ~~(d) Two (2) corporations which are members of the same controlled group, which includes and is limited to:~~
    - ~~1. One (1) or more chains of corporations connected through stock ownership with a common parent corporation if:~~
      - ~~a. Stock possessing more than fifty percent (50%) of the total combined voting power of all classes of stock entitled to vote or more than fifty percent (50%) of the total value of shares of all classes of stock of each of the corporations, except the common parent corporation, is owned by one (1) or more of the other corporations; and~~
      - ~~b. The common parent corporation owns stock possessing more than fifty percent (50%) of the total combined voting power of all classes of stock entitled to vote or more than fifty percent (50%) of the total value of shares of all classes of stock of at least one (1) of the other corporations, excluding, in computing such voting power or value, stock owned directly by the other corporations; or~~
    - ~~2. Two (2) or more corporations if five (5) or fewer persons who are individuals, estates, or trusts own stock possessing more than fifty percent (50%) of the total combined voting power of all classes of stock entitled to vote or more than fifty percent (50%) of the total value of shares of all classes of stock of each corporation, taking into account the stock ownership of each person only to the extent the stock ownership is identical with respect to each corporation;~~
  - ~~(e) A grantor and a fiduciary of any trust;~~
  - ~~(f) A fiduciary of a trust and a fiduciary of another trust, if the same person is a grantor of both trusts;~~
  - ~~(g) A fiduciary of a trust and a beneficiary of that trust;~~
  - ~~(h) A fiduciary of a trust and a beneficiary of another trust, if the same person is a grantor of both trusts;~~

- ~~(i) A fiduciary of a trust and a corporation more than fifty percent (50%) in value of the outstanding stock of which is owned, directly or indirectly, by or for the trust or by or for a person who is a grantor of the trust;~~
- ~~(j) A fiduciary of a trust and a limited liability company of which more than fifty percent (50%) of the capital interest or the profits interest of which is owned, directly or indirectly, by or for the trust or by or for a person who is a grantor of the trust;~~
- ~~(k) A corporation and a partnership, including a registered limited liability partnership, if the same persons own:
 
  - ~~1. More than fifty percent (50%) in value of the outstanding stock of the corporation; and~~
  - ~~2. More than fifty percent (50%) of the capital interest, or the profits interest, in the partnership, including a registered limited liability partnership;~~~~
- ~~(l) A corporation and a limited liability company if the same persons own:
 
  - ~~1. More than fifty percent (50%) in value of the outstanding stock of the corporation; and~~
  - ~~2. More than fifty percent (50%) of the capital interest or the profits in the limited liability company;~~~~
- ~~(m) A partnership, including a registered limited liability partnership, and a limited liability company if the same persons own:
 
  - ~~1. More than fifty percent (50%) of the capital interest or profits in the partnership, including a registered limited liability partnership; and~~
  - ~~2. More than fifty percent (50%) of the capital interest or profits in the limited liability company;~~~~
- ~~(n) An S corporation and another S corporation if the same persons own more than fifty percent (50%) in value of the outstanding stock of each corporation, S corporation designation being the same as that designation under the Internal Revenue Code of 1986, as amended; or~~
- ~~(o) An S corporation and a C corporation, if the same persons own more than fifty percent (50%) in value of the outstanding stock of each corporation: S and C corporation designations being the same as those designations under the Internal Revenue Code of 1986, as amended;~~
- (3) "Agreement" means the tax incentive agreement entered into, pursuant to KRS 154.28-090, between the authority and an approved company with respect to an economic development project;
- (4) "Agribusiness" means any activity involving the processing of raw agricultural products, including timber, or the providing of value-added functions with regard to raw agricultural products;
- (5) "Approved company" means any eligible company, approved by the authority pursuant to KRS 154.28-080, requiring an economic development project;
- (6) "Approved costs" means:
  - (a) Obligations incurred for labor and to vendors, contractors, subcontractors, builders, suppliers, deliverymen, and materialmen in connection with the acquisition, construction, rehabilitation, and installation of an economic development project;
  - (b) The cost of contract bonds and of insurance of all kinds that may be required or necessary during the course of acquisition, construction, rehabilitation, and installation of an economic project which is not paid by the vendor, supplier, deliverymen, contractors, or otherwise else provided;
  - (c) All costs of architectural and engineering services, including estimates, plans and specifications, preliminary investigations, and supervision of construction, rehabilitation, and installation, as well as for the performance of all the duties required by or consequent upon the acquisition, construction, rehabilitation, and installation of an economic development project;
  - (d) All costs which shall be required to be paid under the terms of any contract for the acquisition, construction, rehabilitation, and installation of an economic development project;

- (e) All costs which shall be required for the installation of utilities such as water, sewer, sewer treatment, gas, electricity, communications, railroads, and similar facilities, and including offsite construction of the facilities paid for by the approved company; and
- (f) All other costs comparable to those described above;
- (7) "Assessment" means the job development assessment fee authorized by this section to KRS 154.28-100;
- (8) "Authority" means the Kentucky Economic Development Finance Authority created by KRS 154.20-010;
- (9) "Average hourly wage" means the wage and employment data published by the Department for Employment Services in the Kentucky Cabinet for Workforce Development collectively translated into wages per hour based on a two thousand eighty (2,080) hour work year for the following sectors:
  - (a) Manufacturing;
  - (b) Transportation, communications, and public utilities;
  - (c) Wholesale and retail trade;
  - (d) Finance, insurance, and real estate; and
  - (e) Services;
- (10) "Commonwealth" means the Commonwealth of Kentucky;
- (11) (a) "Economic development project" or "project" means and includes:
  - 1. The acquisition of ownership in any real estate by the approved manufacturing or agribusiness company or its affiliate;
  - 2. The present ownership of real estate by the approved manufacturing or agribusiness company or its affiliate; or
  - 3. The acquisition or present ownership of improvements or facilities, as described in paragraph (b) of this subsection, on land which is possessed or is to be possessed by the approved company pursuant to a ground lease having a term of sixty (60) years or more.
- (b) For purposes of subparagraphs 1. and 2. of paragraph (a) of this subsection, ownership of real estate shall only include fee ownership of real estate and possession of real estate pursuant to a capital lease as determined in accordance with Statement of Financial Accounting Standards No. 13, Accounting for Leases, issued by the Financial Accounting Standards Board, November 1976. With respect to subparagraphs 1., 2., and 3. of paragraph (a) of this subsection, the construction, installation, equipping, and rehabilitating of improvements, including fixtures and equipment directly involved in the manufacturing process, and facilities necessary or desirable for improvement of the real estate shall include: surveys, site tests, and inspections; subsurface site work and excavation; removal of structures, roadways, cemeteries, and other site obstructions; filling, grading, provision of drainage, and storm water retention; installation of utilities such as water, sewer, sewage treatment, gas, electricity, communications, and similar facilities; offsite construction of utility extensions to the boundaries of the real estate; and the acquisition, installation, equipping, and rehabilitation of manufacturing facilities or agribusiness operations on the real estate for the use of the approved company or its affiliates for manufacturing or agribusiness operational purposes. Pursuant to paragraphs (a)3. and (b) of this subsection, an economic development project shall not include lease payments made pursuant to a ground lease for purposes of the tax credits provided under the provisions of KRS 154.28-010 to 154.28-100. An economic development project shall include the equipping of a facility with equipment but, for purposes of the tax credits provided under the provisions of KRS 154.28-010 to 154.28-090, only to the extent of ten thousand dollars (\$10,000) per job created by and maintained at the economic development project;
- (12) "Eligible company" means any corporation, limited liability company, partnership, *limited partnership*, ~~registered limited liability partnership,~~ sole proprietorship, trust, or any other entity engaged in manufacturing or agribusiness operations;
- (13) "Employee benefits" means nonmandated costs paid by an eligible company for its full-time employees for health insurance, life insurance, dental insurance, vision insurance, defined benefits, 401(k) or similar plans;



- (14) "Full-time employee" means a person employed by an approved company for a minimum of thirty-five (35) hours per week and subject to the state income tax imposed by KRS 141.020;
- (15) "Inducement" means the assessment or the Kentucky income tax credit as set forth in KRS 154.28-090;
- (16) "Manufacturing" means any activity involving the manufacturing, processing, assembling, or production of any property, including the processing resulting in a change in the conditions of the property, and any activity functionally related to it, together with storage, warehousing, distribution, and related office facilities; however, "manufacturing" shall not include mining, coal or mineral processing, or extraction of minerals; and
- (17) "State agency" shall have the meaning assigned to the term in KRS 56.440(8).

Section 221. KRS 154.34-010 is amended to read as follows:

As used in KRS 154.34-010 to 154.34-100, unless the context clearly indicates otherwise:

- (1) "Approved company" means any eligible company for which the authority has granted final approval of its application pursuant to KRS 154.34-070;
- (2) "Approved costs" means that portion of the eligible costs approved by the authority that an approved company may recover through the inducements authorized by KRS 154.34-010 to 154.34-100; however, approved costs shall not exceed ten percent (10%) of the eligible costs;
- (3) "Authority" means the Kentucky Economic Development Finance Authority created by KRS 154.20-010;
- (4) "Commonwealth" means the Commonwealth of Kentucky;
- (5) "Eligible company" means any corporation, limited liability company, partnership, ***limited partnership***, ~~registered limited liability partnership,~~ sole proprietorship, business trust, or any other entity designated by the United States Department of Commerce, United States Census Bureau North American Industry Classification System code of 336211, 336111, 336112, or 336120 that employs a minimum of one thousand (1,000) full-time persons engaged in manufacturing at the same facility or at multiple facilities located within the same county, whether owned or leased, is located and operating within the Commonwealth on a permanent basis for a reasonable period of time preceding the request for approval by the authority of a reinvestment project which meets the standards set forth in KRS 154.34-070, and has not been an approved company in an industrial revitalization project under Subchapter 26 of KRS Chapter 154 for a period of at least five (5) years;
- (6) "Eligible costs" means:
  - (a) Obligations incurred for labor and to vendors, contractors, subcontractors, builders, suppliers, deliverymen, and materialmen in connection with the acquisition, construction, equipping, rehabilitation, and installation of an existing manufacturing reinvestment project;
  - (b) The cost of contract bonds and of insurance of all kinds that may be required or necessary during the course of acquisition, construction, equipping, rehabilitation, and installation of a reinvestment project which is not paid by the vendor, supplier, deliveryman, contractor, or otherwise provided;
  - (c) All costs of architectural and engineering services, including estimates, plans and specifications, preliminary investigations, and supervision of construction, rehabilitation and installation, as well as for the performance of all the duties required by or consequent upon the acquisition, construction, equipping, rehabilitation, and installation of a reinvestment project;
  - (d) All costs required to be paid under the terms of any contract for the acquisition, construction, equipping, rehabilitation, and installation of an existing manufacturing reinvestment project; and
  - (e) All costs required for the installation of utilities, including but not limited to water, sewer, sewer treatment, gas, electricity, communications, and access to transportation, and including off-site construction of the facilities paid for by the approved company;
- (7) "Equipment" means manufacturing machinery installed by the approved company at the project; however, equipment shall not mean accessories or appurtenances of existing or new manufacturing machinery including but not limited to molds, dies, or other attachments of a less permanent nature;

- (8) "Final approval" means the action taken after July 1, 2004, by the authority designating an eligible company that has previously received a preliminary approval as an approved company and authorizing the execution of a reinvestment agreement between the authority and the approved company;
- (9) "Inducements" means the Kentucky tax credits as authorized by KRS 154.34-010 to 154.34-100;
- (10) "Manufacturing" means any activity involving the manufacturing, processing, assembling, or production of any property, including the processing that results in a change in the condition of the property and any related activity or function, together with the storage, warehousing, distribution, and related office facilities;
- (11) "Preliminary approval" means the action taken by the authority designating an eligible company as a preliminarily approved company, and conditioning final approval by the authority upon satisfaction by the eligible company of the requirements set forth in the preliminary approval;
- (12) "Reinvestment agreement" or "agreement" means the agreement entered into pursuant to KRS 154.34-080 on behalf of the authority and an approved company with respect to a reinvestment project;
- (13) "Reinvestment project" or "project" means the acquisition, construction, and installation of new equipment and, with respect thereto, the construction, rehabilitation, and installation of improvements to facilities necessary to house the acquisition, construction, and installation of new equipment, including surveys; installation of utilities including water, sewer, sewage treatment, gas, electricity, communications, and similar facilities; off-site construction of utility extensions to the boundaries of the real estate on which the facilities are located; and shall contain eligible costs of not less than one hundred million dollars (\$100,000,000), all of which are utilized to improve the economic and operational situation of an approved company to allow the approved company to reinvest in its operations and retain or create jobs within the Commonwealth; and
- (14) "State agency" means any state administrative body, agency, department, or division as defined in KRS 42.010, or any board, commission, institution, or division exercising any function of the state which is not an independent municipal corporation or political subdivision.

Section 222. KRS 154.48-010 is amended to read as follows:

As used in KRS 154.48-010 to 154.48-035, unless the context clearly indicates otherwise:

- (1) "Activation date" means a date selected by an approved company in the tax incentive agreement at any time within a two (2) year period after the date of final approval of the tax incentive agreement by the authority;
- (2) "Affiliate" means the following:
  - (a) Members of a family, including only brothers and sisters of the whole or half blood, spouse, ancestors, and lineal descendants of an individual;
  - (b) An individual, and a corporation more than fifty percent (50%) in value of the outstanding stock of which is owned, directly or indirectly, by or for that individual;
  - (c) An individual, and a limited liability company of which more than fifty percent (50%) of the capital interest or profits are owned or controlled, directly or indirectly, by or for that individual;
  - (d) Two (2) corporations which are members of the same controlled group, which includes and is limited to:
    - 1. One (1) or more chains of corporations connected through stock ownership with a common parent corporation if:
      - a. Stock possessing more than fifty percent (50%) of the total combined voting power of all classes of stock entitled to vote or more than fifty percent (50%) of the total value of shares of all classes of stock of each of the corporations, except the common parent corporation, is owned by one (1) or more of the other corporations; and
      - b. The common parent corporation owns stock possessing more than fifty percent (50%) of the total combined voting power of all classes of stock entitled to vote or more than fifty percent (50%) of the total value of shares of all classes of stock of at least one (1) of the other corporations, excluding, in computing the voting power or value, stock owned directly by the other corporations; or
    - 2. Two (2) or more corporations if five (5) or fewer persons who are individuals, estates, or trusts own stock possessing more than fifty percent (50%) of the total combined voting power of all classes of stock entitled to vote or more than fifty percent (50%) of the total value of shares of all

classes of stock of each corporation, taking into account the stock ownership of each person only to the extent the stock ownership is identical with respect to each corporation;

- (e) A grantor and a fiduciary of any trust;
  - (f) A fiduciary of a trust and a fiduciary of another trust, if the same person is a grantor of both trusts;
  - (g) A fiduciary of a trust and a beneficiary of that trust;
  - (h) A fiduciary of a trust and a beneficiary of another trust, if the same person is a grantor of both trusts;
  - (i) A fiduciary of a trust and a corporation more than fifty percent (50%) in value of the outstanding stock of which is owned, directly or indirectly, by or for the trust or by or for a person who is a grantor of the trust;
  - (j) A fiduciary of a trust and a limited liability company more than fifty percent (50%) of the capital interest, or the interest in profits, of which is owned directly or indirectly, by or for the trust or by or for a person who is a grantor of the trust;
  - (k) A corporation, ~~and~~ a partnership, **or a limited partnership**, ~~including a registered limited liability partnership,~~ if the same persons own:
    - 1. More than fifty percent (50%) in value of the outstanding stock of the corporation; and
    - 2. More than fifty percent (50%) of the capital interest, or the profits interest, in the partnership **or limited partnership**, ~~including a registered limited liability partnership~~;
  - (l) A corporation and a limited liability company if the same persons own:
    - 1. More than fifty percent (50%) in value of the outstanding stock of the corporation; and
    - 2. More than fifty percent (50%) of the capital interest or the profits in the limited liability company;
  - (m) A partnership **or limited partnership**, ~~including a registered limited liability partnership,~~ and a limited liability company if the same persons own:
    - 1. More than fifty percent (50%) of the capital interest or profits in the partnership **or limited partnership**, ~~including a registered limited liability partnership~~; and
    - 2. More than fifty percent (50%) of the capital interest or the profits in the limited liability company;
  - (n) An S corporation and another S corporation if the same persons own more than fifty percent (50%) in value of the outstanding stock of each corporation, S corporation designation being the same as that designation under the Internal Revenue Code of 1986, as amended; or
  - (o) An S corporation and a C corporation, if the same persons own more than fifty percent (50%) in value of the outstanding stock of each corporation; S and C corporation designations being the same as those designations under the Internal Revenue Code of 1986, as amended;
- (3) "Approved company" means any eligible company for which the authority has granted final approval of its application pursuant to KRS 154.48-025;
  - (4) "Approved costs" means one hundred percent (100%) of the eligible skills upgrade training costs and up to twenty-five percent (25%) of the eligible equipment costs approved by the authority that an approved company may recover through the inducements authorized by KRS 154.48-010 to 154.48-035;
  - (5) "Authority" means the Kentucky Economic Development Finance Authority created by KRS 154.20-010;
  - (6) "Average hourly wage" means the wage and employment data published by the Office of Employment and Training Services in the Department for Workforce Investment within the Education Cabinet collectively translated into wages per hour based on a two thousand eighty (2,080) hour work year for the following sectors:
    - (a) Manufacturing;
    - (b) Transportation, communications, and public utilities;

- (c) Wholesale and retail trade;
  - (d) Finance, insurance, and real estate; and
  - (e) Services;
- (7) "Commonwealth" means the Commonwealth of Kentucky;
- (8) "Eligible company" means any entity that undertakes an environmental stewardship project;
- (9) "Eligible costs" means eligible equipment costs plus eligible skills upgrade training costs expended after preliminary approval of the environmental stewardship project;
- (10) "Eligible equipment costs" means:
- (a) Obligations incurred for labor and to vendors, contractors, subcontractors, builders, suppliers, deliverymen, and materialmen in connection with the acquisition, construction, equipping, and installation of an environmental stewardship project;
  - (b) The cost of contract bonds and of insurance of all kinds that may be required or necessary during the course of acquisition, construction, equipping, and installation of an environmental stewardship project which is not paid by the vendor, supplier, deliveryman, contractor, or otherwise provided;
  - (c) All costs of architectural and engineering services, including estimates, plans and specifications, preliminary investigations, and supervision of construction, rehabilitation and installation, as well as for the performance of all the duties required by or consequent upon the acquisition, construction, equipping, and installation of an environmental stewardship project;
  - (d) All costs required to be paid under the terms of any contract for the acquisition, construction, equipping, and installation of an environmental stewardship project;
  - (e) All costs paid for by the approved company that are required for the installation of utilities, including but not limited to water, sewer, sewer treatment, gas, electricity, communications, and access to transportation, and including off-site construction of the facilities necessary for implementation of an environmental stewardship project; and
  - (f) All other costs of a nature comparable to those described in this subsection.
- (11) "Eligible skills upgrade training costs" means:
- (a) Fees or salaries required to be paid to instructors who are employees of the approved company, instructors who are full-time, part-time, or adjunct instructors with an educational institution, and instructors who are consultants on contract with an approved company in connection with an occupational training program sponsored by an approved company for its full-time employees and specifically relating to an environmental stewardship project;
  - (b) Administrative fees charged by educational institutions in connection with an occupational training program sponsored by an approved company for its full-time employees and specifically relating to an environmental stewardship project;
  - (c) The cost of supplies, materials, and equipment used exclusively in an occupational training program sponsored by an approved company for its full-time employees and specifically relating to an environmental stewardship project;
  - (d) The cost of leasing a training facility where space is unavailable at an educational institution or at the premises of an approved company in connection with an occupational training program sponsored by an approved company for its full-time employees and specifically relating to an environmental stewardship project;
  - (e) Employee wages to be paid in connection with an occupational training program sponsored by an approved company for its full-time employees and specifically relating to an environmental stewardship project;
  - (f) Travel expenses paid by the approved company as incurred by its full-time employees resulting directly from the costs of transportation, lodging and meals that are directly related to an occupational training program necessary for the implementation of an environmental stewardship project; and
  - (g) All other costs of a nature comparable to those described in this subsection;

- (12) "Employee benefits" means nonmandated costs paid by an eligible company for its full-time employees for health insurance, life insurance, dental insurance, vision insurance, defined benefits, 401(k) or similar plans;
- (13) "Environmental stewardship product" means any new manufactured product or substantially improved existing manufactured product that has a lesser or reduced adverse effect on human health and the environment or provides for improvement to human health and the environment when compared with existing products or competing products that serve the same purpose. Such products may include, but are not limited to, those which contain recycled content, minimize waste, conserve energy or water, and reduce the amount of toxics disposed or consumed, but shall not include products that are the result of the production of energy or energy producing fuels;
- (14) "Environmental stewardship project" or "project" means:
  - (a) The acquisition, construction, and installation of new equipment and, with respect thereto:
    - 1. The construction, rehabilitation, and installation of improvements to facilities necessary to house the new equipment, including surveys;
    - 2. Installation of utilities including water, sewer, sewage treatment, gas, electricity, communications, and similar facilities;
    - 3. Off-site construction of utility extensions to the boundaries of the real estate on which the facilities are located;

All of which are utilized by an approved company or its affiliate to manufacture an environmental stewardship product as reviewed and recommended to the authority by the Environmental and Public Protection Cabinet; and
  - (b) The provision of an occupational training program to provide the employees of an approved company or its affiliate with the knowledge and skills necessary to manufacture the new product;
- (15) "Final approval" means the action taken by the authority designating an eligible company that has previously received a preliminary approval as an approved company and authorizing the execution of an environmental stewardship agreement between the authority and the approved company;
- (16) "Full-time employee" means a person employed by an approved company for a minimum of thirty-five (35) hours per week and subject to the state income tax imposed by KRS 141.020;
- (17) "Inducement" means the Kentucky tax credit as authorized by KRS 154.48-010 to 154.48-035;
- (18) "Manufacturing" means any activity involving the manufacturing, processing, assembling, or production of any property, including the processing that results in a change in the condition of the property and any related activity or function, together with the storage, warehousing, distribution, and related office facilities;
- (19) "Preliminary approval" means the action taken by the authority designating an eligible company as a preliminarily approved company, and conditioning final approval by the authority upon satisfaction by the eligible company of the requirements set forth in the preliminary approval.

Section 223. KRS 164.6011 is amended to read as follows:

As used in KRS 164.6011 to 164.6041, unless the context indicates otherwise:

- (1) "Applied research" means those research activities occurring at universities and in private enterprises that have potential commercial application;
- (2) "Cluster" means a geographically bound concentration of similar, related, or complementary businesses with active channels for business transactions, communications, and dialogue, that share specialized infrastructure, labor markets, and services, and that are faced with common opportunities and threats;
- (3) "Commission" means the Kentucky Innovation Commission;
- (4) "Commonwealth" means the Commonwealth of Kentucky;
- (5) "Council" means the Council on Postsecondary Education;

- (6) "Eligible company" means any corporation, limited liability company, partnership, *limited partnership*, ~~registered limited liability partnership,~~ sole proprietorship, business trust, person, group, or other entity engaged in nonretail commerce, agribusiness, trade, or manufacturing;
- (7) "Immediate family members" means:
  - (a) Spouse and parents-in-law;
  - (b) Parents and grandparents;
  - (c) Children and their spouses; and
  - (d) Siblings and their spouses;
- (8) "Kentucky-based company" means a business with its principal place of business in Kentucky or no less than fifty percent (50%) of its property and payroll located in Kentucky;
- (9) "Knowledge-based" means driven by knowledge, innovation, and speed;
- (10) "Medium-size company" means a business with fifty-one (51) to one hundred fifty (150) employees;
- (11) "Qualified company" means an eligible company that may be granted a funding voucher or award pending certification;
- (12) "Science and technology organization" means an independent, nonprofit or quasi-governmental organization, with a statewide mission, that has a demonstrated history of managing complicated programs in the areas of entrepreneurial innovation, science, and technology advancement;
- (13) "Seed funding" means financing that is provided for early-stage development, refinement, and commercialization of a product, process, or innovation through continuing applied research, advancing the patent process, determining commercial and market potential, or moving research toward development of a prototype; and
- (14) "Small company" means a firm with fifty (50) or fewer employees.

Section 224. KRS 171.396 is amended to read as follows:

As used in this section and KRS 171.397:

- (1) "Certified historic structure" means a structure that is located within the Commonwealth of Kentucky and is:
  - (a) Listed individually on the National Register of Historic Places; or
  - (b) Located in a historic district listed on the National Register of Historic Places and is certified by the council as contributing to the historic significance of the district;
- (2) "Certified rehabilitation" means a completed substantial rehabilitation of a certified historic structure that the council certifies meets the United States Secretary of the Interior's Standards for Rehabilitation;
- (3) "Certified rehabilitation credit cap" means three million dollars (\$3,000,000);
- (4) "Council" means the Kentucky Heritage Council;
- (5) "Disqualifying work" means work that is performed within three (3) years of the completion of the certified rehabilitation that, if performed as part of the rehabilitation certified under this section, would have made the rehabilitation ineligible for certification;
- (6) "Exempt entity" means any tax exempt organization pursuant to sec. 501(c)(3) of the Internal Revenue Code, any political subdivision of the Commonwealth, any state or local agency, board, or commission, or any quasi-governmental entity;
- (7) "Local government" means a city, county, urban-county, charter county, or consolidated local government;
- (8) "Owner-occupied residential property" means a building or portion thereof, condominium, or cooperative occupied by the owner as his principal residence;
- (9) "Qualified rehabilitation expense" means any amount that is properly chargeable to a capital account, whether or not depreciation is allowed under Section 168 of the Internal Revenue Code, and is expended in connection with the certified substantial rehabilitation of a certified historic structure. It shall include the cost of restoring landscaping and fencing that contributes to the historic significance of this structure, but shall not include the

cost of acquisition of a certified historic structure, enlargement of or additions to an existing building, or the purchase of personal property;

- (10) "Substantial rehabilitation" means rehabilitation of a certified historic structure for which the qualified rehabilitation expenses, during a twenty-four (24) month period selected by the taxpayer or exempt entity, ending with or within the taxable year, exceed:
  - (a) Twenty thousand dollars (\$20,000) for an owner-occupied residential property; or
  - (b) For all other property, the greater of:
    - 1. The adjusted basis of the structure; or
    - 2. Twenty thousand dollars (\$20,000);
- (11) "Taxpayer" means any individual, 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; and
- (12) "Qualified purchased historic home" means any substantially rehabilitated certified historic structure if:
  - (a) The taxpayer claiming the credit authorized under KRS 171.397 is the first purchaser of the structure after the date of completion of the substantial rehabilitation;
  - (b) The structure or a portion thereof will be the principal residence of the taxpayer; and
  - (c) No credit was allowed to the seller under this section.

A qualified purchased historic home shall be deemed owner-occupied residential property for purposes of this section.

Section 225. KRS 186A.190 is amended to read as follows:

- (1) Except as provided in subsection (4) of this section, the perfection and discharge of a security interest in any property for which has been issued a Kentucky certificate of title shall be by notation on the certificate of title. The notation of the security interest on the certificate of title shall be in accordance with this chapter and shall remain effective from the date on which the security interest is noted on the certificate of title for a period of seven (7) years, or, in the case of a manufactured home, for a period of thirty (30) years, or until discharged under this chapter and KRS Chapter 186. The filing of a continuation statement within the six (6) months preceding the expiration of the initial period of a notation's effectiveness extends the expiration date for seven (7) additional years.
- (2) Except as provided in subsection (4) of this section, the notation of security interests relating to property required to be titled in Kentucky through the county clerk shall be done in the office of the county clerk of the county in which the debtor resides. If the debtor is other than a natural person, the following provisions govern the determination of the county of the debtor's residence:
  - (a) A partnership shall be deemed a resident of the county in which its principal place of business in this state is located. If the debtor does not have a place of business in this state, then the debtor shall be deemed a nonresident for purposes of filing in this state;
  - (b) A limited partnership organized under KRS Chapter 362 *or as defined in subsection (14) of Section 81 of this Act* shall be deemed a resident of the county in which its *principal place of business*~~office~~ is located, as set forth in its certificate of limited partnership or most recent amendment thereto filed pursuant to KRS Chapter 362 *or Section 106 of this Act*. If such office is not located in this state, the debtor shall be deemed a nonresident for purposes of filing in this state;
  - (c) A limited partnership not organized under the laws of this state and authorized to do business in this state~~under KRS Chapter 362~~ shall be deemed a resident of the county in which the office of its process agent is located, as set forth in the designation or most recent amendment thereto filed with the Secretary of State of the Commonwealth of Kentucky;
  - (d) A corporation organized under KRS Chapter 271B, 273, or 274 or a limited liability company organized under KRS Chapter 275 shall be deemed a resident of the county in which its registered office is

located, as set forth in its most recent corporate filing with the Secretary of State which officially designates its current registered office;

- (e) A corporation not organized under the laws of this state, but authorized to transact or do business in this state under KRS Chapter 271B, 273, or 274, or a limited liability company not organized under the laws of this state, but authorized to transact business in this state under KRS Chapter 275, shall be deemed a resident of the county in which its registered office is located, as set forth in its most recent filing with the Secretary of State which officially designates its current registered office;
- (f) A cooperative corporation or association organized under KRS Chapter 272 shall be deemed a resident of the county in which its principal business is transacted, as set forth in its articles of incorporation or most recent amendment thereto filed with the Secretary of State of the Commonwealth of Kentucky;
- (g) A cooperative corporation organized under KRS Chapter 279 shall be deemed a resident of the county in which its principal office is located, as set forth in its articles of incorporation or most recent amendment thereto filed with the Secretary of State of the Commonwealth of Kentucky;
- (h) A business trust organized under KRS Chapter 386 shall be deemed a resident of the county in which its principal place of business is located, as evidenced by the recordation of its declaration of trust in that county pursuant to KRS Chapter 386;
- (i) A credit union organized under KRS Chapter 290 shall be deemed a resident of the county in which its principal place of business is located, as set forth in its articles of incorporation or most recent amendment thereto filed with the Secretary of State of the Commonwealth of Kentucky; and
- (j) Any other organization (defined in KRS 355.1-201) shall be deemed a resident of the county in which its principal place of business in this state is located, except that any ***limited liability company, limited liability partnership***, limited partnership, or corporation not organized under the laws of this state and not authorized to transact or do business in this state shall be deemed a nonresident for purposes of filing in this state. If the organization does not have a place of business in this state, then it shall be deemed a nonresident for purposes of filing in this state.

If the debtor does not reside in the Commonwealth, the notation of the security interest shall be done in the office of the county clerk in which the property is principally situated or operated. Notwithstanding the existence of any filed financing statement under the provisions of KRS Chapter 355 relating to any property registered or titled in Kentucky, the sole means of perfecting and discharging a security interest in property for which a certificate of title is required by this chapter is by notation on the property's certificate of title under the provisions of this chapter or in accordance with the provisions of KRS 186.045(3). In other respects the security interest is governed by the provisions of KRS Chapter 355.

- (3) Except as provided in subsection (4) of this section, before ownership of property subject to a lien evidenced by notation on the certificate of title may be transferred, the transferor shall obtain the release of the prior liens in his name against the property being transferred. Once a security interest has been noted on the owner's title, a subsequent title shall not be issued by any county clerk free of the notation unless the owner's title is presented to the clerk and it has been noted thereon that the security interest has been discharged. If this requirement is met, information relating to any security interest shown on the title as having been discharged may be omitted from the title to be issued by the clerk. If information relating to the discharge of a security interest is presented to a clerk under the provisions of KRS 186.045(3), the clerk shall discharge the security interest and remove the lien information from AVIS.
- (4) Notwithstanding subsections (1), (2), and (3) of this section, a county clerk shall, following inspection of the vehicle by the sheriff, to determine that the vehicle has not been stolen, issue a new title to a vehicle, clear of all prior liens, to a person after he provides to the county clerk an affidavit devised by the Transportation Cabinet and completed by the person. In the affidavit, the person shall attest that:
  - (a) He possesses the vehicle;
  - (b) A debt on the vehicle was owed him for more than thirty (30) days before he provided the notices required by paragraphs (c) and (d) of this subsection;
  - (c) More than fourteen (14) days before presenting the affidavit to the county clerk, the person attempted to notify the owner of the vehicle and all known lienholders, including those noted on the title, by certified mail, return receipt requested, of his name, address, and telephone number as well as his intention to obtain a new title, clear of all prior liens, unless the owner or a lienholder objected in writing;



- (d) More than fourteen (14) days before presenting the affidavit to the county clerk, the person had published a legal notice stating his intention to obtain title to the vehicle. The legal notice appeared at least twice in a seven (7) day period in a newspaper published, and with a statewide circulation, in Kentucky. The legal notice stated:
  - 1. The person's name, address, and telephone number;
  - 2. The owner's name;
  - 3. The names of all known lienholders, including those noted on the title;
  - 4. The vehicle's make, model, and year; and
  - 5. The person's intention to obtain title to the vehicle unless the owner or a lienholder objects in writing within fourteen (14) days after the last publication of the legal notice; and
- (e) Neither the owner nor a lienholder has objected in writing to the person's right to obtain title to the vehicle.
- (5) No more than two (2) active security interests may be noted upon a certificate of title.
- (6) In noting a security interest upon a certificate of title, the county clerk shall ensure that the certificate of title bears the lienholder's name, mailing address and zip code, the date the lien was noted, the notation number, and the county in which the security interest was noted. The clerk shall obtain the information required by this subsection for notation upon the certificate of title from the title lien statement described in KRS 186A.195 to be provided to the county clerk by the secured party.
- (7) For all the costs incurred in the notation and discharge of a security interest on the certificate of title, the county clerk shall receive the fee prescribed by KRS 64.012. The fee prescribed by this subsection shall be paid at the time of submittal of the title lien statement described in KRS 186A.195.
- (8) A copy of the application, certified by the county clerk, indicating the lien will be noted on the certificate of title shall be forwarded to the lienholder.

Section 226. KRS 271B.4-010 is amended to read as follows:

- (1) A corporate name:
  - (a) Shall contain the word "corporation," "incorporated," "company," or "limited," or the abbreviation "corp.," "inc.," "co.," or "Ltd.," or words or abbreviations of like import in another language; and
  - (b) Shall not contain language stating or implying that the corporation is organized for a purpose other than that permitted by KRS 271B.3-010 and its articles of incorporation.
- (2) Except as authorized by subsections (3) and (4) of this section, a corporate name must be distinguishable upon the records of the Secretary of State from:
  - (a) The corporate name of a corporation incorporated or authorized to transact business in this state;
  - (b) A corporate name reserved or registered under KRS 271B.4-020 or 271B.4-030;
  - (c) The fictitious name adopted by a foreign corporation authorized to transact business in this state because its real name is unavailable;
  - (d) The corporate name of a not-for-profit corporation incorporated or authorized to transact business in this state; and
  - (e) A name filed with the Secretary of State under ***Subchapter 1 of KRS Chapter 362, Subchapter 2 of KRS Chapter 362, or KRS Chapter 365***.
- (3) A corporation may apply to the Secretary of State for authorization to use a name that is not distinguishable upon his records from one (1) or more of the names described in subsection (2) of this section. The Secretary of State shall authorize use of the name applied for if:
  - (a) The other corporation consents to the use in writing and submits an undertaking in form satisfactory to the Secretary of State to change its name to a name that is distinguishable upon the records of the Secretary of State from the name of the applying corporation; or

- (b) The applicant delivers to the Secretary of State a certified copy of the final judgment of a court of competent jurisdiction establishing the applicant's right to use the name applied for in this state.
- (4) A corporation may use the name (including the fictitious name) of another domestic or foreign corporation that is used in this state if the other corporation is incorporated or authorized to transact business in this state and the proposed user corporation:
  - (a) Has merged with the other corporation;
  - (b) Has been formed by reorganization of the other corporation; or
  - (c) Has acquired all or substantially all of the assets, including the corporate name, of the other corporation.
- (5) This chapter does not control the use of fictitious names.
- (6) The filing of articles of incorporation under the particular corporate name shall not automatically prevent the use of that name or protect that name from use by other persons.

Section 227. KRS 271B.15-060 is amended to read as follows:

- (1) If the corporate name of a foreign corporation does not satisfy the requirements of KRS 271B.4-010, the foreign corporation to obtain or maintain a certificate of authority to transact business in this state:
  - (a) May add the word "corporation," "incorporated," "company," or "limited," or the abbreviation "corp.," "inc.," "co.," or "Ltd.," to its corporate name for use in this state; or
  - (b) May use a fictitious name to transact business in this state if its real name is unavailable and it delivers to the Secretary of State for filing a copy of the resolution of its board of directors, certified by its secretary, adopting the fictitious name.
- (2) Except as authorized by subsections (3) and (4) of this section, the corporate name (including a fictitious name) of a foreign corporation shall be distinguishable upon the records of the Secretary of State from:
  - (a) The corporate name of a corporation incorporated or authorized to transact business in this state;
  - (b) A corporate name reserved or registered under KRS 271B.4-020 or 271B.4-030;
  - (c) The fictitious name of another foreign corporation authorized to transact business in this state;
  - (d) The corporate name of a not-for-profit corporation incorporated or authorized to transact business in this state; or
  - (e) A name filed with the Secretary of State under ***Subchapter 1 of KRS Chapter 362, Subchapter 2 of KRS Chapter 362, or KRS Chapter***~~[362 or]~~ 365.
- (3) A foreign corporation may apply to the Secretary of State for authorization to use in this state the name of another corporation (incorporated or authorized to transact business in this state) that is not distinguishable upon his records from the name applied for. The Secretary of State shall authorize use of the name applied for if:
  - (a) The other corporation consents to the use in writing and submits an undertaking in form satisfactory to the Secretary of State to change its name to a name that is distinguishable upon the records of the Secretary of State from the name of the applying corporation; or
  - (b) The applicant delivers to the Secretary of State a certified copy of a final judgment of a court of competent jurisdiction establishing the applicant's right to use the name applied for in this state.
- (4) A foreign corporation may use in this state the name (including the fictitious name) of another domestic or foreign corporation that is used in this state if the other corporation is incorporated or authorized to transact business in this state and the foreign corporation:
  - (a) Has merged with the other corporation;
  - (b) Has been formed by reorganization of the other corporation; or
  - (c) Has acquired all or substantially all of the assets, including the corporate name, of the other corporation.
- (5) If a foreign corporation authorized to transact business in this state changes its corporate name to one that does not satisfy the requirements of KRS 271B.4-010, it shall not transact business in this state under the changed

name until it adopts a name satisfying the requirements of KRS 271B.4-010 and obtains an amended certificate of authority under KRS 271B.15-040.

Section 228. KRS 273.177 is amended to read as follows:

- (1) The corporate name shall include the word "corporation" or "incorporated" or the abbreviation "Inc.," or the word "company" or the abbreviation "Co."; but if the word "company" or the abbreviation "Co." is used, it may not be immediately preceded by the word "and" or the abbreviation "&." The provisions of this subsection shall not affect the right of any corporation existing on June 13, 1968, to continue the use of its name.
- (2) Except as authorized by subsection (3) of this section, a corporate name shall be distinguishable upon the records of the Secretary of State from:
  - (a) The corporate name of a corporation incorporated or authorized to transact business in this state;
  - (b) A corporate name reserved or registered under KRS 271B.1-300;
  - (c) The fictitious name adopted by a foreign corporation authorized to transact business in this state because its real name is unavailable;
  - (d) The corporate name of a not-for-profit corporation incorporated or authorized to transact business in this state; and
  - (e) A name filed with the Secretary of State under *Subchapter 1 of KRS Chapter 362, Subchapter 2 of KRS Chapter 362, or KRS Chapter 362-01* 365.
- (3) A corporation may apply to the Secretary of State for authorization to use a name that is not distinguishable upon his records from one (1) or more of the names described in subsection (2) of this section. The Secretary of State shall authorize use of the name applied for if:
  - (a) The other corporation consents to the use in writing and submits an undertaking in form satisfactory to the Secretary of State to change its name to a name that is distinguishable upon the records of the Secretary of State from the name of the applying corporation; or
  - (b) The applicant delivers to the Secretary of State a certified copy of the final judgment of a court of competent jurisdiction establishing the applicant's right to use the name applied for in this state.
- (4) The corporate name shall not contain any word or phrase which indicates or implies that it is organized for any purpose not permitted under KRS 273.161 to 273.390.
- (5) This chapter shall not control the use of fictitious names.
- (6) The filing of articles of incorporation under the particular corporate name shall not automatically prevent the use of that name or protect that name from use by other persons.
- (7) The assumption of a name in violation of this section shall not affect or vitiate the corporate existence; but the courts of this state having equity jurisdiction may, upon the application of the state or of any person interested or affected, enjoin such corporation from doing business under a name assumed in violation of this section, although a certificate of incorporation may have been issued.

Section 229. KRS 273.364 is amended to read as follows:

- (1) If the corporate name of a foreign corporation does not satisfy the requirements of KRS 273.177, the foreign corporation, in order to obtain or maintain a certificate of authority to transact business in this state:
  - (a) May add the word "corporation," "incorporated," "company," or "limited," or the abbreviation "corp.," "inc.," "co.," or "Ltd.," to its corporate name for use in this state; or
  - (b) May use a fictitious name to transact business in this state, if its real name is unavailable and it delivers to the Secretary of State for filing a copy of the resolution of its board of directors, certified by its secretary, adopting the fictitious name.
- (2) Except as authorized by subsection (3) of this section, the corporate name, including a fictitious name, of a foreign corporation shall be distinguishable upon the records of the Secretary of State from:
  - (a) The corporate name of a corporation incorporated or authorized to transact business in this state;

- (b) A corporate name reserved or registered under KRS 273.178 and 273.179;
  - (c) The fictitious name of another foreign corporation authorized to transact business in this state;
  - (d) The corporate name of a nonprofit corporation incorporated or authorized to transact business in this state; or
  - (e) A name filed with the Secretary of State under *Subchapter 1 of KRS Chapter 362, Subchapter 2 of KRS Chapter 362, or KRS Chapter 365*.
- (3) A foreign corporation may apply to the Secretary of State for authorization to use in this state the name of another corporation, incorporated or authorized to transact business in this state, that is not distinguishable upon his records from the name applied for. The Secretary of State shall authorize use of the name applied for if:
- (a) The other corporation consents to the use in writing and submits an undertaking in form satisfactory to the Secretary of State to change its name to a name that is distinguishable upon the records of the Secretary of State from the name of the applying corporation; or
  - (b) The applicant delivers to the Secretary of State a certified copy of a final judgment of a court of competent jurisdiction establishing the applicant's right to use the name applied for in this state.
- (4) If a foreign corporation authorized to transact business in this state changes its corporate name to one that does not satisfy the requirements of KRS 273.177, it may not transact business in this state under the changed name until it adopts a name satisfying the requirements of KRS 273.177 and obtains an amended certificate of authority under KRS 273.3611.

Section 230. KRS 274.005 is amended to read as follows:

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

- (1) ~~"Professional service corporation" means a corporation organized under this chapter.~~
- ~~(2)~~ "Foreign professional service corporation" means a corporation for profit organized for the purpose of rendering professional services under a law other than the law of this state;~~[-]~~
- ~~(2)~~~~(3)~~ "Professional service" means any type of personal service to the public which requires as a condition precedent to the rendering of such service the obtaining of a license or other legal authorization and which, prior to the passage of this chapter and by reason of law or a professional code of ethics, could not be performed by a corporation. The personal services which come within the provisions of this chapter are the personal services rendered by, but not limited to, certified public accountants, public accountants, chiropractors, osteopaths, physicians and surgeons, doctors of medicine, doctors of dentistry, podiatrists, chiropodists, architects, veterinarians, optometrists and attorneys-at-law;~~[-]~~
- ~~(3)~~~~(4)~~ **"Professional service corporation" means a corporation organized under this chapter;**
- (4) "Qualified person" means a natural person, general partnership, limited liability company,~~[-registered]~~ limited liability partnership, or professional service corporation which is eligible under this chapter to own shares issued by a professional service corporation; **and**~~[-]~~
- (5) "Regulating board" means the governmental agency which is charged by law with the licensing and regulation of the practice of the profession which the professional service corporation is organized to render.

Section 231. KRS 274.017 is amended to read as follows:

- (1) A professional service corporation may issue and a shareholder thereof may transfer or pledge shares, fractional shares, and rights or options to purchase shares only to:
  - (a) Natural persons who are authorized by law in this state or in any other state or territory of the United States or the District of Columbia to render a professional service permitted by the articles of incorporation of the corporation;
  - (b) **Partnerships**~~General partnerships, including registered limited liability partnerships,~~ in which all the partners are qualified persons with respect to such professional corporation and in which at least one (1) partner is authorized by law in this state to render a professional service permitted by the articles of incorporation of the corporation;

- (c) A professional limited liability company, domestic or foreign, authorized by law in this state to render a professional service permitted by the articles of organization of the limited liability company; and
  - (d) Professional service corporations, domestic or foreign, authorized by law in this state to render a professional service permitted by the articles of incorporation of the corporation.
- (2) Any issuance or transfer of shares in violation of this section shall be void; however, nothing herein contained shall prohibit the transfer of shares of a professional corporation by operation of law or court decree.

Section 232. KRS 275.015 is amended to read as follows:

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

- (1) "Articles of organization" means the articles filed in conformity with the provisions of KRS 275.020 and 275.025, and those articles as amended or restated;~~[-]~~
- (2) "Business entity" means domestic and foreign limited liability companies, general and limited partnerships,~~including registered limited liability partnerships,~~ corporations, business trusts, and sole proprietorships;~~[-]~~
- (3) "Corporation" means a profit or nonprofit corporation formed under the laws of any state or a foreign country;~~[-]~~
- (4) "Court" means every court having jurisdiction in the case;~~[-]~~
- (5) "Event of disassociation" means an event that causes a person to cease to be a member as provided in KRS 275.280;~~[-]~~
- (6) "Foreign limited liability company" means an organization that is:
  - (a) An unincorporated association;
  - (b) Organized under laws of a state other than the laws of this Commonwealth, or under the laws of any foreign country; and
  - (c) Organized under a statute pursuant to which an association may be formed that affords to each of its members limited liability with respect to the liabilities of the entity;~~[-]~~
- (7) "Knowledge" means actual knowledge of a fact;~~[-]~~
- (8) "Limited liability company" or "domestic limited liability company" means a limited liability company formed under this chapter having one (1) or more members;~~[-]~~
- (9) "Limited liability company interest" or "interest in the limited liability company" means the interest that may be issued in accordance with KRS 275.195;~~[-]~~
- (10) "Limited partnership" means a limited partnership formed under the laws of the Commonwealth or any other state or a foreign country;~~[-]~~
- (11) "Majority-in-interest of the members" means those members entitled to cast a majority of the votes to be cast by the members on any matter under the terms of the operating agreement described in KRS 275.175(3);~~[-]~~
- (12) "Manager" or "managers" means, with respect to a limited liability company that has set forth in its articles of organization that it is to be managed by managers, the person or persons designated in accordance with KRS 275.165;~~[-]~~
- (13) "Member" or "members" means a person or persons who have been admitted to membership in a limited liability company as provided in KRS 275.275 and who have not ceased to be members as provided in KRS 275.280;~~[-]~~
- (14) "Operating agreement" means any agreement, written or oral, among all of the members, as to the conduct of the business and affairs of a limited liability company. If a written operating agreement contains a provision to the effect that any amendment to the operating agreement of the limited liability company shall be in writing and adopted in accordance with the provisions of the operating agreement, the provision shall be enforceable in accordance with its terms, and any agreement as to the conduct of the business and affairs of the limited liability company which is not in writing and adopted in accordance with the provisions of the operating agreement shall not be considered part of the operating agreement and shall be void and unenforceable. If a limited liability company has only one (1) member, an operating agreement shall be deemed to include:

- (a) A writing executed by the member that relates to the affairs of the limited liability company and the conduct of its business regardless of whether the writing constitutes an agreement; or
- (b) If the limited liability company is managed by a manager, any other agreement between the member and the limited liability company as it relates to the limited liability company and the conduct of its business, regardless of whether the agreement is in writing;~~[-]~~
- (15) "Person" means an individual, a~~[-general]~~ partnership,~~[-a limited liability partnership, including a registered limited liability partnership, a limited partnership,]~~ a domestic or foreign limited liability company, a trust, an estate, an association, a corporation, or any other legal entity;~~[-]~~
- (16) "Principal office" means the office, in or out of the Commonwealth, so designated in writing with the Secretary of State where the principal executive offices of a domestic or foreign limited liability company are located;~~[-]~~
- ~~(17)~~ ~~"State" means a state, territory, or possession of the United States, the District of Columbia, or the Commonwealth of Puerto Rico.~~
- ~~(18)~~ "Proceeding" means civil suit and criminal, administrative, and investigative action;~~[-]~~
- ~~(18)~~~~(19)~~ "Professional limited liability company" means a limited liability company organized under this chapter or the laws of another state or foreign country for purposes that include, but are not limited to, the providing of one (1) or more professional services. Except as otherwise expressly provided in this chapter, all provisions of this chapter governing limited liability companies shall be applicable to professional limited liability companies;~~[-]~~
- ~~(19)~~~~(20)~~ "Professional services" mean the personal services rendered by physicians, osteopaths, optometrists, podiatrists, chiropractors, dentists, nurses, pharmacists, psychologists, occupational therapists, veterinarians, engineers, architects, landscape architects, certified public accountants, public accountants, physical therapists, and attorneys;~~[-]~~
- ~~(20)~~~~(21)~~ "Regulating board" means the governmental agency which is charged by law with the licensing and regulation of the practice of the profession which the professional limited liability company is organized to provide; *and*
- (21) *"State" means a state, territory, or possession of the United States, the District of Columbia, or the Commonwealth of Puerto Rico.*

Section 233. KRS 292.310 is amended to read as follows:

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

- (1) "Agent" means any individual other than a broker-dealer who represents a broker-dealer or issuer in effecting or attempting to effect purchases or sales of securities, except as otherwise provided in this chapter.
  - (a) "Agent" does not include an individual who represents:
    - 1. An issuer in:
      - a. Effecting a transaction in a security exempted by subsection (1), (2), (3), (10), or (11) of KRS 292.400, or subsection (5), (9), or (12) thereof if no commission or other remuneration is received for the sale of such securities or effecting a transaction in a security exempted by KRS 292.400(15) even if commission or other remuneration is received for the sale of such security provided that the individual offers or sells no other security except securities exempted by KRS 292.400(15);
      - b. Effecting transactions exempted by KRS 292.410 unless otherwise required;
      - c. Effecting transactions in a covered security under Section 18(b)(3) or 18(b)(4)(d) of the Securities Act of 1933 if no commission or other remuneration is paid or given directly or indirectly for soliciting any person in Kentucky;
      - d. Effecting transactions with existing employees, partners, or directors of the issuer if no commission or other remuneration is paid or given directly or indirectly for soliciting any person in this state; or
      - e. Effecting other transactions if the individual primarily performs, or is intended primarily to perform upon completion of an offering of the issuer's own securities, substantial duties

for or on behalf of the issuer otherwise than in connection with transactions in the issuer's own securities and the individual's compensation is not based, in whole or in part, upon the amount of purchases or sales of the issuer's own securities effected for the issuer; or

2. A broker-dealer in effecting transactions described in Section 15(h)(2) of the Securities Exchange Act of 1934.
- (b) A partner, officer, or director of a broker-dealer or issuer, or a person occupying a similar status or performing similar functions is an "agent" only if he otherwise comes within the definition in this subsection;
- (2) "Broker-dealer" means any person engaged in the business of effecting transactions in securities for the account of others or for his own account. "Broker-dealer" does not include:
  - (a) An agent, issuer, bank, savings institution, or trust company;
  - (b) A person that effects transactions in this state exclusively in securities exempted by KRS 292.400(15); or
  - (c) A person who has no place of business in this state:
    1. If he effects transactions in this state exclusively with or through the issuers of the securities involved in the transactions, other broker-dealers, or banks, savings institutions, trust companies, insurance companies, investment companies as defined in the Investment Company Act of 1940, pension or profit-sharing trusts, or other financial institutions or institutional buyers, whether acting for themselves or as trustees; or
    2. If during any period of twelve (12) consecutive months he does not direct more than fifteen (15) offers to sell or to buy into this state in any manner to persons other than those specified in this paragraph;
- (3) "Certified" means, when used in regard to financial statements, examined and reported upon in accordance with generally accepted auditing standards with an opinion expressed by a certified public accountant;
- (4) "Executive director" means the executive director of the Office of Financial Institutions or any individual employee of the Office of Financial Institutions expressly designated by order of the executive director to act in the executive director's place;
- (5) "Covered advisor" means any person who is registered under Section 203 of the Investment Advisers Act of 1940, 15 U.S.C. sec. 80b-3;
- (6) "Covered security" means any security that is a covered security under Section 18(b) of the Securities Act of 1933 or rules or regulations promulgated thereunder;
- (7) "Office" means the Office of Financial Institutions of the Commonwealth of Kentucky;
- (8) "Fraud," "deceit," and "defraud" are not limited to common-law deceit;
- (9) "Guaranteed" means guaranteed as to payment of principal, interest, or dividends;
- (10) "Investment adviser" means any person who, for compensation, engages in the business of advising others, either directly or through publications or writings, as to the value of securities or as to the advisability of investing in, purchasing, or selling securities, or who, for compensation and as a part of a regular business, issues or promulgates analyses or reports concerning securities. "Investment adviser" does not include:
  - (a) A bank, savings institution, or trust company;
  - (b) A lawyer, accountant, engineer, or teacher whose performance of these services is solely incidental to the practice of his profession;
  - (c) A broker-dealer whose performance of these services is solely incidental to the conduct of his business as a broker-dealer and who receives no special compensation for them;
  - (d) A publisher of any bona fide newspaper, news magazine, or business or financial publication of general, regular, and paid circulation;
  - (e) A person whose advice, analyses, or reports relate only to securities exempted by KRS 292.400(1);

- (f) A person who has no place of business in this state if:
    - 1. His only clients in this state are other investment advisers, covered advisers, broker-dealers, banks, savings institutions, trust companies, insurance companies, pension or profit-sharing trusts, or other financial institutions or institutional buyers, whether acting for themselves or as trustees; or
    - 2. During any period of twelve (12) consecutive months he does not have more than five (5) clients other than those specified in subparagraph 1;
  - (g) An investment adviser representative or a person excluded from the definition of investment adviser representative;
  - (h) A person who is excluded from the definition of investment adviser under Section 202(a)(11) of the Investment Advisors Act of 1940;
  - (i) A covered adviser; or
  - (j) Such other persons not within the intent of this subsection as the executive director may by rule or order designate;
- (11) "Investment adviser representative" means:
- (a) With respect to any investment adviser registered or required to be registered under this chapter, any partner, officer, director of, or a person occupying a similar status or performing similar functions, or other individual employed by or associated with an investment adviser, except clerical or ministerial personnel, who:
    - 1. Makes any recommendations or otherwise renders advice regarding securities;
    - 2. Manages accounts or portfolios of clients;
    - 3. Determines which recommendation or advice regarding securities should be given;
    - 4. Solicits, offers, or negotiates for the sale of or sells investment advisory services; or
    - 5. Supervises employees who perform any of the functions described in this paragraph; and
  - (b) With respect to any covered adviser, any person defined as an investment adviser representative who has a place of business located in Kentucky, as those terms are defined in Rule 203A-3 promulgated in accordance with the Investment Advisors Act of 1940.
- (12) "Issuer" means any person who issues or proposes to issue any security, except that with respect to certificates of deposit, voting trust certificates, or collateral-trust certificates, or with respect to certificates of interest or shares in an unincorporated investment trust not having a board of directors (or persons performing similar functions) or of the fixed, restricted management, or unit type, the term "issuer" means the person or persons performing the acts and assuming the duties of depositor or manager pursuant to the provisions of the trust or other agreement or instrument under which the security is issued, and except that with respect to fractional undivided interests in oil, gas, or other mineral rights, the term "issuer" means the owner of any such right or of an interest in such right (whether whole or fractional) who creates fractional interests therein for the purpose of distribution;
- (13) "Nonissuer" means not directly or indirectly for the benefit of the issuer;
- (14) "Person" means an individual, a limited liability company, a corporation, a partnership, ~~[- a registered limited liability partnership,]~~ a limited partnership, an association, a joint-stock company, a trust where the interests of the beneficiaries are evidenced by a security, an unincorporated organization, a government, or a political subdivision of a government;
- (15) "Rule" or "regulation" means either or both administrative rules or administrative regulations promulgated by any governmental or other regulatory or self-regulatory entity, as the context requires;
- (16) "Sale" or "sell" includes every contract of sale of, contract to sell, or disposition of, a security or interest in a security for value. "Offer" or "offer to sell" includes every attempt to offer to dispose of, or solicitation of an offer to buy, a security or interest in a security for value. Any security given or delivered with, or as a bonus on account of, any purchase of securities or any other thing is considered to constitute part of the subject of the purchase and to have been offered and sold for value. A purported gift of assessable stock is considered to



involve an offer and sale. Every sale or offer of a warrant or right to purchase or subscribe to another security of the same or another issuer, as well as every sale or offer, of a security which gives the holder a present or future right or privilege to convert into another security of the same or another issuer, is considered to include an offer of the other security;

- (17) "Securities Act of 1933," "Securities Exchange Act of 1934," "Public Utility Holding Company Act of 1935," and "Investment Company Act of 1940" mean the federal statutes of those names as amended before or after January 1, 1961;
- (18) "Security" means any note, stock, treasury stock, bond, debenture, evidence of indebtedness, certificate of interest or participation in any profit-sharing agreement, collateral-trust certificate, preorganization certificate or subscription, transferable share, investment contract, viatical settlement investment, voting-trust certificate, certificate of deposit for a security; fractional undivided interest in oil, gas, or other mineral rights; or, in general, any interest or instrument commonly known as a "security," or any certificate of interest in or participation in, temporary or interim certificate for, receipt for, guarantee of, or warrant or right to subscribe to or purchase, any of the foregoing. "Security" does not include any insurance or endowment policy or annuity contract under which an insurance company promises to pay a fixed number of dollars either in a lump sum or periodically for life or some other specified period;
- (19) "State" means any state, territory, or possession of the United States, as well as the District of Columbia and Puerto Rico;
- (20) "Viatical settlement investment" means the contractual right to receive any portion of the death benefit or ownership of a life insurance policy or certificate, for consideration that is less than the expected death benefit of the life insurance policy or certificate. "Viatical settlement investment" does not include:
  - (a) Any transaction between a viator and a viatical settlement provider as defined by KRS 304.15-020 and 304.15-700 to 304.15-720;
  - (b) Any transfer of ownership or beneficial interest in a life insurance policy from a viatical settlement provider to another viatical settlement provider as defined by KRS 304.15-020 and 304.15-700 to 304.15-720 or to any legal entity formed solely for the purpose of holding ownership or beneficial interest in a life insurance policy or policies;
  - (c) The bona fide assignment of a life insurance policy to a bank, savings bank, savings and loan association, credit union, or other licensed lending institution as collateral for a loan; or
  - (d) The exercise of accelerated benefits pursuant to the terms of a life insurance policy issued in accordance with Subtitle 15 of KRS Chapter 304; and
- (21) Nothing in this section shall be construed to affect the classification of property for ad valorem tax purposes.

Section 234. KRS 313.310 is amended to read as follows:

- (1) No person shall practice dental hygiene nor hold himself out as a dental hygienist without a license issued by the board.
- (2) A licensed dental hygienist shall practice under the supervision, order, control, and full responsibility of a dentist licensed under this chapter and may practice in a dental office, public or private school, health care facility, or government institution with a dentist on staff except as provided in administrative regulations promulgated pursuant to subsections (3), (4), and (5) of this section.
- (3) A dental hygienist may provide, for not more than fifteen (15) consecutive full business days, dental hygiene services to a patient when the supervising dentist is not physically present at the location at which the services are provided if all the following requirements are met:
  - (a) The dental hygienist shall have at least two (2) years with a minimum of three thousand (3,000) hours of experience in the practice of dental hygiene;
  - (b) The dental hygienist shall have successfully completed a course approved by the board in the identification and prevention of potential medical emergencies with recertification in this course every two (2) years;
  - (c) The dental hygienist shall comply with written protocols for emergencies the supervising dentist establishes;

- (d) The board shall promulgate administrative regulations to determine procedures the dental hygienist shall not be allowed to perform while the supervising dentist is absent from the work site; and
  - (e) The dental hygienist shall not examine or provide dental health services to a patient who has not been examined by the supervising dentist within the previous seven (7) months. The supervising dentist shall have completed and evaluated a medical and dental history of the patient and shall have placed a written order for treatment in the patient's file. The board shall promulgate administrative regulations to determine guidelines for the written order.
- (4)
- (a) The license for each dental hygienist shall be continuously displayed in a conspicuous place in the office where the licensee practices.
  - (b) The supervising dentist shall evaluate and provide to the board written validation of an employed dental hygienist's skills.
  - (c) The supervising dentist shall establish a written office protocol clearly defining all guidelines, including one addressing medically compromised patients, when the treatment by the hygienist is permitted and when the patient needs to be seen exclusively by the dentist. The minimum requirements of the written protocol shall be promulgated in administrative regulations established by the board.
  - (d) A patient shall be notified three (3) business days in advance of an appointment for dental hygiene services when the supervising dentist will be absent from the location. The patient shall be required to sign an informed consent form, prior to treatment by the hygienist, acknowledging the dentist's absence.
- (5) The dental hygienist may provide dental hygiene services to a patient when the supervising dentist is not physically present at the location at which the services are provided if the services are provided as part of a dental health program that is approved by the board and meets all of the following requirements:
- (a) The program is operated through a school district board of education or the governing board of an educational service center; the board of health of a city or general health district or the authority having the duties of a board of health under KRS 212.245; a national, state, district, or local dental association; or any other public or private entity recognized by the board;
  - (b) The supervising dentist is employed by or is a volunteer for the entity through which the program is operated and through which the patients are referred; and
  - (c) The services are performed after examination and diagnosis by the dentist and in accordance with the dentist's written treatment plan.
- (6) A dental hygienist may be employed by the supervising dentist or under contract with a dentist licensed under this chapter who is one (1) of the following:
- (a) The employer of the supervising dentist;
  - (b) A shareholder in a professional association formed under KRS 274.015 of which the supervising dentist is a shareholder;
  - (c) A member or manager of a limited liability company formed under KRS 275.005 of which the supervising dentist is a member or manager;
  - (d) A shareholder in a corporation formed under KRS Chapter 271B of which the supervising dentist is a shareholder;
  - (e) A partner or employee of a partnership ~~or a registered limited liability partnership formed under KRS 362.555~~ of which the supervising dentist is a partner or employee; or
  - (f) A government entity that employs the dental hygienist to provide dental hygiene services in a public school in connection with other programs the government entity administers.
- (7) It shall be unlawful for a person or corporation to practice dental hygiene in a manner that is separate or independent from the dental practice of a supervising dentist or to establish or maintain an office or practice that is primarily devoted to the provision of dental hygiene services.
- (8) For purposes of determining whether or not a dental hygienist has met the experience requirements specified in subsection (3)(a) of this section, all experience that the dental hygienist obtained prior to July 15, 2002, shall be counted.

Section 235. KRS 342.0011 is amended to read as follows:

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

- (1) "Injury" means any work-related traumatic event or series of traumatic events, including cumulative trauma, arising out of and in the course of employment which is the proximate cause producing a harmful change in the human organism evidenced by objective medical findings. "Injury" does not include the effects of the natural aging process, and does not include any communicable disease unless the risk of contracting the disease is increased by the nature of the employment. "Injury" when used generally, unless the context indicates otherwise, shall include an occupational disease and damage to a prosthetic appliance, but shall not include a psychological, psychiatric, or stress-related change in the human organism, unless it is a direct result of a physical injury.
- (2) "Occupational disease" means a disease arising out of and in the course of the employment.
- (3) An occupational disease as defined in this chapter shall be deemed to arise out of the employment if there is apparent to the rational mind, upon consideration of all the circumstances, a causal connection between the conditions under which the work is performed and the occupational disease, and which can be seen to have followed as a natural incident to the work as a result of the exposure occasioned by the nature of the employment and which can be fairly traced to the employment as the proximate cause. The occupational disease shall be incidental to the character of the business and not independent of the relationship of employer and employee. An occupational disease need not have been foreseen or expected but, after its contraction, it must appear to be related to a risk connected with the employment and to have flowed from that source as a rational consequence.
- (4) "Injurious exposure" shall mean that exposure to occupational hazard which would, independently of any other cause whatsoever, produce or cause the disease for which the claim is made.
- (5) "Death" means death resulting from an injury or occupational disease.
- (6) "Carrier" means any insurer, or legal representative thereof, authorized to insure the liability of employers under this chapter and includes a self-insurer.
- (7) "Self-insurer" is an employer who has been authorized under the provisions of this chapter to carry his own liability on his employees covered by this chapter.
- (8) "Office" means the Office of Workers' Claims in the Department of Labor.
- (9) "Executive director" means the executive director of the Office of Workers' Claims.
- (10) "Board" means the Workers' Compensation Board.
- (11)
  - (a) "Temporary total disability" means the condition of an employee who has not reached maximum medical improvement from an injury and has not reached a level of improvement that would permit a return to employment;
  - (b) "Permanent partial disability" means the condition of an employee who, due to an injury, has a permanent disability rating but retains the ability to work; and
  - (c) "Permanent total disability" means the condition of an employee who, due to an injury, has a permanent disability rating and has a complete and permanent inability to perform any type of work as a result of an injury, except that total disability shall be irrebuttably presumed to exist for an injury that results in:
    1. Total and permanent loss of sight in both eyes;
    2. Loss of both feet at or above the ankle;
    3. Loss of both hands at or above the wrist;
    4. Loss of one (1) foot at or above the ankle and the loss of one (1) hand at or above the wrist;
    5. Permanent and complete paralysis of both arms, both legs, or one (1) arm and one (1) leg;
    6. Incurable insanity or imbecility; or
    7. Total loss of hearing.

- (12) "Income benefits" means payments made under the provisions of this chapter to the disabled worker or his dependents in case of death, excluding medical and related benefits.
- (13) "Medical and related benefits" means payments made for medical, hospital, burial, and other services as provided in this chapter, other than income benefits.
- (14) "Compensation" means all payments made under the provisions of this chapter representing the sum of income benefits and medical and related benefits.
- (15) "Medical services" means medical, surgical, dental, hospital, nursing, and medical rehabilitation services, medicines, and fittings for artificial or prosthetic devices.
- (16) "Person" means any individual, partnership, ~~including a registered limited liability partnership,~~ limited partnership, limited liability company, firm, association, trust, joint venture, corporation, ~~limited liability company,~~ or legal representative thereof.
- (17) "Wages" means, in addition to money payments for services rendered, the reasonable value of board, rent, housing, lodging, fuel, or similar advantages received from the employer, and gratuities received in the course of employment from persons other than the employer as evidenced by the employee's federal and state tax returns.
- (18) "Agriculture" means the operation of farm premises, including the planting, cultivation, producing, growing, harvesting, and preparation for market of agricultural or horticultural commodities thereon, the raising of livestock for food products and for racing purposes, and poultry thereon, and any work performed as an incident to or in conjunction with the farm operations. It shall not include the commercial processing, packing, drying, storing, or canning of such commodities for market, or making cheese or butter or other dairy products for market.
- (19) "Beneficiary" means any person who is entitled to income benefits or medical and related benefits under this chapter.
- (20) "United States," when used in a geographic sense, means the several states, the District of Columbia, the Commonwealth of Puerto Rico, the Canal Zone, and the territories of the United States.
- (21) "Alien" means a person who is not a citizen, a national, or a resident of the United States or Canada. Any person not a citizen or national of the United States who relinquishes or is about to relinquish his residence in the United States shall be regarded as an alien.
- (22) "Insurance carrier" means every insurance carrier or insurance company authorized to do business in the Commonwealth writing workers' compensation insurance coverage and includes the Kentucky Employers Mutual Insurance Authority and every self-insured group operating under the provisions of this chapter.
- (23)
  - (a) "Severance or processing of coal" means all activities performed in the Commonwealth at underground, auger, and surface mining sites; all activities performed at tipple or processing plants that clean, break, size, or treat coal; and all activities performed at coal loading facilities for trucks, railroads, and barges. Severance or processing of coal shall not include acts performed by a final consumer if the acts are performed at the site of final consumption.
  - (b) "Engaged in severance or processing of coal" shall include all individuals, partnerships, ~~including registered limited liability partnerships,~~ limited partnerships, limited liability companies, corporations, joint ventures, associations, or any other business entity in the Commonwealth which has employees on its payroll who perform any of the acts stated in paragraph (a) of this subsection, regardless of whether the acts are performed as owner of the coal or on a contract or fee basis for the actual owner of the coal. A business entity engaged in the severance or processing of coal, including, but not limited to, administrative or selling functions, shall be considered wholly engaged in the severance or processing of coal for the purpose of this chapter. However, a business entity which is engaged in a separate business activity not related to coal, for which a separate premium charge is not made, shall be deemed to be engaged in the severance or processing of coal only to the extent that the number of employees engaged in the severance or processing of coal bears to the total number of employees. Any employee who is involved in the business of severing or processing of coal and business activities not related to coal shall be prorated based on the time involved in severance or processing of coal bears to his total time.
- (24) "Premium" for every self-insured group means any and all assessments levied on its members by such group or contributed to it by the members thereof. For special fund assessment purposes, "premium" also includes any

and all membership dues, fees, or other payments by members of the group to associations or other entities used for underwriting, claims handling, loss control, premium audit, actuarial, or other services associated with the maintenance or operation of the self-insurance group.

- (25) (a) "Premiums received" for policies effective on or after January 1, 1994, for insurance companies means direct written premiums as reported in the annual statement to the Office of Insurance by insurance companies, except that "premiums received" includes premiums charged off or deferred, and, on insurance policies or other evidence of coverage with provisions for deductibles, the calculated cost for coverage, including experience modification and premium surcharge or discount, prior to any reduction for deductibles. The rates, factors, and methods used to calculate the cost for coverage under this paragraph for insurance policies or other evidence of coverage with provisions for deductibles shall be the same rates, factors, and methods normally used by the insurance company in Kentucky to calculate the cost for coverage for insurance policies or other evidence of coverage without provisions for deductibles, except that, for insurance policies or other evidence of coverage with provisions for deductibles effective on or after January 1, 1995, the calculated cost for coverage shall not include any schedule rating modification, debits, or credits. The cost for coverage calculated under this paragraph by insurance companies that issue only deductible insurance policies in Kentucky shall be actuarially adequate to cover the entire liability of the employer for compensation under this chapter, including all expenses and allowances normally used to calculate the cost for coverage. For policies with provisions for deductibles with effective dates of May 6, 1993, through December 31, 1993, for which the insurance company did not report premiums and remit special fund assessments based on the calculated cost for coverage prior to the reduction for deductibles, "premiums received" includes the initial premium plus any reimbursements invoiced for losses, expenses, and fees charged under the deductibles. The special fund assessment rates in effect for reimbursements invoiced for losses, expenses, or fees charged under the deductibles shall be those percentages in effect on the effective date of the insurance policy. For policies covering leased employees as defined in KRS 342.615, "premiums received" means premiums calculated using the experience modification factor of each lessee as defined in KRS 342.615 for each leased employee for that portion of the payroll pertaining to the leased employee.
- (b) "Direct written premium" for insurance companies means the gross premium written less return premiums and premiums on policies not taken but including policy and membership fees.
- (c) "Premium," for policies effective on or after January 1, 1994, for insurance companies means all consideration, whether designated as premium or otherwise, for workers' compensation insurance paid to an insurance company or its representative, including, on insurance policies with provisions for deductibles, the calculated cost for coverage, including experience modification and premium surcharge or discount, prior to any reduction for deductibles. The rates, factors, and methods used to calculate the cost for coverage under this paragraph for insurance policies or other evidence of coverage with provisions for deductibles shall be the same rates, factors, and methods normally used by the insurance company in Kentucky to calculate the cost for coverage for insurance policies or other evidence of coverage without provisions for deductibles, except that, for insurance policies or other evidence of coverage with provisions for deductibles effective on or after January 1, 1995, the calculated cost for coverage shall not include any schedule rating modifications, debits, or credits. The cost for coverage calculated under this paragraph by insurance companies that issue only deductible insurance policies in Kentucky shall be actuarially adequate to cover the entire liability of the employer for compensation under this chapter, including all expenses and allowances normally used to calculate the cost for coverage. For policies with provisions for deductibles with effective dates of May 6, 1993, through December 31, 1993, for which the insurance company did not report premiums and remit special fund assessments based on the calculated cost for coverage prior to the reduction for deductibles, "premium" includes the initial consideration plus any reimbursements invoiced for losses, expenses, or fees charged under the deductibles.
- (d) "Return premiums" for insurance companies means amounts returned to insureds due to endorsements, retrospective adjustments, cancellations, dividends, or errors.
- (26) "Insurance policy" for an insurance company or self-insured group means the term of insurance coverage commencing from the date coverage is extended, whether a new policy or a renewal, through its expiration, not to exceed the anniversary date of the renewal for the following year.

- (27) "Self-insurance year" for a self-insured group means the annual period of certification of the group created pursuant to KRS 342.350(4) and 304.50-010.
- (28) "Premium" for each employer carrying his own risk pursuant to KRS 342.340(1) shall be the projected value of the employer's workers' compensation claims for the next calendar year as calculated by the executive director using generally-accepted actuarial methods as follows:
- (a) The base period shall be the earliest three (3) calendar years of the five (5) calendar years immediately preceding the calendar year for which the calculation is made. The executive director shall identify each claim of the employer which has an injury date or date of last injurious exposure to the cause of an occupational disease during each one (1) of the three (3) calendar years to be used as the base, and shall assign a value to each claim. The value shall be the total of the indemnity benefits paid to date and projected to be paid, adjusted to current benefit levels, plus the medical benefits paid to date and projected to be paid for the life of the claim, plus the cost of medical and vocational rehabilitation paid to date and projected to be paid. Adjustment to current benefit levels shall be done by multiplying the weekly indemnity benefit for each claim by the number obtained by dividing the statewide average weekly wage which will be in effect for the year for which the premium is being calculated by the statewide average weekly wage in effect during the year in which the injury or date of the last exposure occurred. The total value of the claims using the adjusted weekly benefit shall then be calculated by the executive director. Values for claims in which awards have been made or settlements reached because of findings of permanent partial or permanent total disability shall be calculated using the mortality and interest discount assumptions used in the latest available statistical plan of the advisory rating organization defined in Subtitle 13 of KRS Chapter 304. The sum of all calculated values shall be computed for all claims in the base period.
  - (b) The executive director shall obtain the annual payroll for each of the three (3) years in the base period for each employer carrying his own risk from records of the office and from the records of the Department for Employment Services, Cabinet for Workforce Development. The executive director shall multiply each of the three (3) years of payroll by the number obtained by dividing the statewide average weekly wage which will be in effect for the year in which the premium is being calculated by the statewide average weekly wage in effect in each of the years of the base period.
  - (c) The executive director shall divide the total of the adjusted claim values for the three (3) year base period by the total adjusted payroll for the same three (3) year period. The value so calculated shall be multiplied by 1.25 and shall then be multiplied by the employer's most recent annualized payroll, calculated using records of the office and the Department for Employment Services data which shall be made available for this purpose on a quarterly basis as reported, to obtain the premium for the next calendar year for assessment purposes under KRS 342.122.
  - (d) For November 1, 1987, through December 31, 1988, premium for each employer carrying his own risk shall be an amount calculated by the board pursuant to the provisions contained in this subsection and such premium shall be provided to each employer carrying his own risk and to the funding commission on or before January 1, 1988. Thereafter, the calculations set forth in this subsection shall be performed annually, at the time each employer applies or renews his application for certification to carry his own risk for the next twelve (12) month period and submits payroll and other data in support of the application. The employer and the funding commission shall be notified at the time of the certification or recertification of the premium calculated by the executive director, which shall form the employer's basis for assessments pursuant to KRS 342.122 for the calendar year beginning on January 1 following the date of certification or recertification.
  - (e) If an employer having fewer than five (5) years of doing business in this state applies to carry his own risk and is so certified, his premium for the purposes of KRS 342.122 shall be based on the lesser number of years of experience as may be available including the two (2) most recent years if necessary to create a three (3) year base period. If the employer has less than two (2) years of operation in this state available for the premium calculation, then his premium shall be the greater of the value obtained by the calculation called for in this subsection or the amount of security required by the executive director pursuant to KRS 342.340(1).
  - (f) If an employer is certified to carry his own risk after having previously insured the risk, his premium shall be calculated using values obtained from claims incurred while insured for as many of the years of the base period as may be necessary to create a full three (3) year base. After the employer is certified to

carry his own risk and has paid all amounts due for assessments upon premiums paid while insured, he shall be assessed only upon the premium calculated under this subsection.

- (g) "Premium" for each employer defined in KRS 342.630(2) shall be calculated as set forth in this subsection.
- (h) Notwithstanding any other provision of this subsection, the premium of any employer authorized to carry its own risk for purposes of assessments due under this chapter shall be no less than thirty cents (\$0.30) per one hundred dollars (\$100) of the employer's most recent annualized payroll for employees covered by this chapter.
- (29) "SIC code" as used in this chapter means the Standard Industrial Classification Code contained in the latest edition of the Standard Industrial Classification Manual published by the Federal Office of Management and Budget.
- (30) "Investment interest" means any pecuniary or beneficial interest in a provider of medical services or treatment under this chapter, other than a provider in which that pecuniary or investment interest is obtained on terms equally available to the public through trading on a registered national securities exchange, such as the New York Stock Exchange or the American Stock Exchange, or on the National Association of Securities Dealers Automated Quotation System.
- (31) "Managed health care system" means a health care system that employs gatekeeper providers, performs utilization review, and does medical bill audits.
- (32) "Physician" means physicians and surgeons, psychologists, optometrists, dentists, podiatrists, and osteopathic and chiropractic practitioners acting within the scope of their license issued by the Commonwealth.
- (33) "Objective medical findings" means information gained through direct observation and testing of the patient applying objective or standardized methods.
- (34) "Work" means providing services to another in return for remuneration on a regular and sustained basis in a competitive economy.
- (35) "Permanent impairment rating" means percentage of whole body impairment caused by the injury or occupational disease as determined by "Guides to the Evaluation of Permanent Impairment," American Medical Association, latest available edition.
- (36) "Permanent disability rating" means the permanent impairment rating selected by an administrative law judge times the factor set forth in the table that appears at KRS 342.730(1)(b).

Section 236. KRS 365.015 is amended to read as follows:

- (1) (a) The real name of an individual shall include his or her surname at birth, or his or her name as changed by a court of competent jurisdiction, or the surname of a married woman.~~{;}~~
- (b) The real name of a domestic:
  1. General partnership *that is not a limited liability partnership and that has not filed a statement of partnership authority* is that name which includes the real name of each of the partners;
  2. *General partnership that is not a limited liability partnership and that has filed a statement of partnership authority is the name set forth on the statement of partnership authority;*
  3. *General partnership that is a limited liability partnership is the name stated on the statement of qualification filed pursuant to Section 69 of this Act or predecessor law;*
  4. *Limited partnership is that name stated in its certificate of limited partnership filed pursuant to Section 105 of this Act or predecessor law;*
  5. ~~{ the real name of a registered limited liability partnership is the name stated in its statement of registered limited liability partnership filed under KRS Chapter 362; the real name of a domestic limited partnership is that name stated in its certificate of limited partnership filed pursuant to KRS Chapter 362; the real name of a domestic }~~Business trust is the name set forth in the declaration of trust;

6. ~~{ the real name of a domestic }~~Corporation is the name set forth in its articles of incorporation; and
  7. ~~{ the real name of a domestic }~~Limited liability company is the name set forth in its articles of organization.
- (c) The real name of a foreign:
1. General partnership *is the name recognized by the laws of the jurisdiction under which it is formed as being the real name;*
  2. *Limited liability partnership is the name stated in its statement of foreign qualification filed pursuant to Section 72 of this Act or predecessor law;*
  3. *Limited partnership is the name set forth in its certificate of limited partnership or the fictitious name adopted for use in this Commonwealth under Section 165 of this Act or predecessor law;*
  4. ~~{, including a foreign registered limited liability partnership, or limited partnership and of a foreign }~~Business trust is the name recognized by the laws of the *jurisdiction*~~{foreign state}~~ under which it is formed as being the real name *of the business trust;*
  5. ~~{for the fictitious name adopted for use in this state; the real name of a foreign registered limited liability partnership is the name stated in its statement of foreign registered limited liability partnership filed under KRS Chapter 362; the real name of a foreign }~~Corporation is the name set forth in its articles of incorporation or the fictitious name adopted for use in this *Commonwealth*~~{state}~~ under KRS 271B.15-060; and
  6. ~~{ the real name of a foreign }~~Limited liability company is the name set forth in its articles of organization or the fictitious name adopted for use in this *Commonwealth*~~{state}~~ under KRS 275.410.
- (2) (a) No individual, general partnership,~~{ including a registered limited liability partnership, }~~ limited partnership, business trust, corporation, or limited liability company shall conduct or transact business in this *Commonwealth*~~{state}~~ under an assumed name or any style other than his or its real name, as defined in subsection (1) of this section, unless such individual, partnership, limited partnership, business trust, corporation, or limited liability company has filed a certificate of assumed name;
- (b) The certificate shall state the assumed name under which the business will be conducted or transacted, the real name of the individual, partnership, limited partnership, business trust, corporation, or limited liability company and his or its address, including street and number, if any;
- (c) A separate certificate shall be filed for each assumed name;
- (d) No certificate to be filed with the Secretary of State shall set forth an assumed name which is not distinguishable upon the records of the Secretary of State from any other name previously filed and on record with the Secretary of State;
- (e) The certificate shall be executed for an individual, by the individual; for a general partnership,~~{ including a registered limited liability partnership, }~~ by at least one (1) partner authorized to do so by the partners; for a limited partnership, by a general partner; for a business trust, by *a trustee*~~{the trustees}~~; for a corporation, by any person authorized to act for the corporation; and for a limited liability company, by a member or manager authorized to act for the limited liability company.
- (3) *Each*~~{The}~~ certificate of assumed name for an individual shall be filed with the county clerk where the person *maintains his or her principal place of business*~~{is deemed a resident under the provisions of KRS 186A.190(2)(a) to (j)}~~. *Each*~~{The}~~ certificate of assumed name for a general partnership,~~{ including a registered limited liability partnership, }~~ limited partnership, business trust, corporation, or limited liability company shall be delivered to the Secretary of State for filing, accompanied by one (1) exact or conformed copy. One (1) of the exact or conformed copies stamped as "filed" by the Secretary of State shall be filed with the county clerk of the county where the entity *maintains its registered agent for service of process or, if no registered agent for service of process is required, then with the county clerk of the county where the entity maintains its principal office*~~{is deemed a resident under the provisions of KRS 186A.190(2)(a) to (j)}~~. If the entity *does not maintain a registered agent for service of process and does not maintain a principal office in*



*this Commonwealth, then the certificate of assumed name shall be filed*~~[is not deemed a resident of a county in the Commonwealth, the entity shall file]~~ only with the Secretary of State.

- (4) An assumed name shall be effective for a term of five (5) years from the date of **filing**~~[registration]~~ and may be renewed for successive terms upon filing a renewal certificate within six (6) months prior to the expiration of the term, in the same manner of filing the original certificate as set out in subsection (3) of this section. Any certificate in effect on July 15, 1998, shall continue in effect for five (5) years and may be renewed by filing a renewal certificate with the Secretary of State.
- (5) Upon discontinuing the use of an assumed name, the certificate shall be withdrawn by filing a certificate in the office wherein the original certificate of assumed name was filed. The certificate of withdrawal shall state the assumed name, the real name and address of the party **formerly** transacting business **under the assumed name** and the date upon which the original certificate was filed. The certificate of withdrawal shall be signed for a general partnership~~[, including a registered limited liability partnership,]~~ by at least one (1) partner authorized to **act for the partnership**~~[do so by the partners]~~, for a limited partnership by a general partner, for a business trust by **a trustee**~~[the trustees]~~, for a corporation by any person authorized to act for the corporation, and for a limited liability company by a member or manager authorized to act for the limited liability company.
- (6) A general partnership, **except a limited liability partnership**, shall amend an assumed name to reflect a change in the identity of partners. The amendment shall set forth:
  - (a) The assumed name and date of original filing;
  - (b) A statement setting out the changes in identity of the partners; and
  - (c) Shall be signed by at least one (1) partner authorized to do so by the partners.
- (7) ***The filing of a certificate of assumed name shall not automatically prevent the use of that name or protect that name from use by other persons.***
- (8) ***In the event of the merger or conversion of a partnership, limited partnership, business trust, corporation, or limited liability company, any certificate of assumed name filed by a party to a merger or conversion shall remain in full force and effect, as provided in subsection (4) of this section, as if originally filed by the business organization which survives the merger or conversion.***
- (9) ***A certificate of assumed name may be amended to revise the real name or the address of the person or business organization holding the certificate of assumed name.***
- (10) ***A certificate of assumed name, or its amendment or cancellation, shall be effective on the date it is filed, as evidenced by the Secretary of State's date and time endorsement on the original document, or at a time specified in the document as its effective time on the date it is filed. The document may specify a delayed effective time and date, and if it does so, the document shall become effective at the time and date specified. If a delayed effective date but no time is specified, the document shall be effective at the close of business on that date. A delayed effective date for a document shall not be later than the ninetieth day after the date it is filed.***
- (11) The county clerk shall receive a fee pursuant to KRS 64.012 for filing each certificate, and the Secretary of State shall receive a fee of twenty dollars (\$20) for filing each certificate, amendment, and renewal certificate.

Section 237. KRS 446.010 is amended to read as follows:

As used in the statute laws of this state, unless the context requires otherwise:

- (1) "Action" includes all proceedings in any court of this state;
- (2) "Animal" includes every warm-blooded living creature except a human being;
- (3) "Attorney" means attorney-at-law;
- (4) "Bequeath" and "devise" mean the same thing;
- (5) "Bequest" and "legacy" mean the same thing, and embrace either real or personal estate, or both;
- (6) "Cattle" includes horse, mule, ass, cow, ox, sheep, hog, or goat of any age or sex;
- (7) "Company" may extend and be applied to any corporation, company, person, partnership, joint stock company, or association;

- (8) "Corporation" may extend and be applied to any corporation, company, partnership, joint stock company, or association;
- (9) "Cruelty" as applied to animals includes every act or omission whereby unjustifiable physical pain, suffering, or death is caused or permitted;
- (10) "Directors," when applied to corporations, includes managers or trustees;
- (11) "Domestic," when applied to corporations, *partnerships, limited partnerships, or limited liability companies*, means all those incorporated or formed by authority of this state;
- (12) "Domestic animal" means any animal converted to domestic habitat;
- (13) "Federal" refers to the United States;
- (14) "Foreign," when applied to corporations, *partnerships, limited partnerships, or limited liability companies*, includes all those incorporated or formed by authority of any other state;
- (15) "Generally accepted accounting principles" are those uniform minimum standards of and guidelines to financial accounting and reporting as adopted by the National Council on Governmental Accounting, under the auspices of the Municipal Finance Officers Association and by the Financial Accounting Standards Board, under the auspices of the American Institute of Certified Public Accountants;
- (16) "Humane society," "society," or "Society for the Prevention of Cruelty to Animals," means any nonprofit corporation, organized under the laws of this state and having as its primary purpose the prevention of cruelty to animals;
- (17) "Issue," as applied to the descent of real estate, includes all the lawful lineal descendants of the ancestors;
- (18) "Land" or "real estate" includes lands, tenements, and hereditaments and all rights thereto and interest therein, other than a chattel interest;
- (19) "Legatee" and "devisee" convey the same idea;
- (20) "May" is permissive;
- (21) "Month" means calendar month;
- (22) "Oath" includes "affirmation" in all cases in which an affirmation may be substituted for an oath;
- (23) "Owner" when applied to any animal, means any person having a property interest in such animal;
- (24) **"Partnership" includes both general and limited partnerships;**
- (25) "Peace officer" includes sheriffs, constables, coroners, jailers, metropolitan and urban-county government correctional officers, marshals, policemen, and other persons with similar authority to make arrests;
- ~~(26)~~~~(25)~~ "Penitentiary" includes all of the state penal institutions except the houses of reform;
- ~~(27)~~~~(26)~~ "Person" may extend and be applied to bodies-politic and corporate, societies, communities, the public generally, individuals, partnerships, registered limited liability partnerships, joint stock companies, and limited liability companies;
- ~~(28)~~~~(27)~~ "Personal estate" includes chattels, real and other estate that passes to the personal representative upon the owner dying intestate;
- ~~(29)~~~~(28)~~ "Regular election" means the election in even-numbered years at which members of Congress are elected and the election in odd-numbered years at which state officers are elected;
- ~~(30)~~~~(29)~~ "Shall" is mandatory;
- ~~(31)~~~~(30)~~ "State" when applied to a part of the United States, includes territories, outlying possessions, and the District of Columbia; "any other state" includes any state, territory, outlying possession, the District of Columbia, and any foreign government or country;
- ~~(32)~~~~(31)~~ "State funds" or "public funds" means sums actually received in cash or negotiable instruments from all sources unless otherwise described by any state agency, state-owned corporation, university, department, cabinet, fiduciary for the benefit of any form of state organization, authority, board, bureau, interstate compact, commission, committee, conference, council, office, or any other form of organization whether or not the

money has ever been paid into the Treasury and whether or not the money is still in the Treasury if the money is controlled by any form of state organization, except for those funds the management of which is to be reported to the Legislative Research Commission pursuant to KRS 42.600, 42.605, and 42.615;

- ~~(33)~~~~(32)~~ "Sworn" includes "affirmed" in all cases in which an affirmation may be substituted for an oath;
- ~~(34)~~~~(33)~~ "United States" includes territories, outlying possessions, and the District of Columbia;
- ~~(35)~~~~(34)~~ "Vacancy in office," or any equivalent phrase, means such as exists when there is an unexpired part of a term of office without a lawful incumbent therein, or when the person elected or appointed to an office fails to qualify according to law, or when there has been no election to fill the office at the time appointed by law; it applies whether the vacancy is occasioned by death, resignation, removal from the state, county or district, or otherwise;
- ~~(36)~~~~(35)~~ "Violate" includes failure to comply with;
- ~~(37)~~~~(36)~~ "Will" includes codicils; "last will" means last will and testament;
- ~~(38)~~~~(37)~~ "Year" means calendar year;
- ~~(39)~~~~(38)~~ "City" includes town;
- ~~(40)~~~~(39)~~ Appropriation-related terms are defined as follows:
  - (a) "Appropriation" means an authorization by the General Assembly to expend, from public funds, a sum of money not in excess of the sum specified, for the purposes specified in the authorization and under the procedure prescribed in KRS Chapter 48;
  - (b) "Appropriation provision" means a section of any enactment by the General Assembly which is not provided for by KRS Chapter 48 and which authorizes the expenditure of public funds other than by a general appropriation bill;
  - (c) "General appropriation bill" means an enactment by the General Assembly that authorizes the expenditure of public funds in an executive, judicial, or legislative branch budget bill as provided for in KRS Chapter 48;
- ~~(41)~~~~(40)~~ "Mediation" means a nonadversarial process in which a neutral third party encourages and helps disputing parties reach a mutually acceptable agreement. Recommendations by mediators are not binding on the parties unless the parties enter into a settlement agreement incorporating the recommendations; and
- ~~(42)~~~~(41)~~ "Biennium" means the two (2) year period commencing on July 1 in each even-numbered year and ending on June 30 in the ensuing even-numbered year.

Section 238. KRS 362.521 is amended to read as follows:

- (1) A limited partnership formed under any statute of this state prior to the adoption of KRS 362.403 to 362.525, until or unless it becomes a limited partnership under **Sections 81 to 195 of this Act**~~[KRS 362.403 to 362.525]~~, shall continue to be governed by the provisions of the statute under which it was formed.
- (2) A limited partnership formed under any statute of this state prior to the adoption of **Sections 81 to 195 of this Act**~~[KRS 362.403 to 362.525]~~ may elect to become subject to **Sections 81 to 195 of this Act**~~[KRS 362.403 to 362.525]~~ upon the filing of an amended and restated certificate of limited partnership which complies with the provisions of **Section 105 of this Act**~~[KRS 362.415]~~.
- (3) Upon the occurrence of any event which would require the filing of a certificate of amendment by a limited partnership under KRS 362.403 to 362.525 or under the statute under which the limited partnership was formed, the limited partnership shall file an amended and restated certificate of limited partnership which complies with the provisions of **Section 105 of this Act**~~[KRS 362.415]~~.
- (4) A limited partnership formed under any statute of this state prior to the adoption of KRS 362.403 to 362.525 shall not be required to change its name to include the word "Limited" or its abbreviation "Ltd." **before the time it becomes subject to Sections 81 to 195 of this Act.**

Section 239. Effective January 1, 2008, the following KRS sections are repealed:

362.150 Short title.

- 362.155 Definitions for KRS 362.150 to 362.360.
- 362.160 Interpretation of knowledge and notice.
- 362.165 Rules of construction.
- 362.170 Rules for other cases.
- 362.175 Partnership defined.
- 362.180 Rules for determining the existence of a partnership.
- 362.185 Partnership property.
- 362.190 Partner agent of partnership as to partnership business.
- 362.195 Conveyance of real property of the partnership.
- 362.205 Partnership charged with knowledge of or notice to partner.
- 362.210 Partnership bound by partner's wrongful act.
- 362.215 Partnership bound by partner's breach of trust.
- 362.220 Nature of partner's liability.
- 362.225 Partner by estoppel.
- 362.230 Liability of incoming partner.
- 362.235 Rules determining rights and duties of partners.
- 362.240 Partnership books.
- 362.245 Duty of partners to render information.
- 362.250 Partner accountable as a fiduciary.
- 362.255 Right to an account.
- 362.260 Continuation of partnership beyond fixed term.
- 362.265 Extent of property rights of a partner.
- 362.270 Nature of a partner's right in specific partnership property.
- 362.275 Nature of partner's interest in the partnership.
- 362.280 Assignment of partner's interest.
- 362.285 Partner's interest subject to charging order.
- 362.290 Dissolution defined.
- 362.295 Partnership not terminated by dissolution.
- 362.300 Causes of dissolution.
- 362.305 Dissolution by decree of court.
- 362.310 General effect of dissolution on authority of partner.
- 362.315 Right of partner to contribution from co-partners after dissolution.
- 362.320 Power of partner to bind partnership to third persons after dissolution.
- 362.325 Effect of dissolution on partner's existing liability.
- 362.330 Right to wind up.
- 362.335 Rights of partners to application of partnership property.
- 362.340 Rights where partnership is dissolved for fraud or misrepresentation.
- 362.345 Rules for distribution.

- 362.350 Liability of persons continuing the business in certain cases.
- 362.355 Rights of retiring or estate of deceased partner when the business is continued.
- 362.360 Accrual of actions.
- 362.401 Definitions.
- 362.403 Name of limited partnership.
- 362.405 Reservation of name.
- 362.407 Recordkeeping office -- Agent for service of process -- Requirement for agent's written acceptance of appointment.
- 362.409 Records to be kept.
- 362.411 Nature of business that may be carried on.
- 362.413 Business transactions of partners with partnership.
- 362.415 Formation -- Certificate of limited partnership.
- 362.417 Amendment to or restatement of certificate.
- 362.419 Cancellation of certificate.
- 362.421 Execution of certificates.
- 362.423 Execution of certificate by judicial act.
- 362.425 Filing in office of Secretary of State.
- 362.427 Liability for false statement in certificate.
- 362.429 Scope of notice.
- 362.431 Delivery of certificate to limited partners.
- 362.433 Admission of limited partners.
- 362.435 Voting rights of limited partners.
- 362.437 Liability of limited partners to third parties.
- 362.439 Liability of person erroneously believing to be a limited partner.
- 362.441 Limited partner's right to information.
- 362.443 Admission of additional general partners.
- 362.445 Events of withdrawal of general partner.
- 362.447 General power and liabilities of general partners.
- 362.449 Contributions by general partner.
- 362.451 Voting rights of general partners.
- 362.453 Form of contribution.
- 362.455 Liability for contribution.
- 362.457 Sharing of profits and losses.
- 362.459 Sharing of distributions.
- 362.461 Interim distributions.
- 362.463 Withdrawal of general partner.
- 362.465 Withdrawal of limited partner.
- 362.467 Distribution upon withdrawal.

- 362.469 Distribution in kind.
- 362.471 Right of distribution.
- 362.473 Limitation of distribution.
- 362.475 Liability upon return of contributions.
- 362.477 Nature of partnership interest.
- 362.479 Assignment of partnership interest.
- 362.481 Rights of judgment creditor.
- 362.483 Right of assignee to become limited partner.
- 362.485 Power of estate of deceased or incompetent partner.
- 362.487 Nonjudicial dissolution.
- 362.489 Judicial dissolution.
- 362.491 Winding up.
- 362.493 Distribution of assets.
- 362.495 Law governing foreign limited partnerships.
- 362.497 Registration of foreign limited partnership.
- 362.499 Filing of application by foreign limited partnership.
- 362.501 Name under which foreign limited partnership must register.
- 362.503 Changes and amendment.
- 362.505 Cancellation of registration of foreign limited partnership.
- 362.507 Registration required for access to courts -- Effects of failure to register.
- 362.509 Action by Attorney General to restrain foreign limited partnership from transacting business.
- 362.511 Right of limited partner to bring derivative action.
- 362.513 Derivative action: proper plaintiff.
- 362.515 Derivative action: pleadings.
- 362.517 Derivative action: expenses.
- 362.519 Construction and application of act.
- 362.521 Effect on existing partnerships.
- 362.523 Applicability of Uniform Partnership Act.
- 362.525 Effect of repeal of prior statute.
- 362.527 Short title.
- 362.531 Merger of domestic limited partnerships with domestic or foreign limited partnerships, limited liability companies, or corporations.
- 362.536 Domestic limited partnership's approval of plan of merger -- Amendment -- Abandonment.
- 362.541 Articles of merger.
- 362.546 Effect of merger.
- 362.555 Registered limited liability partnership -- Manner of registration.
- 362.565 Name of registered limited liability partnership.
- 362.575 Intent and policy of Commonwealth regarding registered limited liability partnerships.

362.585 Registration of foreign limited liability partnership -- Effect of withdrawal -- Injunctive action by Attorney General.

362.595 Result of failure to comply with KRS 362.555 -- Service of process.

362.605 Suits by and against partnerships -- Effect of judgments.

**Approved April 5, 2006.**

## CHAPTER 150

(SB 19)

AN ACT relating to electronic health information.

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

Section 1. KRS 216.267 is amended to read as follows:

- (1) The duties and responsibilities of the board shall be to implement and oversee the operation of an electronic health network in this Commonwealth, to be known as the Ke-HN.
- (2) The board shall:
  - (a) Exercise all of the administrative functions of the board;
  - (b) Appoint an advisory group that shall meet at least quarterly for the purpose of collaborating with health care providers and payors, computer technology companies, telecommunication companies, and other affected entities to ensure input into the implementation of the Ke-HN;
  - (c) Review models for an electronic health network;
  - (d) Oversee the development of comparative business cases for the models reviewed and choose a model to be implemented in this Commonwealth. In selecting a model for implementation, the board shall consider the following elements:
    1. Various models and configurations for Ke-HN, either as developed from the board's research or as recommended by public and private experts. Each model or configuration shall be capable of supporting administrative and clinical functions listed in subsection (4) of this section, including the capability to integrate with an electronic Medicaid management information system, provide immediate health alerts to health care providers across the state, ~~and~~ support health care provider education related to the identification and treatment of rare and unusual diseases, ***serve as a registry of the existence and location of advance directives related to health care or mental health treatment, and serve as a registry of organ donations.*** The model chosen may be implemented in phases, as determined by the board;
    2. Projected costs of the network, indicating those which would be allocated to state government, health care providers, insurers, or others;
    3. Options for financing the start-up, administrative, and maintenance costs, projected returns on investments, a timetable for realizing those returns, and any proposed subscription or transaction fees associated with the Ke-HN;
    4. Procedures intended to secure protected health information in accordance with HIPAA;
    5. Timetables for implementation of the Ke-HN, whether as a fully established network, in phases, or through the use of a pilot project or regional approach to the Ke-HN;
    6. Suggested incentives to promote the use of Ke-HN by health care providers and payors, and the Medicaid program; and
    7. Incentives, including but not limited to tax credits, low-interest loans, and grants, under Subchapters 22, 23, 24, 26, and 28 of KRS Chapter 154 for a company that develops or manufactures software necessary for the development of the Ke-HN, if the company meets all the eligibility requirements under the respective subchapter in KRS Chapter 154;

- (e) Receive comments from the advisory group created in paragraph (b) of this subsection;
- (f) Submit a description of the model chosen for implementation to the Legislative Research Commission for the opportunity for any comments;
- (g) If state funds are required for implementation of the model chosen, seek funding through the appropriations process;
- (h) Oversee the implementation of the model chosen subject to the appropriation of funds. Oversight shall include the following:
  - 1. Developing any central interchange, including any central server and software;
  - 2. Developing the Ke-HN of providers and payors who participate in the network, which shall be on a voluntary basis;
  - 3. Making recommendations regarding the features and functions which shall be included in the distributed components of the network; and
  - 4. Performing an outcomes assessment of the benefits achieved by the network;
- (i) Identify and adopt standards for all computer systems communicating with the Ke-HN, including but not limited to:
  - 1. The HIPAA standards for electronic transactions as the federal regulations become final, or more stringent standards for content and networking as determined by the board;
  - 2. Medical lexicon for administrative billing and clinical purposes;
  - 3. Procedure and billing codes; and
  - 4. Prevalent health care industry standards for software and networking that ensure that applications work on all types of computer systems and equipment;
- (j) Establish procedures to ensure that Ke-HN transactions are in compliance with HIPAA guidelines;
- (k) Facilitate the implementation of the federal HIPAA guidelines, and identify any additional variables specific to Kentucky that are required to be in transactions within the HIPAA guidelines;
- (l) Oversee the operations of the Ke-HN, including but not limited to making recommendations for financing the central interchange for the network and making recommendations to organizations about implementing the network in their respective organizations;
- (m) Oversee the development of the central interchange that supports communication between components of the Medicaid management information system;
- (n) Implement educational efforts about the Ke-HN;
- (o) Develop incentives for providers and payors to use the Ke-HN;
- (p) Identify options for, adopt, and implement approaches to various aspects of the Ke-HN necessary for its creation and operation, including but not limited to technology architecture, governance and oversight, development and implementation plans, and other areas identified by the board relating to its charge;
- (q) Facilitate the development of private and public partnerships to build the Ke-HN;
- (r) Assign priority in phasing in the network to geographical locations that are critical to homeland security and protection of the Commonwealth's energy production;
- (s) Collaborate with federal agencies in the development and implementation of the Ke-HN as a demonstration model for the nation;
- (t) Collaborate with the Kentucky Health Care Infrastructure Authority created under KRS 216.261;
- (u) Assist with the securing of state, federal, or private funding for the Kentucky Health Care Infrastructure Authority created under KRS 216.261;
- (v) Stimulate the development of state and local population health information capacities;
- (w) Promulgate administrative regulations in accordance with KRS Chapter 13A necessary to carry out the responsibilities of the board;



- (x) Receive and dispense funds appropriated for its use by the General Assembly or may solicit, apply for, and receive any funds, property, or services from any person, governmental agency, or organization to carry out its statutory responsibilities;
  - (y) Report to the Governor, secretary of the Cabinet for Health and Family Services, commissioner of the Department of Innovation and Commercialization for a Knowledge Based Economy, Legislative Research Commission, Interim Joint Committee on Health and Welfare, and Interim Joint Committee on Banking and Insurance annually on the development of the Ke-HN and the impact on quality and cost of health care; and
  - (z) Collaborate with the Telehealth Board to link functions of the telehealth network to the Ke-HN, as determined by the Telehealth Board.
- (3) The board may:
- (a) Use any software program or expand any Medicaid management information system or electronic provider and payor network developed by the Medicaid program to support electronic health transactions between payors, insurers, health care providers, and patients that are not Medicaid-related, unless prohibited by federal law or regulation;
  - (b) Contract, in accordance with KRS Chapter 45A, with an independent third party for any service necessary to carry out the responsibilities of the board subject to the appropriation of funds;
  - (c) Award grants to health care providers and payors to implement projects related to health informatics, with highest priority given to health care providers and payors that serve rural and inner-city areas of this Commonwealth; and
  - (d) Enter into an agreement with the University of Kentucky or the University of Louisville to develop comparative business models or implement any phase of the Ke-HN, using private or federal funds received by the university for the purpose designated in the agreement.
- (4) In its fully implemented form, the Kentucky e-Health Network is envisioned to support or encourage the following types of electronic transactions or activities that would be phased in over time:
- (a) Automatic drug-drug interaction and allergy alerts;
  - (b) Automatic preventive medicine alerts;
  - (c) Electronic access to the results of laboratory, X-ray, or other diagnostic examinations;
  - (d) Disease management;
  - (e) Disease surveillance and reporting;
  - (f) Educational offerings for health care providers;
  - (g) Health alert system and other applications related to homeland security;
  - (h) Links to drug formularies and cost information;
  - (i) Links to evidence-based medical practice;
  - (j) Links to patient educational materials;
  - (k) Medical record information transfer to other providers with the patient's consent;
  - (l) Physician order entry;
  - (m) Prescription drug tracking;
  - (n) Registries for vital statistics, cancer, case management, immunizations, and other public health registries;
  - (o) ***Registry of the existence and location of advance directives related to health care and mental health treatment;***
  - (p) ***Registry of organ donations executed under KRS 311.165 to 311.235;***
  - (q) Secured electronic consultations between providers and patients;

- (r)~~(p)~~ A single-source insurance credentialing system for health care providers; and
- (s)~~(q)~~ The following transactions covered by HIPAA:
1. Electronic health care claims submission;
  2. Electronic payment;
  3. Coordination of benefits;
  4. Health care claim status;
  5. Enrollment and disenrollment in a health plan;
  6. Eligibility for a health plan;
  7. Health plan premium payments;
  8. Referral certification and authorization;
  9. First report of injury; and
  10. Health claims attachments.

**Approved April 5, 2006.**

## **CHAPTER 151**

**(SB 57)**

AN ACT relating to reorganization.

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

Section 1. KRS 151B.025 is amended to read as follows:

- (1) The Department for Technical Education is hereby created and shall be attached to the Cabinet for Workforce Development. The department shall consist of a commissioner and those administrative bodies and employees provided or appointed pursuant to law.
- (2) The chief executive officer of the department shall be the commissioner of the Department for Technical Education. The commissioner shall be appointed to the unclassified service by the secretary of the Cabinet for Workforce Development with the approval of the Governor pursuant to KRS 12.050. The commissioner shall have general supervision and direction over all functions of the department and its employees, and shall be responsible for carrying out the programs and policies of the department. The commissioner may delegate authority to deputies who may then act on his or her behalf in performing the duties assigned in this subsection.
- (3) The department shall have the responsibility for all administrative functions of the state in relation to the management, control, and operation of state-operated secondary area vocational education and technology centers. When appropriate, the department shall provide education training programs through contracts with private business and industries. These programs may be on a shared cost basis or on a total cost recovery basis.
- (4) The commissioner of the Department for Technical Education shall have the authority to enter into agreements or contracts with other government or education agencies, including local school districts, in order to carry out services under the department's jurisdiction.
- (5) Secondary area vocational education and technology centers shall be operated in compliance with program standards established by the Kentucky Board of Education. Principals, counselors, and teaching staff shall meet the qualifications and certification standards for all secondary vocational personnel as established by the Educational Professional Standards Board. In addition to direct appropriations, funds appropriated to support the cost of operating area vocational education and technology centers shall be transferred annually from the secondary funds administered by the Kentucky Department of Education for that purpose.
- (6) The Department for Technical Education, in the operation and management of its schools and the programs at those schools, shall meet all required federal and state standards relating to facilities and personnel qualification; provided, however, that no license or license fee shall be required for any school or program operated by the Department for Technical Education.

- (7) *In accordance with 20 U.S.C. sec. 2302(9), the Kentucky Workforce Investment Board is hereby designated to be the "eligible agency" that is the sole state agency responsible for the administration of vocational and technical education and the supervision of the administration of vocational and technical education*~~[The Department for Technical Education shall be the education agency solely designated for the purpose of developing and approving state plans required by state or federal laws and regulations as prerequisites to receiving federal funds for vocational technical or technology education. The department shall involve representatives from all eligible recipient categories in the development of the required plans].~~
- (8) *Except for the duties that the Workforce Investment Board must retain pursuant to 20 U.S.C. sec. 2341, the Kentucky Workforce Investment Board shall be authorized to delegate all of the other duties and responsibilities of the eligible agency to the Department for Technical Education within the Education, Arts, and Humanities Cabinet, including but not limited to the administration, operation, and supervision of the Perkins program and the authority to receive, hold, and disburse funds awarded under the state plan.*
- (9) The department shall be permitted to enter into memorandums of agreement with individuals on a year to year basis to fill positions in hard-to-find teaching specialties. The agreements and compensation for hard-to-find teaching specialties shall be approved by the commissioner and shall not be subject to the provisions of KRS Chapter 45A. All agreements shall be filed with the secretary of the Finance and Administration Cabinet.
- ~~(10)(9)~~ The commissioner of the Department for Technical Education shall, from time to time, prepare or cause to be prepared any bulletins, programs, outlines of courses, placards, and courses of study deemed useful in the promotion of the interests of technical and vocational education.
- ~~(11)(10)~~ The commissioner of the department shall be responsible for the preparation of a biennial budget request, which shall be forwarded to the secretary of the Cabinet for Workforce Development for review and modification.

Section 2. The General Assembly confirms the Governor's Executive Order 2005-327 dated April 6, 2005.

Section 3. 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. The reviser of statutes shall base these actions on the functions assigned to the new entities and may consult with officers of the affected agencies to accomplish this purpose.

**Approved April 5, 2006.**

## CHAPTER 152

(SB 89)

AN ACT relating to reorganization.

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

Section 1. 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 (30)**~~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. Environmental and Public Protection;
    3. Finance and Administration; 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.~~17.~~ ~~Kentucky Coal Council;~~
    - ~~17.~~ ~~18.~~ Kentucky Farm Bureau Federation; and
    - ~~17.~~ ~~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) The commissioner of the Department for Existing Business Development shall be the administrative head and chief executive officer of the commission. The secretary of the Cabinet for Economic Development 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 Department for Existing Business Development.

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

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

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

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

- (a) Commissioner of Agriculture.
  - (b) Kentucky Council on Agriculture.
- 7. Auditor of Public Accounts.
- II. Program cabinets headed by appointed officers:
  - 1. Justice Cabinet:
    - (a) Department of State Police.
    - (b) Department of Criminal Justice Training.
    - (c) Department of Corrections.
    - (d) Department of Juvenile Justice.
    - (e) Office of the Secretary.
    - (f) Offices of the Deputy Secretaries.
    - (g) Office of General Counsel.
    - (h) Division of Kentucky State Medical Examiners Office.
    - (i) Parole Board.
    - (j) Kentucky State Corrections Commission.
    - (k) Commission on Correction and Community Service.
  - 2. Education, Arts, and Humanities Cabinet:
    - (a) Department of Education.
      - (1) Kentucky Board of Education.
    - (b) Department for Libraries and Archives.
    - (c) Kentucky Educational Television.
    - (d) Kentucky Commission on the Deaf and Hard of Hearing.
    - (e) Operations and Development Office.
    - (f) Board of Directors for the Center for School Safety.
  - 3. Environmental and Public Protection Cabinet:
    - (a) Office of the Secretary.
      - 1. Office of Legislative and Intergovernmental Affairs.
      - 2. Office of Communications and Public Outreach.
      - 3. Office of Regulatory Affairs.
      - 4. Office of Legal Services.
      - 5. Office of Administrative and Information Services.
      - 6. Office of Administrative Hearings.
      - 7. Office of Inspector General.
      - 8. Mine Safety Review Commission.
      - 9. Workers' Compensation Board.
      - 10. Kentucky State Nature Preserves Commission.
      - 11. Kentucky Environmental Quality Commission.
      - 12. Kentucky Occupational Safety and Health Review Commission.

- (b) Department for Environmental Protection.
  - 1. Office of the Commissioner.
  - 2. Division of Air Quality.
  - 3. Division of Water.
  - 4. Division of Environmental Services.
  - 5. Division of Waste Management.
  - 6. Division of Enforcement.
  - 7. Division of Compliance Assistance.
- (c) Department for Natural Resources.
  - 1. Office of the Commissioner.
  - 2. Office of Technical and Administrative Support.
  - 3. Division of Mine Permits.
  - 4. Division of Mine Reclamation and Enforcement.
  - 5. Division of Abandoned Mine Lands.
  - 6. Division of Oil and Gas Conservation.
  - 7. Office of Mine Safety and Licensing.
  - 8. Division of Forestry.
  - 9. Division of Conservation.
- (d) Department of Public Protection.
  - 1. Office of the Commissioner.
  - 2. Division of Administrative Services.
  - 3. Crime Victims Compensation Board.
  - 4. Board of Claims.
  - 5. Board of Tax Appeals.
  - 6. Kentucky Boxing and Wrestling Authority.
  - 7. Kentucky Horse Racing Authority.
  - 8. Kentucky Public Service Commission.
  - 9. Office of Alcoholic Beverage Control.
  - 10. Office of Charitable Gaming.
  - 11. Office of Financial Institutions.
  - 12. Office of Housing, Buildings and Construction.
  - 13. Office of Insurance.
- (e) Department of Labor.
  - 1. Office of the Commissioner.
  - 2. Office of Occupational Safety and Health.
  - 3. Office of Labor Management Relations and Mediation.
  - 4. Office of Workplace Standards.
  - 5. Office of Workers' Claims.

6. Workers' Compensation Funding Commission.
  7. Kentucky Labor Management Advisory Council.
  8. Occupational Safety and Health Standards Board.
  9. Prevailing Wage Review Board.
  10. Kentucky Employees Insurance Association.
  11. Apprenticeship and Training Council.
  12. State Labor Relations Board.
  13. Workers' Compensation Advisory Council.
  14. Workers' Compensation Nominating Commission.
  15. Employers' Mutual Insurance Authority.
  16. Division of Administrative Services.
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 Aviation.
  - (e) Department of Intergovernmental Programs.
    1. Office of Transportation Enhancement Programs.
    2. Office of Rural and Secondary Roads.
  - (f) Office of the Secretary.
    1. Office of Legislative and Intergovernmental Affairs.
    2. Office of Public Affairs.
    3. Office of Transportation Delivery.
    4. Office for Business and Occupational Development.
    5. Office of Budget and Fiscal Management.
    6. Office of Legal Services.
    7. Office of Inspector General.
    8. Office of the Transportation Operations Center.
    9. Office of Personnel Management.
5. Cabinet for Economic Development:
- (a) Office of Administration and Support.
  - (b) Department for New Business Development.
  - (c) Department of Financial Incentives.



- (d) Department for Existing Business 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.
  - (k) Commission on Small Business Advocacy.
6. Cabinet for Health and Family Services:
- (a) Department for Public Health.
  - (b) Department for Medicaid Services.
  - (c) Department for Mental Health and Mental Retardation Services.
  - (d) Kentucky Commission for Children with Special Health Care Needs.
  - (e) Office of Certificate of Need.
  - (f) Office of the Secretary.
  - (g) Office of Legal Services.
  - (h) Office of Inspector General.
  - (i) Office of Legislative and Public Affairs.
  - (j) Department for Community Based Services.
  - (k) Department for Disability Determination Services.
  - (l) Office of the Ombudsman.
  - (m) Department for Human Support Services.
  - (n) Kentucky Commission on Community Volunteerism and Service.
  - (o) Office of Fiscal Services.
  - (p) Office of Human Resource Management.
  - (q) Office of Technology.
  - (r) Office of Contract Oversight.
7. Finance and Administration Cabinet:
- (a) Office of General Counsel.
  - (b) Office of the Controller.
  - (c) Office of Administrative Services.
  - (d) Office of Public Information.
  - (e) Department for Facilities and Support Services.
  - (f) Department of Revenue.
  - (g) Commonwealth Office of Technology.
  - (h) State Property and Buildings Commission.
  - (i) Kentucky Savings Bond Authority.
  - (j) Office of Equal Employment Opportunity and Contract Compliance.

- (k) County Officials Compensation Board.
  - (l) Kentucky Employees Retirement Systems.
  - (m) Commonwealth Credit Union.
  - (n) State Investment Commission.
  - (o) Kentucky Housing Corporation.
  - (p) Kentucky Local Correctional Facilities Construction Authority.
  - (q) Kentucky Turnpike Authority.
  - (r) Historic Properties Advisory Commission.
  - (s) Kentucky Tobacco Settlement Trust Corporation.
  - ~~(t) Eastern Kentucky Exposition Center Corporation.~~
  - ~~(u)~~ State Board for Proprietary Education.
  - ~~(u)~~~~(v)~~ Kentucky Higher Education Assistance Authority.
  - ~~(v)~~~~(w)~~ Kentucky River Authority.
  - ~~(w)~~~~(x)~~ Kentucky Teachers' Retirement System Board of Trustees.
8. Commerce Cabinet:
- (a) Department of Tourism.
    - (1) Division of Tourism Services.
    - (2) Division of Marketing and Advertising.
    - (3) Division of Parks Marketing.
  - (b) Kentucky Department of Parks.
    - (1) Division of Information Technology.
    - (2) Division of Personnel and Payroll.
    - (3) Division of Financial Operations.
    - (4) Division of Facilities Management.
    - (5) Division of Project Administration.
    - (6) Division of Customer Services.
    - (7) Division of Recreation.
    - (8) Division of Golf Courses.
    - (9) Division of Food Services.
    - (10) Division of Rangers.
    - (11) Division of Eastern Parks.
    - (12) Division of Southern Parks.
    - (13) Division of Western Parks.
  - (c) Department of Fish and Wildlife Resources.
    - (1) Division of Law Enforcement.
    - (2) Division of Administrative Services.
    - (3) Division of Engineering.
    - (4) Division of Fisheries.

- (5) Division of Information and Education.
- (6) Division of Wildlife.
- (7) Division of Public Affairs.
- (d) Kentucky Horse Park.
  - (1) Division of Support Services.
  - (2) Division of Buildings and Grounds.
  - (3) Division of Operational Services.
- (e) Kentucky State Fair Board.
  - (1) Division of Expositions and Admission.
  - (2) Division of Kentucky Fair and Exposition Center Operations.
  - (3) Division of Commonwealth Convention Center.
  - (4) Division of Public Relations and Media.
  - (5) Division of Administrative Services.
  - (6) Division of Personnel Management and Staff Development.
  - (7) Division of Sales.
  - (8) Division of Security and Traffic Control.
- (f) Office of the Secretary.
- (g) Office of Finance and Administration.
- (h) Office of Legal Affairs.
- (i) Office of Intergovernmental Affairs.
- (j) Office of Human Resources.
- (k) Office of Public Affairs and Constituent Services.
- (l) Office of Information Technology.
- (m) ***Office of the Kentucky Sports Authority***~~[Office of Purchase and Procurement].~~
  - (1) ***Kentucky Sports Authority Board.***
- (n) Office of Creative Services.
- (o) Office of Capital Plaza Operations.
- (p) Office of Energy Policy.
  - (1) ***Energy Policy Advisory Council.***
- (q) ***Office of Arts and Cultural Heritage***~~[Coal Marketing and Export].~~
- ~~[(r) — Kentucky Coal Council.]~~
- ~~(r)~~~~[(s)]~~ Kentucky Foundation for the Arts.
- ~~(s)~~~~[(t)]~~ Kentucky Humanities Council.
- ~~(t)~~~~[(u)]~~ Kentucky Heritage Council.
- ~~(u)~~~~[(v)]~~ Kentucky Arts Council.
- ~~(v)~~~~[(w)]~~ Kentucky Historical Society.
  - (1) Division of Museums.
  - (2) Division of Oral History and Educational Outreach.

- (3) Division of Research and Publications.
  - (4) Division of Administration.
  - (w)~~(x)~~ Kentucky Center for the Arts.
  - (1) Division of Governor's School for the Arts.
  - (x)~~(y)~~ Kentucky Artisans Center at Berea.
  - (y) ***Northern Kentucky Convention Center.***
  - (z) ***Eastern Kentucky Exposition Center.***
- 9. 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.
- 10. Personnel Cabinet:
  - (a) Office of the Secretary.
  - (b) Department for Personnel Administration.
  - (c) Office for Employee Relations.
  - (d) Kentucky Public Employees Deferred Compensation Authority.
  - (e) Office of Administrative Services.
  - (f) Office of Legal Services.
  - (g) Office of Government Training.
  - (h) Department for Employee 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. Education Professional Standards Board.
9. Office of Minority Empowerment.

Section 3. KRS 132.020 is amended to read as follows:

- (1) The owner or person assessed shall pay an annual ad valorem tax for state purposes at the rate of:
  - (a) 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;
  - (b) 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;
  - (c) One and one-half cents (\$0.015) upon each one hundred dollars (\$100) of value of all qualifying voluntary environmental remediation property, provided the bona fide prospective purchaser has obtained a covenant not to sue from the Environmental and Public Protection Cabinet under KRS 224.01-526 for all known releases located on the property. This rate shall apply for a period of three (3) years following the issuance of the covenant not to sue, after which the regular tax rate shall apply;
  - (d) One and one-half cents (\$0.015) upon each one hundred dollars (\$100) of value of all tobacco directed to be assessed for taxation;
  - (e) One and one-half cents (\$0.015) upon each one hundred dollars (\$100) of value of unmanufactured agricultural products;
  - (f) 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;
  - (g) One-tenth of one cent (\$0.001) upon each one hundred dollars (\$100) of value of all livestock and domestic fowl;
  - (h) 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;
  - (i) Fifteen cents (\$0.15) upon each one hundred dollars (\$100) of value of all machinery actually engaged in manufacturing;
  - (j) Fifteen cents (\$0.15) upon each one hundred dollars (\$100) of value of all commercial radio, television, and telephonic equipment directly used or associated with electronic equipment which broadcasts electronic signals to an antenna;
  - (k) Fifteen cents (\$0.15) upon each one hundred dollars (\$100) of value of all property which has been certified as a pollution control facility as defined in KRS 224.01-300;
  - (l) One-tenth of one cent (\$0.001) upon each one hundred dollars (\$100) of value of all 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;
  - (m) 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;
  - (n) Five cents (\$0.05) upon each one hundred dollars (\$100) of value of goods held for sale in the regular course of business, which 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;
- (o) Ten cents (\$0.10) per one hundred dollars (\$100) of assessed value on the operating property of railroads or railway companies that operate solely within the Commonwealth;
  - (p) One and one-half cents (\$0.015) per one hundred dollars (\$100) of assessed value on aircraft not used in the business of transporting persons or property for compensation or hire;
  - (q) One and one-half cents (\$0.015) per one hundred dollars (\$100) of assessed value on federally documented vessels not used in the business of transporting persons or property for compensation or hire, or for other commercial purposes; and
  - (r) 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 KRS 132.030, 132.200, 136.300, and 136.320, providing a different tax rate for particular property.
- (2) Notwithstanding subsection (1)(a) of this section, 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:
- (a) The assessment of new property as defined in KRS 132.010(8);
  - (b) The assessment from property which is subject to tax increment financing pursuant to KRS Chapter 65; and
  - (c) 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)(b) 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.
- (3) By July 1 each year, the department shall compute the state tax rate applicable to real property for the current year in accordance with the provisions of subsection (2) 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 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, 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, make an estimate of the real property assessments of the uncertified counties and compute the state tax rate.
- (4) If the tax rate set by the department as provided in subsection (2) of this section produces more than a four percent (4%) increase in real property tax revenues, excluding:
- (a) The revenue resulting from new property as defined in KRS 132.010(8);
  - (b) The revenue from property which is subject to tax increment financing pursuant to KRS Chapter 65; and
  - (c) 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.
- (5) The provisions of subsection (2) of this section notwithstanding, the assessed value of unmined coal certified by the department 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 (2) 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 *Office of Energy Policy* ~~Kentucky Coal Council~~ for the purpose of public education of coal-related issues.

## SECTION 4. A NEW SECTION OF KRS CHAPTER 56 IS CREATED TO READ AS FOLLOWS:

- (1) *The Energy Policy Advisory Council is hereby established for the purpose of assisting and advising the Office of Energy Policy. Membership shall consist of:*
  - (a) *Fifteen (15) members of the public, appointed by the Governor and representing various energy interests within the Commonwealth; and*
  - (b) *The executive director of the Office of Energy Policy who shall serve as a nonvoting member and as chairman of the council.*
- (2)
  - (a) *Each appointed member shall serve for a term of four (4) years.*
  - (b) *Any member may be removed from his appointment by the Governor for cause.*
  - (c) *Appointed members shall be reimbursed for travel costs incurred in attending meetings, which shall be paid from the funds of the Office of Energy Policy, and in compliance with the Commerce Cabinet's procedures for travel and reimbursement.*
- (3)
  - (a) *The chairman shall set the agenda, place, and time of meetings which shall be held a minimum of two (2) times a year and shall be held in accordance with the provisions of the Open Meetings Act, KRS 61.805 to 61.850.*
  - (b) *A quorum for all council meetings shall consist of eight (8) of the appointed members.*

## Section 5. KRS 143.090 is amended to read as follows:

- (1) The Transportation Cabinet shall certify to the commissioner of the Department of Revenue 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 **Office of Energy Policy**~~Kentucky Coal Council~~ shall certify to the commissioner of the Department of Revenue 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 **Office of Energy Policy**~~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 of the Department of Revenue 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 **Office of Energy Policy**~~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 **Office of Energy Policy**~~Kentucky Coal Council~~ shall be transferred by appropriate interfund transfer procedures to the **Office of Energy Policy**~~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 **Office of Energy Policy**~~Kentucky Coal Council~~ shall be deposited by the Department of Revenue 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 of revenue shall prorate the proceeds to the transportation fund and the **Office of Energy Policy**~~Kentucky Coal Council~~ based upon the ratio of each certified amount to the total of the two (2) certified amounts.

## Section 6. KRS 148.522 is amended to read as follows:

- (1) The Commerce Cabinet shall consist of the Office of the Secretary, the Office of Legal Affairs, the Office of Finance and Administration, the Office of Intergovernmental Affairs, the Office of Human Resources, the Office of Public Affairs and Constituent Services, the Office of Information Technology, **the Office of Energy Policy, the Office of the Kentucky Sports Authority, the Office of Arts and Cultural Heritage**~~the Office of Purchase and Procurement~~, the Office of Creative Services, the Office of Capital Plaza Operations, the Department of Tourism, the Kentucky Department of Parks, the Tourism Development Finance Authority, and

such other divisions and sections as are from time to time deemed necessary for the proper and efficient operation of the cabinet subject to the provisions of KRS Chapter 12.

- (2) The Commerce Cabinet shall encourage the development of the film industry in Kentucky and shall perform all film promotional functions.
- (3) The Office of Legal Affairs shall be headed by a general counsel appointed by the secretary pursuant to KRS 12.210, shall provide legal services for the cabinet, and shall be directly responsible to the secretary.
- (4) The Department of Tourism shall be headed by a commissioner appointed by the Governor pursuant to the provisions of KRS 12.040. The commissioner shall have the authority and responsibility for the promotion, development, and support services for the tourism industry within the Commonwealth.
- (5) The Divisions of Tourism Services, Marketing and Advertising, and Parks Marketing are created within the Department of Tourism. Each division shall be headed by a division director who shall be appointed by the commissioner of the department pursuant to the provisions of KRS 12.050.

Section 7. KRS 154.90-010 is amended to read as follows:

- (1) The Northern Kentucky Convention Center Corporation is hereby established to develop and manage the Northern Kentucky Convention Center. ***The corporation shall be attached to the Commerce Cabinet for administrative purposes.*** The corporation shall be directed by a board consisting of seven (7) members appointed as follows:
  - (a) The county judge/executives of Kenton, Campbell and Boone Counties, with the approval of their respective fiscal courts, shall each appoint one (1) member to the board. An appointee under this subsection shall have demonstrated successful business experience in a field related to the convention business;
  - (b) The mayor of the city within which the convention center is located shall appoint one (1) member, with the approval of the city commission; and
  - (c) The Governor shall appoint three (3) members.
  - (d) One (1) of the initial appointees of the Governor shall have a one (1) year term, one (1) shall have a two (2) year term, and one (1) shall have a three (3) year term. All other appointments, and all subsequent appointments by the Governor, shall be for four (4) year terms.
  - (e) Members may be removed by the appointing authority only for cause and after being afforded notice, a hearing, and a finding of fact by the appointing authority. A copy of charges, transcript of the record of the hearings, and findings of fact shall be filed with the Secretary of State.
- (2) The Northern Kentucky Convention Center Corporation shall be a body corporate with full corporate powers. A quorum of the corporation shall consist of four (4) members, with a majority of members present authorized to act upon any matter legally before the corporation. Minutes and records shall be kept of all meetings of the corporation and all official actions shall be recorded.
- (3) The corporation may enact bylaws concerning the election of officers and other administrative procedures it deems necessary.

Section 8. KRS 224.46-850 is amended to read as follows:

- (1) It is the intent of the General Assembly that a regional integrated waste treatment and disposal demonstration facility contain an industrial park component. The approved site for a regional integrated waste treatment and disposal demonstration facility shall be of sufficient size to accommodate new industrial and commercial concerns that can utilize the energy by-products of the treatment technologies.
- (2) It shall be the responsibility of the ***Office of Energy Policy***~~Kentucky Coal Council~~ to establish a plan for and develop the industrial park component of a regional integrated waste treatment and disposal demonstration facility. The industrial park component, located on property contiguous with the treatment and disposal technologies, shall be designed so as to utilize energy generated from the waste treatment technologies.

Section 9. KRS 224.46-870 is amended to read as follows:

The ***Office of Energy Policy***~~Kentucky Coal Council~~ shall provide the cabinet with the information deemed necessary by the cabinet to project hazardous waste generation in the Commonwealth as required by KRS 224.10-100(24) and 224.46-830(2)(d).



Section 10. KRS 247.00-920 is amended to read as follows:

- (1) Application for an alcohol production exemption certificate shall be filed with the Department of Revenue in such manner and in such form as may be prescribed by regulations issued by the Department of Revenue 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 for the proper administration of KRS 247.910 and this section. The ***Office of Energy Policy***~~[Kentucky Coal Council]~~ shall provide technical assistance and factual information as requested in writing by the Department of Revenue. If the Department of Revenue 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 shall give notice in writing by mail to the ***Office of Energy Policy***~~[Kentucky Coal Council]~~, and shall afford to the applicant and to the ***Office of Energy Policy***~~[Kentucky Coal Council]~~ an opportunity for a hearing. On like notice and opportunity for a hearing, the Department of Revenue 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, in lieu of revoking the certificate, may modify it.
- (4) On mailing of notice of the action of the Department of Revenue 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 ***Office of Energy Policy***~~[Kentucky Coal Council]~~. Notice of an order of the Department of Revenue 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 ***Office of Energy Policy***~~[Kentucky Coal Council]~~. The applicant or holder and the ***Office of Energy Policy***~~[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 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 ***Office of Energy Policy***~~[Kentucky Coal Council]~~ and the Department of Revenue.
- (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 ***Office of Energy Policy***~~[Kentucky Coal Council]~~ and to the Department of Revenue.
- (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 11. A NEW SECTION OF KRS CHAPTER 148 IS CREATED TO READ AS FOLLOWS:

- (1) *The Kentucky Recreational Trails Authority is hereby established and attached to the Department of Tourism, Commerce Cabinet, for the purpose of planning and implementing programs to expand tourism opportunities for off-road activities that are pertinent to nonmotorized and motorized vehicle use, including pedestrian, bicycles, mountain bicycles, horses, all-terrain vehicles (ATVs), and off-highway vehicles (OHVs) on designated lands in Kentucky. Membership of the authority shall consist of the following:*
- (a) *A chairman, who shall be an employee of the Department of Tourism prior to his appointment, to be designated by the commissioner of the Department of Tourism; and*
  - (b) *Initial membership shall include the eleven (11) members of the Off-road Motorcycle and ATV Commission on the effective date of this Act, who shall serve for the remainder of their terms. Two (2) additional members, whose terms shall expire on the same date as the eleven (11) initial commission members, shall be appointed by the Governor from the following groups:*
    - 1. *One (1) member shall be from a Kentucky bicycling organization that is affiliated with either the League of American Bicyclists, the United States Cycling Federation, or the International Mountain Bicycling Association; and*
    - 2. *One (1) member shall be from a Kentucky equine organization that has trail riding as its primary focus.*

*Upon the expiration of the terms of the initial members described in paragraph (b) of this subsection, the Governor shall appoint thirteen (13) members of the public representing various interests within the Commonwealth.*

- (2) (a) *Each appointed member shall serve for a term of four (4) years.*
- (b) *Any member may be removed from his or her appointment by the Governor for cause.*
- (c) *Appointed members shall be reimbursed for travel costs incurred in attending meetings, which shall be paid from the funds of the Department of Tourism and in compliance with the Commerce Cabinet's procedures for travel and reimbursement.*
- (3) (a) *The chairman shall set the agenda, place, and time of meetings, which shall be held a minimum of two (2) times per year and conducted in accordance with the Open Meetings Act, KRS 61.805 to 61.850.*
- (b) *A quorum for all meetings shall consist of seven (7) of the appointed members.*
- (c) *The chairman shall be a nonvoting member, except in cases of a tie vote, in which case, the chairman may cast the deciding vote.*

Section 12. KRS 154.40-020 is amended to read as follows:

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

Section 13. 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 Savings Bond Authority;

- (3) County Officials Compensation Board;
- (4) Kentucky Turnpike Authority;
- (5) State Investment Commission;
- (6) Kentucky Housing Corporation;
- (7) Kentucky Tobacco Settlement Trust Corporation;
- (8) Kentucky River Authority~~;~~ and
- ~~(9) Eastern Kentucky Exposition Center Corporation.~~

Section 14. All functions, powers, and duties of the Kentucky Coal Council shall be transferred to the Office of Energy Policy. The Office of Energy Policy shall have the authority to perform the functions and duties assigned to the Kentucky Coal Council by KRS 132.020(9) and shall receive the credits authorized by that subsection.

Section 15. All functions, powers, and duties of the Off-road Motorcycle and ATV Commission shall be transferred to the Kentucky Recreational Trails Authority.

Section 16. The following KRS sections are repealed:

- 154.12-250 Kentucky Coal Council -- Office of Coal Marketing and Export.
- 154.12-252 Membership of council -- Reimbursement of expenses -- Meetings -- Quorum.
- 154.12-255 Duties of council.
- 176.510 Off-road Motorcycle and ATV Commission established -- Purpose.
- 176.511 Membership of Off-road Motorcycle and ATV Commission -- Meetings -- Records.

Section 17. Notwithstanding any other provision of law, the General Assembly confirms Executive Order 2005-561, dated June 16, 2005, and Executive Order 2005-1358, dated December 14, 2005, to the extent they are not otherwise confirmed or superseded by this Act.

**Approved April 5, 2006.**

## CHAPTER 153

(SB 166)

AN ACT relating to residential hospice facilities.

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

SECTION 1. A NEW SECTION OF KRS CHAPTER 315 IS CREATED TO READ AS FOLLOWS:

(1) *As used in this section and Section 2 of this Act:*

- (a) *"Automated pharmacy system" means a mechanical system that delivers prescribed over-the-counter and legend drugs, and controlled substances received from a pharmacy licensed in Kentucky that maintains transaction information; and*
- (b) *"Residential hospice facility" means a facility licensed under KRS Chapter 216B that provides residential skilled nursing care, pain management, and treatment for acute and chronic conditions for terminally ill patients.*

- (2) *A pharmacy may provide pharmacy services to a residential hospice facility through the use of an automated pharmacy system under the supervision of a licensed pharmacist pursuant to the policies, procedures, and protocol established by the Kentucky Board of Pharmacy. The supervising pharmacist shall not be required to be physically present at the location of the automated pharmacy system and supervision may be provided electronically.*
- (3) *Drugs stored in bulk or unit dose in an automated pharmacy system in a residential hospice facility shall be considered the inventory of the pharmacy providing services to the facility and drugs delivered through the automated pharmacy system shall be considered dispensed by the pharmacy.*

- (4) ***The Kentucky Board of Pharmacy shall promulgate administrative regulations pursuant to KRS Chapter 13A to implement the provisions of this section that shall include, but not be limited to:***
- (a) ***Accuracy of the automated pharmacy system;***
  - (b) ***Security of the system;***
  - (c) ***Recordkeeping, including but not limited to, electronic signatures of authorized users;***
  - (d) ***Inventory management;***
  - (e) ***Labeling or reporting requirements that include identification of the dispensing pharmacy, the prescription number, the name of the patient, and the name of the prescriber; and***
  - (f) ***Training for authorized users.***
- (5) ***Nothing in this section shall be construed to limit or impede pharmacy practice in Kentucky.***

Section 2. KRS 315.300 is amended to read as follows:

- (1) A pharmacy shall be allowed to place drugs with a home health agency's authorized employees and with a hospice's authorized employees for the betterment of public health. The pharmacy shall remain the legal owner of the drugs.
- (2) A written agreement between the pharmacy and home health agency or hospice shall document the protocol for the handling and storage of the drugs by authorized employees and shall be approved by the pharmacist in charge.
- (3) The pharmacist in charge shall review the protocol to assure that safe, secure and accountable handling of controlled legend drugs is maintained under the protocol before giving approval.
- (4) The pharmacist in charge or a pharmacist designee shall physically inspect and review the drug storage and handling at the home health agency and the hospice not less than annually.
- (5) The home health agency and the hospice protocol shall include, but not be limited to, the following:
  - (a) Safe and secure storage of drugs;
  - (b) Access to drugs limited to authorized employees;
  - (c) Records of drugs checked out to authorized employees and records of drugs, amounts, and to whom and by whom administered;
  - (d) Prompt notification of the pharmacy when a drug is used, including the prescriber, patient, drug, dosage form, directions for use and other pertinent information;
  - (e) Billing information;
  - (f) Procedures for handling drugs beyond their expiration date; and
  - (g) Inventory control.
- (6) The following legend drugs shall be allowed under these agreements:
  - (a) Sterile water for injection or irrigation;
  - (b) Sterile saline solution for injection or irrigation;
  - (c) Heparin flush solution;
  - (d) Diphenhydramine injectable;
  - (e) Epinephrine injectable;
  - (f) Glucagon;
  - (g) Influenza vaccine; and
  - (h) Pneumonia vaccine.
- (7) As used in this section:

- (a) "Authorized employee" means any employee of a home health agency or hospice who, in the course of the employee's duties, is licensed by the employee's appropriate licensing agency to administer legend drugs;
  - (b) "Home health agency" means an entity required to be licensed under KRS Chapter 216; and
  - (c) "Hospice" means an entity authorized to hold itself out to the public as a hospice or as a licensed hospice pursuant to KRS Chapter 216.
- (8) The cabinet shall promulgate administrative regulations to implement the provisions of this section ~~to become effective by October 15, 1998~~.
- (9) *Nothing in this section shall preclude or prevent a pharmacy from providing pharmacy services through an automated pharmacy system to a residential hospice facility in accordance with Section 1 of this Act.*

SECTION 3. A NEW SECTION OF KRS CHAPTER 216B IS CREATED TO READ AS FOLLOWS:

- (1) *As used in this section:*
- (a) *"Automated pharmacy system" means a mechanical system that delivers prescribed over-the-counter and legend drugs, and controlled substances received from a pharmacy licensed in Kentucky that maintains transaction information; and*
  - (b) *"Residential hospice facility" means a facility licensed under KRS Chapter 216B that provides residential skilled nursing care, pain management, and treatment for acute and chronic conditions for terminally ill patients.*
- (2) *A residential hospice facility shall be deemed in compliance with licensure requirements relating to pharmaceutical services if the facility obtains pharmacy services through an automated pharmacy system in accordance with Section 1 of this Act and related administrative regulations promulgated by the Kentucky Board of Pharmacy.*

SECTION 4. A NEW SECTION OF KRS CHAPTER 218A IS CREATED TO READ AS FOLLOWS:

- (1) *As used in this section:*
- (a) *"Automated pharmacy system" means a mechanical system that delivers prescribed over-the-counter and legend drugs, and controlled substances received from a pharmacy licensed in Kentucky that maintains transaction information; and*
  - (b) *"Residential hospice facility" means a facility licensed under KRS Chapter 216B that provides residential skilled nursing care, pain management, and treatment for acute and chronic conditions for terminally ill patients.*
- (2) *Nothing in this chapter shall preclude a residential hospice facility from obtaining pharmacy services from a pharmacy through the use of an automated pharmacy system in accordance with Section 1 of this Act and related administrative regulations promulgated by the Kentucky Board of Pharmacy. A residential hospice facility and the pharmacy providing pharmacy services shall comply with the reporting requirements of this chapter.*

Approved April 5, 2006.

## CHAPTER 154

(SB 175)

AN ACT relating to anesthesiologist assistants.

WHEREAS, the Commonwealth has a shortage of qualified anesthesia providers; and

WHEREAS, only two anesthesiologist assistants are currently certified to practice in Kentucky; and

WHEREAS, anesthesiologist assistants are certified or licensed to practice in several other states; and

WHEREAS, the Kentucky General Assembly recognizes the need for qualified anesthesia team members;

NOW, THEREFORE,

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

Section 1. The Legislative Research Commission shall conduct a study comparing and analyzing the certification and scope of practice requirements of anesthesiologist assistants in Kentucky to those requirements in all states that statutorily license or certify anesthesiologist assistants. The analysis undertaken shall compare and contrast the certification or licensure requirements of anesthesiologist assistants in other states with the certification requirements of anesthesiologist assistants in Kentucky; evaluate the training, certification or licensure requirements, and scope of practice of anesthesiologist assistants and other anesthesia providers, including but not limited to certified registered nurse anesthetists, in Kentucky and other states where anesthesiologist assistants are statutorily licensed or certified to practice; and gather data and testimony from affected persons and professionals regarding the scope of practice and certification or licensure requirements for anesthesiologist assistants in the Commonwealth.

Section 2. The Legislative Research Commission shall transmit the results of the study required by Section 1 of this Act to the appropriate committees by December 15, 2006.

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

**Approved April 5, 2006.**

## **CHAPTER 155**

### **(SB 180)**

AN ACT relating to access to primary health care for the uninsured.

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

SECTION 1. A NEW SECTION OF KRS CHAPTER 211 IS CREATED TO READ AS FOLLOWS:

- (1) *To the extent possible with available funds, the Cabinet for Health and Family Services shall establish and operate the Kentucky Physicians Care Program to assist low income, uninsured individuals in accessing primary health care services provided by volunteer health care practitioners and pharmaceutical drugs donated by pharmaceutical companies.*
- (2) *The program may access networks of practitioners, pharmacies, and pharmaceutical companies that are maintained by entities that recruit volunteers and donations, such as Health Kentucky, Inc., to locate necessary health care services for eligible applicants.*
- (3) *The program shall:*
  - (a) *Operate and maintain a professionally staffed toll-free hotline information and referral service for individuals seeking primary care;*
  - (b) *Refer individuals seeking health care services to the Department for Community Based Services or other enrollment sites approved by the cabinet for eligibility determination;*
  - (c) *Refer individuals determined to be eligible to available health care service providers; and*
  - (d) *Maintain a confidential record of all referrals.*
- (4) *The program may:*
  - (a) *Create temporary volunteer advisory committees to provide input on program operations and efficiencies;*
  - (b) *Contract with qualified, independent third parties to provide services; and*
  - (c) *Apply for federal funds or other grants to operate the program.*

SECTION 2. A NEW SECTION OF KRS CHAPTER 211 IS CREATED TO READ AS FOLLOWS:

- (1) *Individuals may apply for primary care services available from the Kentucky Physicians Care Program in their local Department for Community Based Services office or other enrollment sites approved by the cabinet. An individual shall be eligible for services available from the program if he or she meets the following criteria:*

- (a) *A gross income limit of one hundred percent (100%) of the federal poverty level;*
- (b) *A resource limit of two thousand dollars (\$2,000);*
- (c) *Is not qualified for government medical assistance programs; and*
- (d) *Is not covered by a health benefit plan as defined under subtitle 17A of KRS Chapter 304.*
- (2) *If an individual is determined to be eligible, the department shall refer the individual to the program. An individual shall be eligible for services available under the program for one (1) year and may reapply.*
- (3) *Services that may be available from the program include but are not limited to visits to health care professionals and prescription drugs donated by pharmaceutical companies and filled by retail and hospital pharmacies. Eligibility for the program does not guarantee an individual access to free services not available under the program.*
- (4) *Individuals shall not be charged a fee for services provided under this program.*
- (5) *The cabinet shall promulgate administrative regulations in accordance with KRS Chapter 13A to implement the provisions of Sections 1 and 2 of this Act.*

Approved April 5, 2006.

## CHAPTER 156

(SB 205)

AN ACT relating to the School Facilities Construction Commission.

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

Section 1. KRS 157.622 is amended to read as follows:

The School Facilities Construction Commission shall be governed by the following procedures in providing assistance to school districts for construction purposes:

- (1) Upon receipt of the certified statements from the Kentucky Board of Education as required by KRS 157.620, the commission shall compute the unmet needs of all eligible districts as defined by KRS 157.615;
- (2) Assistance to each eligible district shall be determined by computing the ratio of the available state funding to total unmet need statewide. Based on the computed ratio, an equivalent percentage of each eligible district's unmet need will be funded;
- (3) Each eligible district which has otherwise complied with the provisions of KRS 157.615 and 157.620 shall be offered sufficient funding to finance construction of the portion of its unmet need computed by applying the ratio determined in subsection (2) of this section to the total unmet need of the district. The funds shall be applied to the projects listed on the most current facility plan approved by the Kentucky Board of Education, and the funds shall be applied to projects in the priority order listed on the plan. Exceptions to the priority order of projects may be approved by the School Facilities Construction Commission when it is documented by the local board of education and approved by the Kentucky Board of Education upon the recommendation of the chief state school officer that the school district's priority order of needs has changed. The exceptions shall not alter the amount of the offer of assistance;
- (4) The commission shall promulgate administrative regulations whereby an eligible district which fails in any budget period to receive an allocation of state funds that is sufficient to fund the district's priority project or portions thereof may accumulate credit, subject to the availability of funds, for its unused state allocation for a period not to exceed **eight (8)**~~four (4)~~ years. Accumulation and retention of credit is contingent upon the transfer of available local revenue to the restricted construction account by June 30 of each year;
- (5) Except as provided in subsection (6) of this section, all unused state allocations accumulated according to the provisions of subsection (3) of this section shall be reallocated by the commission. The reallocation shall follow the process and intent as set forth in this section with eligible districts being those districts which contribute unused state allocations to the reallocation account. Any district which has an unused state allocation after funding its first priority project in a biennium is not eligible for consideration for additional

funds from the reallocation account. Any funding received and utilized from the reallocation account by a district shall equally reduce the credit as set forth in this section; and

- (6) Refinancing savings that have occurred since July 1, 1997, and subsequent savings to the commission generated over the life of a bond by the local district's refinancing of the bond shall be dedicated to the district's account by the commission. Any funds accumulated in this account shall be used toward the district's next priority, but shall not be deducted from the district's share of commission funds under subsection (3) of this section.

**Approved April 5, 2006.**

## CHAPTER 157

### (SB 225)

AN ACT relating to mechanical inspections.

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

Section 1. KRS 198B.400 is amended to read as follows:

As used in KRS 198B.410 to 198B.540, unless the context otherwise requires:

- (1) "Elevator" means all the machinery, construction, apparatus, and equipment used in raising and lowering a car, cage, or platform vertically between permanent rails or guides, and includes all elevators, power dumbwaiters, escalators, gravity elevators, and other lifting or lowering apparatus permanently installed between rails or guides, but does not include hand operated dumbwaiters, manlifts of the platform type with a platform area not exceeding nine hundred square inches, construction hoists, or other similar temporary lifting or lowering apparatus.
- (2) "Passenger elevator" means an elevator that is designed to carry persons to its contract capacity.
- (3) "Freight elevator" means an elevator used for carrying freight and on which only the operator, by the permission of the employer, is allowed to ride.
- (4) "General inspector" means a state inspector examined and hired to inspect elevators for the Office of Housing, Buildings and Construction.
- (5) "Special inspector" means an inspector examined and certified by the office to inspect elevators in the state.
- (6) "Inspector" means either a general or special inspector.
- (7) "Office" means the Office of Housing, Buildings and Construction.
- (8) "Certificate of operation" is a certificate issued by the office authorizing the operation of an elevator which must be conspicuously posted on the elevator at all times.
- (9) ***"Escalator" means a moving stairway consisting of steps attached to a continuously circulating belt that is used to move persons from one (1) level to another.***
- (10) ***"Moving sidewalk" means horizontal flat panels attached to a continuously circulating belt used to move people.***
- (11) ***"Fixed guideway system" means any nonrail system, funicular, or automated people mover, either air-suspended or wheeled, that is not regulated by the Federal Transit Administration.***

Section 2. KRS 198B.410 is amended to read as follows:

- (1) No person may act either as a general inspector or as a special inspector of elevators ***or fixed guideway systems*** unless he or she holds a certificate of competency from the office.
- (2) Application for examination as an inspector of elevators shall be in writing, accompanied by a fee of ten dollars (\$10), upon a blank to be furnished by the office, stating the school education of the applicant, a list of his or her employers, his or her period of employment, and the position held with each. An applicant shall also submit a letter from one (1) or more of his or her previous employers certifying as to his or her character and experience.



- (3) Applications shall be rejected which contain any willful falsification or untruthful statements. ~~The [Such]~~ applicant, if the office deems his or her history and experience sufficient, shall be tested by means of a written examination dealing with the construction, installation, operation, maintenance, and repair of elevators and their appurtenances, and the applicant shall be accepted or rejected on the merits of his or her application and examination.
- (4) ***The office shall promulgate administrative regulations establishing the training and certification requirements for inspectors of fixed guideway systems.***
- (5) The office shall issue a certificate of competency in the inspection of elevators to any applicant found competent upon examination. A rejected applicant shall be entitled, after the expiration of ninety (90) days, and upon payment of an examination fee of ten dollars (\$10), to another examination. Should an applicant fail to pass the prescribed examination on second trial, he or she will not be permitted to be an applicant for another examination for a period of one (1) year after the second failure.

Section 3. KRS 198B.420 is amended to read as follows:

- (1) The office shall administer all aspects of the State Elevator ***and Fixed Guideway System*** Inspection Program.
- (2) The program shall be directed by a person with at least five (5) years' experience in the inspection or construction, installation, maintenance, and repair of elevators and their appurtenances.
- (3) The executive director of housing, buildings and construction may appoint and hire from the holders of certificates of competency ~~no more than ten (10)~~ general inspectors of elevators.

Section 4. KRS 198B.440 is amended to read as follows:

A certificate to serve as an inspector ***issued under Section 2 of this Act*** may be suspended or revoked by the office for the incompetence or untrustworthiness of the holder thereof, or for the falsification of any matter or statement contained in his or her application or in a report of any inspection.

Section 5. KRS 198B.460 is amended to read as follows:

The owner or user of any elevator ***or fixed guideway system*** shall register with the office every elevator ***or fixed guideway system*** operated by him or her, giving the type, capacity, and description, name of manufacturer, and purpose for which each is used. ~~The [Such]~~ registration shall be made on a form to be furnished by the office.

Section 6. KRS 198B.470 is amended to read as follows:

Every passenger elevator, ***moving sidewalk, fixed guideway system***, and escalator shall be inspected once every twelve (12) months.

Section 7. KRS 198B.480 is amended to read as follows:

- (1) Every inspector shall forward to the office a full report of each inspection made of any passenger elevator ***or fixed guideway system***, showing the exact condition of the elevator ***or fixed guideway system***, and the inspector shall leave a copy of the report at the elevator ***or fixed guideway system*** on the day the inspection is completed.
- (2) If any passenger elevator ***or fixed guideway system*** requires certain changes or repairs to make it reasonably safe to operate, recommendations shall be made by the inspector upon his or her report and a copy of the report as approved by the office shall be given to the owner or operator of the elevator ***or fixed guideway system***, and unless appealed, upon compliance therewith, and upon the payment of the fees required by law, the office shall issue a certificate of operation for a capacity not to exceed that named in the report of inspection, which certificate shall be valid for one (1) year after the date of inspection.
- (3) If construction plans or an application of specifications is not approved, the office shall state in writing the necessary changes to obtain approval and the owner or operator shall be given a copy thereof, and unless appealed, upon compliance therewith, the office shall approve the plans or specifications and issue a permit for construction.
- (4) Any owner or operator, within twenty (20) days from receipt of the copy of the report or statement of changes in plans or specifications, may make written application to the office, upon forms to be furnished by the office for a hearing on the report or the statement regarding changes in plans or specifications as to whether the elevator ***or fixed guideway system*** in question is reasonably safe, or whether the elevator ***or fixed guideway system***

*system*, if constructed in accordance with the plans and specifications, would be reasonably safe. The office shall promptly consider the application and schedule a hearing to be conducted consistent with the provisions of this section and KRS Chapter 13B.

- (5) If it appears from the evidence presented at the hearing that the elevator *or fixed guideway system* will be reasonably safe to operate without those changes or repairs shown in the report or by making only a part or all thereof, or if none or only a part of all the changes in the plans or specifications are found necessary to make the elevator reasonably safe, the office shall issue its final order accordingly. If the final order requires changes or repairs to be made in the elevator *or fixed guideway system* or changes in the plans or specifications *of either*, the office shall upon the payment of the required fees, issue a certificate of operation when the order has been executed, or issue its approval of the plans or specifications. If the final order of the office has been affirmed or modified by appeal, on the grounds of reasonable safety considered by the office, then the office shall, upon compliance with the final order, and the payment of required fees, issue the certificate of operation or issue its approval of the plans and specifications but, if the order of the office has been vacated, the certificate of operation, upon the payment of fees or approval of plans and specifications shall be issued forthwith. No elevator *or fixed guideway system* shall be operated after being inspected without having a certificate of operation conspicuously posted thereon, except pending a hearing on the issuance thereof.

Section 8. KRS 198B.490 is amended to read as follows:

The executive director of housing, buildings and construction shall make, alter, amend, and repeal rules and regulations exclusively for the safety and inspection of passenger elevators *and fixed guideway systems*. The executive director shall have the authority to prescribe, by regulation, the fee to be charged for each inspection. All fees established and regulated by this section shall be payable to the office except as may be provided in a specific written agreement between the executive director and any agency authorized to inspect elevators *or fixed guideway systems* by the provisions of this chapter.

Section 9. KRS 198B.500 is amended to read as follows:

Every passenger elevator *or fixed guideway system* shall be equipped, maintained, and operated, with respect to the supporting members, elevator *or fixed guideway system* car, shaftways, guides, cables, doors, and gates, safety stops and mechanism, electrical apparatus and wiring, mechanical apparatus, counterweights, and all other appurtenances, in accordance with the regulations as are authorized in respect thereto. Where reasonable safety is obtained without complying to the literal requirements of ~~the[such]~~ regulations as in cases of practical difficulty or unnecessary hardship, the literal requirements of ~~the[such]~~ regulations shall not be required.

Section 10. KRS 198B.510 is amended to read as follows:

No certificate of operation for any passenger elevator *or fixed guideway system* shall be issued until ~~the[such]~~ elevator *or fixed guideway system* has been inspected and the report thereof filed with the office. ~~The[Such]~~ certificate of operation, when issued, shall bear the date of inspection, and shall be renewed as of the date of the subsequent inspection, provided ~~the[such]~~ inspection is made at least one (1) year after the issuance of such certificate. If ~~the[such]~~ inspection is made during the year ~~the[such]~~ certificate is in force, the renewal date shall be one (1) year from the date of the certificate being renewed and the renewal certificate shall show the date of inspection.

Section 11. KRS 198B.520 is amended to read as follows:

Before any new installation of an elevator *or fixed guideway system* of permanent nature shall be erected or before any existing elevator is removed to a different location, an application of specifications in duplicate shall be submitted to the office giving such information concerning the construction, installation, and operation of said elevator *or fixed guideway system* as the office may require on forms to be furnished by the office, together with complete construction plans in duplicate. In all cases where any changes or repairs are made which alter its construction or classification, grade or rated lifting capacity, except when made pursuant to a report of an inspector, an application of specifications in duplicate shall be submitted to the office, containing such information, for approval, except *for elevators* in those municipal corporations which maintain their own elevator inspection departments, in which event ~~the[such]~~ specifications shall be submitted to the elevator department of the municipal corporation for its approval, and if approved, a permit for the erection or repair of ~~the[such]~~ elevator shall be issued by the municipal corporation. Upon approval of ~~the[such]~~ application and construction plans the office shall issue a permit for the erection or repair of ~~the[such]~~ elevator *or fixed guideway system*. No new elevator *or fixed guideway system* shall be operated until completion in accordance with the approved plans and specifications, unless a temporary permit is granted by the office.

Section 12. KRS 198B.530 is amended to read as follows:

No person shall violate any law relative to the operation, construction, maintenance, and repair of passenger elevators **or fixed guideway systems**. All fines collected for a violation of this section shall be forwarded to the office, which shall pay the same into the State Treasury to the credit of the general revenue fund.

Section 13. KRS 198B.540 is amended to read as follows:

- (1) If the **office's inspector of elevators and fixed guideway systems**~~[office]~~ or a general inspector of elevators **or fixed guideway systems** finds that a passenger elevator, **fixed guideway system**, or a part thereof does not afford reasonable safety, the office or the general inspector may post a notice upon ~~the[such]~~ elevator **or fixed guideway system** prohibiting further use of the elevator **or fixed guideway system** until the changes or alterations set forth in the notice have been made to the satisfaction of the office or the inspector. Said notice shall contain a statement that operators or passengers are subject to injury by its continued use, a description of the alteration or other change necessary to be made in order to secure safety of operation, date of ~~the[such]~~ notice, name and signature of the office or inspector issuing the notice.
- (2) If any inspector of elevators **or fixed guideway systems** finds a passenger elevator **or fixed guideway system** to be so unsafe as can be reasonably expected to offer imminent danger of death or physical injury, that unit shall be sealed out of service, a hazard notice posted thereon, and the office shall be notified immediately as to the location and condition of the unit.
- (3) Any passenger elevator **or fixed guideway system**, once sealed, shall not be operated except for the purpose of effecting repairs and in ~~the[such a]~~ manner~~[as]~~ prescribed by the office, until all defects are corrected and the unit has been inspected and certified as safe by the office.
- (4) Sealing shall consist of rendering a passenger elevator unit **or fixed guideway system** inoperable by disconnecting power and/or by placing a sealing device on the operation switch and ordering~~[such]~~ additional measures to be effected by the owner, such as erection of barricades, as may be required to prevent use of or public access to the unit.
- (5) No seal, notice or barricade placed on or around an elevator **or fixed guideway system** in accordance with the provisions of this chapter shall be removed, obstructed or in any way altered without the written consent of the office.

**Approved April 5, 2006.**

## CHAPTER 158

(SB 226)

AN ACT relating to water districts.

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

Section 1. KRS 353.651 is amended to read as follows:

The following provisions of this section shall apply to any deep well:

- (1) Drilling units:
  - (a) The commission shall, after notice and a hearing, to be conducted in accordance with KRS Chapter 13B, regulate the drilling and location of wells in any pool and the production therefrom so as to prevent reasonably avoidable net drainage from each developed unit (that is, drainage which is not equalized by counterdrainage) so that each owner in a pool shall have the right and opportunity to recover his fair and equitable share of the recoverable oil and gas in such pool.
  - (b) For the prevention of waste, to protect and enforce the correlative rights of the owners in a pool, and to avoid the augmenting and accumulation of risks arising from the drilling of an excessive number of wells, the commission shall, after notice and a hearing, to be conducted in accordance with KRS Chapter 13B, establish drilling units for each pool. The spacing of wells in proved oil and gas fields shall be governed by administrative regulations promulgated for that particular field. Wells drilled in

areas not covered by special field administrative regulations shall be governed by statewide administrative regulations promulgated by the commission.

- (c) Each well permitted to be drilled upon any drilling unit shall be drilled in accordance with the administrative regulations promulgated by the commission and in accordance with a spacing pattern fixed by the commission for the pool in which the well is located, with any exceptions that may be reasonably necessary where it is shown, in accordance with administrative regulations promulgated by the commission, that the unit is partly outside the pool or for some other reason a well otherwise located on the unit would not be likely to produce in paying quantities, or topographical conditions are such as to make the drilling at the location unduly burdensome. Whenever an exception is granted, the commission shall take action as will offset any advantage which the person securing the exception may have over other owners by reason of the drilling of the well as an exception.
  - (d) No drilling unit established by the commission shall be smaller than the maximum area which can be drained efficiently by one (1) deep well so as to produce the reasonable maximum recoverable oil or gas in such area, unless an exception is granted in accordance with administrative regulations promulgated by the commission.
  - (e) An order establishing drilling units may be modified, altered, extended, amended, or vacated by the commission after notice and hearing as prescribed above.
- (2) Pooling of interests in drilling units:
- (a) When two (2) or more separately owned tracts are embraced within a drilling unit, or when there are separately owned interests in all or a part of a drilling unit, the interested persons may pool their tracts or interests for the development and operation of the drilling unit. In the absence of voluntary pooling and upon application of any operator having an interest in the drilling unit, and after the commission has given notice to all persons reasonably known to own an interest in the oil or gas in the drilling unit, and after a hearing conducted in accordance with KRS Chapter 13B, the commission shall enter an order pooling all tracts or interests in the drilling unit for the development and operation thereof and for the sharing production therefrom. Each pooling order shall be upon terms and conditions which are just and reasonable.
  - (b) All operations, including, but not limited to, the commencement, drilling, or operation of a deep well, upon any portion of a drilling unit for which a pooling order has been entered, shall be deemed for all purposes the conduct of those operations upon each separately owned tract in the drilling unit by the several owners thereof. That portion of the production allocated to a separately owned tract included in a drilling unit shall, when produced, be deemed for all purposes to have been actually produced from the tract by a deep well drilled thereon.
  - (c) Any pooling order under the provisions of subsection (2) of this section shall authorize the drilling and operation of a deep well for the production of oil or gas from the pooled acreage; shall designate the operator to drill and operate such deep well; shall prescribe the time and manner in which all owners of operating interests in the pooled tracts or portions of tracts may elect to participate therein; shall provide that all reasonable costs and expenses of drilling, completing, equipping, operating, plugging, and abandoning the deep well shall be borne, and all production therefrom shared, by all owners of operating interests in proportion to the acreage in the pooled tracts owned or under lease to each owner; and shall make provision for payment of all reasonable costs thereof, including reasonable charge for supervision and for interest on past due accounts, by all those who elect to participate therein. Upon the application of any operator having an interest in the drilling unit, the person or persons selected to drill and operate the deep well shall be determined by competitive bids ~~under the procedure set out in KRS 74.260~~.
  - (d) Upon request, any pooling order shall provide just and equitable alternatives whereby an owner of an operating interest who does not elect to participate in the risk and cost of the drilling of a deep well may elect to surrender his interest or a portion thereof to the participating owners on a reasonable basis and for a reasonable consideration, which, if not agreed upon, shall be determined by the commission; or to participate in the drilling of the deep well on a limited or carried basis on terms and conditions which, if not agreed upon, shall be determined by the commission to be just and reasonable.
  - (e) If an operator owning an interest in a pooled drilling unit elects not to participate in the risk and cost of drilling of a deep well thereon, and another operator owning an interest therein, shall drill and operate,

or pay the costs of drilling and operating a deep well as provided in the commission's order, then the operating owner shall be entitled to the share of production from the tracts or portions thereof accruing to the interest of the nonparticipating owner, exclusive of any royalty or overriding royalty reserved in any leases, assignments thereof or agreements relating thereto, of the tracts or portions thereof, or exclusive of one-eighth (1/8) of the production attributable to all unleased tracts or portions thereof, until the market value of the nonparticipating owner's share of the production, exclusive of any royalty, overriding royalty or one-eighth (1/8) of production, equals two (2) times the share of the costs payable by or charged to the interest of the nonparticipating owner.

- (f) If a dispute shall arise as to the costs of drilling and operating a deep well, the commission shall determine and apportion the costs, within ninety (90) days from the date of written notification to the commission of the existence of such dispute.
- (3) This section shall not apply to wells drilled, deepened, or reopened for the injection of water, gas, or other fluids into any subsurface formation.

Section 2. The following KRS section is repealed:

74.260 Letting of work -- Notice -- Procedure -- Bond of bidder.

**Approved April 5, 2006.**

## CHAPTER 159

(SB 230)

AN ACT relating to captive cervid permits.

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

SECTION 1. A NEW SECTION OF KRS CHAPTER 150 IS CREATED TO READ AS FOLLOWS:

(1) *As used in Sections 1 to 3 of this Act:*

- (a) *"Permit" means a permit to hold captive cervids.*
- (b) *"Applicant" means a person or entity who has applied to the department for a permit to hold captive cervids.*
- (c) *"Application" means an application to obtain a permit to hold captive cervids.*

SECTION 2. A NEW SECTION OF KRS CHAPTER 150 IS CREATED TO READ AS FOLLOWS:

- (1) *Within sixty (60) days of the effective date of Sections 1 to 3 of this Act, the Department of Fish and Wildlife Resources shall promulgate administrative regulations amending existing requirements for a permit to hold captive cervids in accordance with the provisions of Sections 1 to 3 of this Act. All other fencing and holding requirements specified in existing administrative regulation for a permit to hold captive cervids adopted on January 5, 2004, shall not be amended in a manner that is in conflict with Sections 1 to 3 of this Act or that increases the stringency of those requirements, except when as ordered by the State Veterinarian for disease control and as provided by law or in administrative regulations for the Department of Fish and Wildlife Resources to control emergency conditions that detrimentally affect wildlife.*
- (2) *The department shall have thirty (30) days from the date it receives a completed application to either issue or deny captive permits for propagation and taking of captive cervids by any legal hunting or slaughter methods. If an application demonstrates that the applicant complies with the statutory and administrative requirements for a permit, and the applicant removes all wild cervids from the facility, the department shall issue the permit.*

SECTION 3. A NEW SECTION OF KRS CHAPTER 150 IS CREATED TO READ AS FOLLOWS:

- (1) *An applicant may place his or her primary containment fence on the property line. The department shall not require applicants to set primary containment fences any distance away from the property line.*

- (2) *Any person who operates a captive cervid facility in accordance with this chapter may petition the department at any time to expand his or her captive cervid facility, provided the expansion is adjacent and connected to his or her existing facility and continues to comply with all applicable statutes and regulations.*
- (3) *A lawful permit for an existing captive cervid facility may be transferred, along with any related benefits, rights, responsibilities, and liabilities, to any person who purchases or otherwise takes ownership of the land area on which the captive cervid facility exists. Within thirty (30) days of the date of any transfer of permits, the party transferring the permit shall notify the department of the following:*
  - (a) *Name and address of the party to which the permit is to be transferred;*
  - (b) *Permit number;*
  - (c) *Deed indicating change of land ownership; and*
  - (d) *Any additional information the department deems necessary.*
- (4) *If any person holding captive cervids is determined in violation of Kentucky statute or administrative regulation pertaining to the holding of those cervids, then that person shall have sixty (60) days from when the violation was identified to come into compliance. Failure to come into compliance may cause the captive cervids to be immediately seized by the department. The individual whose cervids were seized may request an administrative hearing pursuant to KRS Chapter 13B within thirty (30) days of the department's seizure and may appeal the final decision to Franklin Circuit Court in accordance with KRS Chapter 13B. Pending the final outcome from all appeals, the seized cervids may be disposed of by the department without compensation to the owner.*

SECTION 4. A NEW SECTION OF KRS CHAPTER 150 IS CREATED TO READ AS FOLLOWS:

- (1) *There shall be a ban on the importation of the members of the animal family Cervidae into the Commonwealth. A person shall be guilty of a Class D Felony upon conviction for violating this subsection. Upon conviction of a second violation of this subsection and in addition to all other penalties, a person shall be permanently ineligible for renewal of a captive cervid permit. On or before November 1 of each year, the Department of Fish and Wildlife Resources and the Department of Agriculture, Office of the State Veterinarian, respectively shall issue reports to the Interim Joint Committee on Agriculture and Natural Resources on the status of chronic wasting disease and the reports may include the status of other animal or wildlife diseases in Kentucky and the United States. The reports shall be used for the purpose of determining the continuing need for a statutory ban on the importation of cervids into the Commonwealth or a need for lifting the ban.*
- (2) *The Department of Fish and Wildlife Resources shall have the authority to immediately, and without compensation to the owner, seize captive cervids that have been imported into the Commonwealth contrary to this section. The individual whose cervids were seized may request an administrative hearing pursuant to KRS Chapter 13B within thirty (30) days of the department's seizure and may appeal the final decision to Franklin Circuit Court in accordance with KRS Chapter 13B. Pending the final outcome of all appeals, the seized cervids may be disposed of by the department without compensation to the owner.*
- (3) *The department shall have the authority to immediately, and without compensation to the owner, seize and destroy captive cervids that are in the process of being imported into the Commonwealth contrary to this section.*

Approved April 5, 2006.

## CHAPTER 160

(SB 237)

AN ACT relating to the bonding of oil and gas wells.

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

Section 1. KRS 353.180 is amended to read as follows:

- (1) No person shall abandon or remove casings from any oil or gas well, either dry or producing, without first plugging the well in a secure manner approved by the department and consistent with its administrative regulations. Upon the department's plugging of an abandoned well in accordance with the requirements of this

subsection, the department may sell, by sealed bid, or include as part of compensation in the contract for the plugging of the well, all equipment removed from that well and deposit the proceeds of the sale into the oil and gas well plugging fund, established in *subsection (24) of Section 2 of this Act* ~~[KRS 353.590(9)]~~.

- (2) Not less than thirty (30) days before advertising for bids for the plugging of wells, the department shall publish, in a newspaper of general circulation, and in locally published newspapers serving the areas in which the wells proposed for plugging are located, notices of all wells on which there is salvageable equipment, described as to farm name and Carter Coordinate location, for which the department intends to seek bids for plugging. If a person other than the operator claims an interest in the equipment of a well proposed for plugging, he shall provide documentation of that interest to the department within thirty (30) days of the date of publication of the notice of the department's intent to plug a well. Prior to the department's advertising of bids for the plugging of a well, the department shall release the well's equipment to the person deemed to have an interest in that equipment and it shall be the duty of the interest holder to remove the equipment before the well is plugged. If documentation as to an asserted interest is not provided to the department in the manner described in this subsection or a person deemed to be an interest holder fails to remove the equipment before a well is plugged, the department may sell or otherwise dispose of the equipment in accordance with this subsection.
- (3) If a person fails to comply with subsection (1), any person lawfully in possession of land adjacent to the well or the department may enter on the land upon which the well is located and plug the well in the manner provided in subsection (1), and may maintain a civil action against the owner or person abandoning the well, jointly or severally, to recover the cost of plugging the well. This subsection shall not apply to persons owning the land on which the well is situated, and drilled by other persons.

Section 2. KRS 353.590 is amended to read as follows:

- (1) Any person seeking a permit required by KRS 353.570 shall submit to the department a written application in a form prescribed by the department.
- (2) Each application shall be accompanied by a specified fee as follows:
  - (a) The fee shall be three hundred dollars (\$300) for each well to be drilled, deepened, or reopened for any purpose relating to the production, repressuring, or storage of oil or gas, and for each water supply well, observation well, and geological or structure test hole.
  - (b) If the department receives delegation of authority for administration of the underground injection control program under Section 1425 of the Safe Drinking Water Act (Pub. L. 93-523 as amended), the department may, by administrative regulation, establish a fee or schedule of fees in an amount not to exceed fifty dollars (\$50) per well, in addition to the fees imposed by paragraph (a) of this subsection, upon each application to drill, deepen, or reopen a well for any purpose relating to the production, repressuring, or storage of oil or gas, and for each water supply well, observation well, and geological or structure test hole. The fees or schedule of fees to be established by administrative regulation shall not exceed an amount sufficient to recover the costs incurred by the department in administering the Underground Injection Control Program less any other state or federal funds which are made available for this purpose.
  - (c) All money paid to the State Treasurer for fees required by paragraph (b) of this subsection shall be for the sole use of the department in the administration of the Underground Injection Control Program under Section 1425 of the Safe Drinking Water Act (Pub. L. 93-523 as amended).
- (3) All money paid to the State Treasurer for licenses and fees required by KRS 353.500 to 353.720 shall be for the sole use of the department and shall be in addition to any moneys appropriated by the General Assembly for the use of the department.
- (4) Each application shall be accompanied by a plat, which shows the location and elevation of each well, prepared according to the administrative regulations promulgated under KRS 353.500 to 353.720. The plat shall be certified as accurate and correct by a professional land surveyor licensed in accordance with the provisions of KRS Chapter 322.
- (5) When any person submits to the Department for Natural Resources an application for a permit to drill a well, or to reopen, deepen, or temporarily abandon any well which is not covered by surety bond, the department shall, except as provided in this section, require from the well operator *the posting of* a bond. *Except for*

*bonds for well depths greater than four thousand (4,000) feet, the bond shall be posted in accordance with the following schedule:*

<i>Well Depth</i>	<i>Bond Amount</i>
<i>0 to 500 feet</i>	<i>\$500.00</i>
<i>501 feet to 1,000 feet.....</i>	<i>\$1,000.00</i>
<i>1,001 feet to 1,500 feet.....</i>	<i>\$1,500.00</i>
<i>1,501 feet to 2,000 feet.....</i>	<i>\$2,000.00</i>
<i>2,001 feet to 2,500 feet.....</i>	<i>\$2,500.00</i>
<i>2,501 feet to 3,000 feet.....</i>	<i>\$3,000.00</i>
<i>3,001 feet to 3,500 feet.....</i>	<i>\$3,500.00</i>
<i>3,501 feet to 4,000 feet.....</i>	<i>\$4,000.00</i>
<i>4,001 feet and deeper.....</i>	<i>\$5,000.00</i>

- (6) *The commission may establish a bond in a sum greater than five thousand dollars (\$5,000) for any well to be drilled to a depth of more than four thousand (4,000) feet if the members of the commission determine that the particular circumstances of the drilling of the well warrant an increase in the bond amount established in subsection (5) of this section*~~[ in the sum of five hundred dollars (\$500) for a well to be drilled to a depth of five hundred (500) feet or less; one thousand dollars (\$1,000) for a well to be drilled to a depth between five hundred and one (501) feet and one thousand (1,000) feet; one thousand five hundred dollars (\$1,500) for a well to be drilled to a depth between one thousand and one (1,001) feet and one thousand five hundred (1,500) feet; two thousand dollars (\$2,000) for a well to be drilled to a depth between one thousand five hundred and one (1,501) feet and two thousand (2,000) feet; two thousand five hundred dollars (\$2,500) for a well to be drilled to a depth between two thousand and one (2,001) feet and two thousand five hundred (2,500) feet; three thousand dollars (\$3,000) for a well to be drilled to a depth between two thousand five hundred and one (2,501) feet and three thousand (3,000) feet; three thousand five hundred dollars (\$3,500) for a well to be drilled to a depth between three thousand and one (3,001) feet and three thousand five hundred (3,500) feet; four thousand dollars (\$4,000) for a well to be drilled to a depth between three thousand five hundred and one (3,501) feet and four thousand (4,000) feet; and five thousand dollars (\$5,000) for a well to be drilled to a depth of more than four thousand (4,000) feet].~~
- (7) ~~All~~*The* bonds *required to be posted under this section* shall:
- Be made in favor of the Department for Natural Resources;
  - ~~Be~~*+* conditioned that the wells upon abandonment shall be plugged in accordance with the administrative regulations of the department and that all records required by the department be filed as specified; *and*
  - Remain in effect until the plugging of the well is approved by the department, or the bond is released by the department.*
- (8) An operator may petition the department to amend the drilling depth and bond amount applicable to a particular well and shall not proceed to drill to a depth greater than that authorized by the department until the operator is so authorized except pursuant to administrative regulations promulgated by the department~~[- The commission may establish a bond in a sum greater than five thousand dollars (\$5,000) for any well to be drilled to a depth of more than four thousand (4,000) feet if the members of the commission determine that the particular circumstances of the drilling of the well warrant an increase in the bond amount established above. All bonds shall remain in effect until the plugging of the well is approved by the department, or the bond is released by the department].~~
- (9) (a) Any *qualified* well operator in lieu of the *individual* bond may file with the department a blanket bond according to the following tiered structure:
- One (1) to twenty-five (25) wells require a ten thousand dollar (\$10,000) bond;
  - Twenty-six (26) to one hundred (100) wells require a twenty-five thousand dollar (\$25,000) bond;



3. *One hundred one (101) to five hundred (500) wells require a fifty thousand dollar (\$50,000) bond;*
4. *Five hundred one (501) or more wells require a one hundred thousand dollar (\$100,000) bond.*
- (b) *Any nonqualified well operator in lieu of an individual bond may file with the department a blanket bond according to the following tiered structure:*
  1. *One (1) to one hundred (100) wells require a fifty thousand dollar (\$50,000) bond;*
  2. *One hundred one (101) or more wells require a one hundred thousand dollar (\$100,000) bond.*
- (10) *To qualify for a blanket bond under the tiered structure set forth in subsection (9)(a) of this section, an operator shall:*
  - (a) *Have a blanket bond in place filed with the department prior to July 15, 2006, and have no outstanding, unabated violations of KRS Chapter 353 or regulations adopted pursuant thereto which have not been appealed;*
  - (b) *Demonstrate for a period of thirty six (36) months prior to the request for blanket bonding a record of compliance with the statutes and administrative regulations of the division; or*
  - (c) *Provide proof of financial ability to plug and abandon wells covered by the blanket bond.*
- (11) *In addition to the requirements set forth in subsection (12) of this section, proof of financial ability set forth in paragraph (c) of subsection (10) of this section shall be established by an audited financial statement that satisfies at least two (2) of the following ratios:*
  - (a) *A ratio of total liabilities to net worth less than two (2); or*
  - (b) *A ratio of the sum of net income plus depreciation, depletion, and amortization to total liability greater than one-tenth (0.1); or*
  - (c) *A ratio of current assets to current liabilities greater than one and five tenths (1.5).*
- (12) *If the operator is a corporate subsidiary, the operator further shall provide a corporate guarantee in which the guarantor shall be the parent corporation of the operator of the wells covered under the bond. The corporate guarantee shall provide:*
  - (a) *That if the operator fails to perform with the proper plugging and abandonment of any well covered by the blanket bond, the guarantor shall do so or provide for alternate financial assurance; and*
  - (b) *The corporate guarantee shall remain in force unless the guarantor sends notice of the cancellation by certified mail to the operator and to the department. Cancellation shall not occur, however, during the one hundred twenty (120) day period beginning on the first day that both the operator and the department have received notice of cancellation, as evidenced by the certified mail return receipts.*
- (13) *An operator shall not be eligible for blanket bonding if:*
  - (a) *It has more than ten (10) violations of KRS Chapter 353 or the regulations adopted pursuant thereto within the thirty-six (36) month period;*
  - (b) *It has any outstanding, unabated violations of KRS Chapter 353 or the regulations adopted pursuant thereto which have not been appealed;*
  - (c) *It has a forfeiture of a bond, whether an individual bond or portion of a blanket bond on any permit where the operator has not entered into an agreed order with the department for the plugging and proper abandonment of the well, or wells, on the forfeited permit, or permits; or*
  - (d) *It has a permit, or permits, upon which a bond, or portion of a bond, has been forfeited and the proceeds from the forfeiture have been spent by the department to plug or reclaim the permitted well or wells, unless the operator has made restitution to the department for all costs associated with the forfeiture, plugging, and proper abandonment in a sum of ten thousand dollars (\$10,000), covering all wells drilled or to be drilled in the Commonwealth by the principal in the bond, and the acceptance and*

~~approval by the department of the blanket bond shall be in full compliance with the above provision requiring an individual well bond.~~

- (14) A deposit in cash or a bank-issued irrevocable letter of credit may serve in lieu of either of the individual well or blanket bonds.
- (15) Individuals acquiring a single well for domestic use may post a combination bond which shall consist of a cash bond in the amount of one thousand dollars (\$1,000) plus a lien on the property to cover future plugging costs. Only one (1) combination bond may be posted by each individual.
- (16) A certificate of deposit, the principal of which is pledged in lieu of a bond and whose interest is payable to the party making the pledge, may *serve for an* ~~also be accepted by the department. If an operator is required to post~~ individual well *bond* ~~[bonds exceeding a total of five thousand dollars (\$5,000) or elects to post a blanket bond, the certificate of deposit shall be accepted by the department in lieu of that portion of the amount of the bonds exceeding five thousand dollars (\$5,000)]. A certificate of deposit, the principal of which is pledged in lieu of a bond and whose interest is payable to the party making the pledge, may serve for a blanket bond provided that the first five thousand dollars (\$5,000) of the blanket bond is posted with the department in cash.~~
- (17) The bond or bonds referred to in this section shall be executed by the well operator as principal and, if a surety bond, by a corporate surety authorized to do business in the Commonwealth.
- (18) A deposit in cash shall serve in lieu of either of the above bonds; all cash bonds accepted by the department shall be deposited into an interest-bearing account, with the interest thereon payable to the special agency account known as the oil and gas well plugging fund, created in subsection (24)~~[(9)]~~ of this section, to be used in accordance with the purposes described therein. All cash bonds being held by the department on July 13, 1990, shall likewise be deposited in the interest-bearing account, with the proceeds to be used for the purposes established for the oil and gas well plugging fund.
- (19) The bond amounts *prescribed by subsection (5) of this section* shall be applicable only to permits issued upon and after *July 15, 2006* ~~July 13, 1990~~. All bonds posted for permits issued prior to *July 15, 2006* ~~July 13, 1990~~, shall remain in full force and effect for the duration of the permits.
- (20) *The blanket bond amounts prescribed by subsection (9) of this section shall be effective upon and after July 15, 2006. Any operator having filed a blanket bond with the department prior to July 15, 2006, may at its discretion increase the level of the blanket bond incrementally by increasing the blanket bond by the amount of the individual bond prescribed by subsection (9) of this section on any wells drilled subsequent to July 15, 2006, until the blanket bond has reached the level prescribed by subsection (9) of this section.*
- ~~(21) [(6)]~~ A successor to the well operator shall post bond, pay a twenty-five dollar (\$25) fee per well to the department, and notify the department in writing in advance of commencing use or operation of a well or wells. The successor shall assume the obligations of this chapter as to a particular well or wells and relieve the original permittee of responsibility under this chapter with respect to the well or wells. It shall be the responsibility of the selling operator to require the successor operator to post bond before use or operation is commenced by the successor and relief of responsibility under this chapter is granted to the original permittee.
- ~~(22) [(7)]~~ If the requirements of ~~subsection (5) of~~ this section with respect to proper plugging upon abandonment and submission of all required records on all well or wells have not been complied with within the time limits set by the department, by administrative regulation, or by this chapter, the department shall cause a notice of noncompliance to be served upon the operator by certified mail, addressed to the permanent address shown on the application for a permit.
  - (a) The notice shall specify in what respects the operator has failed to comply with this chapter or the administrative regulations of the department.
  - (b) If the operator has not reached an agreement with the department or has not complied with the requirements set forth by it within forty-five (45) days after mailing of the notice, the bond shall be forfeited to the department.
- ~~(23) [(8)]~~ A bond forfeited pursuant to the provisions of this chapter may be collected by an attorney for the department or by the Attorney General, after notice from the director of the Division of Oil and Gas Conservation.

- ~~(24)(9)~~ All sums received under ~~subsection (5) of~~ this section or through the forfeiture of bonds shall be placed in the State Treasury and credited to a special agency account to be designated as the oil and gas well plugging fund, which shall be an interest-bearing account with the interest thereon payable to the fund. This fund shall be available to the department and shall be expended for the plugging of any abandoned wells coming within the authority of the department pursuant to this chapter. The plugging of any well pursuant to this subsection shall not be construed to relieve the operator or any other person from civil or criminal liability which would exist except for the plugging. Any unencumbered and any unexpended balance of this fund remaining at the end of any fiscal year shall not lapse but shall be carried forward for the purpose of the fund until expended or until appropriated by subsequent legislative action.
- ~~(25)(10)~~ Upon request by any person applying for a permit for a geological or structure test hole, the department shall keep the location and elevation of the hole confidential until the information is allowed to be released by the person obtaining the permit.
- ~~(26)(11)~~ For the purpose of this chapter, "water supply well" shall not include:
- (a) Any well for a potable water supply for domestic use or for livestock; or
  - (b) Any water well used primarily for cooling purposes in an industrial process.
- (27) ***Notwithstanding the provisions of KRS Chapter 353 or this section, no operator shall be eligible to receive additional permits if that operator or any entity in which it has an ownership interest has:***
- (a) ***Any outstanding, unabated violations of KRS Chapter 353 or the regulations adopted pursuant thereto, which have not been appealed;***
  - (b) ***It has a forfeiture of a bond, whether an individual bond or portion of a blanket bond, on any permit where the operator has not entered into an agreed order with the department for the plugging and proper abandonment of the well, or wells, on the forfeited permit, or permits; or***
  - (c) ***It has a permit, or permits, upon which a bond, or portion of a bond, has been forfeited and the proceeds therefrom having been spent by the department to plug or reclaim the permitted well, or wells, unless the operator has made restitution to the department for all costs associated with the forfeiture, plugging, and proper abandonment.***

Section 3. KRS 353.592 is amended to read as follows:

In addition to the powers conferred upon the department by KRS 353.500 to 353.720 and notwithstanding any provision of KRS 353.500 to 353.720, the department is authorized but not obligated to develop and promulgate a regulatory program for the purpose of accepting primary responsibility for administration of the Underground Injection Control Program under Section 1425 of the Safe Drinking Water Act (Public Law 93-523 as amended). To that end, the department shall include in any regulatory program developed and promulgated under this provision:

- (1) Regulations regarding the drilling, casing, operation, plugging, construction, conversion, maintenance, and abandonment of class II wells to protect underground sources of drinking water and to prevent their endangerment;
- (2) Regulations prohibiting underground injection through class II wells except as authorized by such regulations or by a permit issued pursuant thereto;
- (3) Regulations requiring owners or operators of class II wells to demonstrate financial responsibility for the costs of closure of all class II wells. Such demonstration of financial responsibility may include but need not be limited to the well plugging bond required by KRS 353.590(5) ***and subsection (9) of Section 2 of this Act;***
- (4) Regulations providing for reasonable public notice of applications for permits for class II wells and providing for public participation in the issuance of such permits;
- (5) Regulations establishing a schedule of fees for the mechanical integrity testing and periodic registration of class II wells to be paid by the owners or operators thereof. The schedule of fees shall be based upon the reasonable cost to the department of administering the underground injection control program. The regulations may provide for the collection of a fee prior to delegation of authority by the Federal Environmental Protection Agency which shall be refunded by the department if the department does not receive said delegation.

No regulation promulgated pursuant to this section shall authorize the endangerment of an underground source of drinking water or be more stringent than regulations promulgated by the Environmental Protection Agency pursuant to the Underground Injection Control Program of the Safe Drinking Water Act, 42 U.S.C. sec. 300f et seq.

Section 4. KRS 353.730 is amended to read as follows:

- (1) Any person may investigate an abandoned well upon receipt of approval from the department. The person shall submit to the department:
  - (a) An application requesting approval to investigate and stating the planned methods for the investigation. In all cases where there has been a complete severance of the ownership of the oil and gas from the ownership of the surface to be disturbed, the application shall include a plan to prevent erosion and sedimentation;
  - (b) A twenty-five dollar (\$25) fee; and
  - (c) A certification by the applicant that he has the authority to enter the property upon which the well is located and to conduct the investigation.
- (2) The department shall review all applications for investigation. If the department approves the request for investigation, the applicant shall be allowed to produce the well without a permit as required by KRS 353.570, and the applicant shall submit a report of investigation to the department on forms provided by the department. In order to produce the well for more than sixty (60) days, the applicant must obtain a bond as required by KRS 353.590(5) *or subsection (9) of Section 2 of this Act*. Notwithstanding the provisions of KRS 353.590(2), no fee shall be required for any such well.

**Approved April 5, 2006.**

## **CHAPTER 161**

### **(SJR 176)**

A JOINT RESOLUTION directing the Cabinet for Health and Family Services to take advantage of any solicitation from the federal Centers for Medicare and Medicaid Services for states to participate in pay-for-performance demonstrations to improve the quality of long-term care.

WHEREAS, the quality of care provided in nursing homes has long been a matter of concern to consumers, health care professionals, and policy makers; and

WHEREAS, in its 2001 report, "Improving the Quality of Long-Term Care," the Institute of Medicine reported that serious problems concerning quality of care continue to affect residents of nursing home residents in the United States; and

WHEREAS, to improve the quality of long-term care, federal policy makers are experimenting with positive incentives to reward providers who demonstrate better quality; and

WHEREAS, the federal Centers for Medicare and Medicaid Services (CMS) plan to solicit competitive proposals for a three-year Medicare pay-for-performance demonstration that provides incentive for better outcomes; and

WHEREAS, the proposed Medicare demonstration will be designed to evaluate quality based on a matrix of domains, including appropriate hospitalization, resident outcomes, state certification survey outcomes, residential care strengths, end-of-life care, and staffing patterns, training, and turnover rates; and

WHEREAS, although the Medicare pay-for-performance demonstration remains in the planning phase of development, it is anticipated that participating nursing facilities would receive financial rewards based on the change in the scores on outcome measures; and

WHEREAS, in addition, state Medicaid programs are encouraged to develop proposals for Medicaid pay-for-performance demonstrations designed to evaluate quality based on a matrix of domains, including appropriate hospitalization, resident outcomes, state certification survey outcomes, residential care strengths, end-of-life-care, and staffing patterns, training and turnover rates, and to provide financial incentives to nursing facilities that demonstrate better outcomes in care; and

WHEREAS, it is in the interest of the citizens of the Commonwealth to implement strategies to improve the quality of care and the quality of life of individuals who are living in long-term care facilities;

NOW, THEREFORE,

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

Section 1. The Cabinet for Health and Family Services shall submit an application in response to any solicitation from the federal CMS for states to participate in a Medicaid pay-for-performance demonstration to improve the quality of long-term care if CMS provides funding for the administrative and operational costs.

Section 2. The Cabinet for Health and Family Services shall explore opportunities to participate in federal pay-for-performance demonstrations that would provide financial incentives to nursing facilities for improvement in the outcomes of care.

**Approved April 5, 2006.**

## CHAPTER 162

**(SJR 184)**

A JOINT RESOLUTION encouraging the Cabinet for Health and Family Services to establish the Kentucky Youth Development Coordinating Council.

WHEREAS, the youth of Kentucky represent the future and youth services are critical to the quality of life and development of our young citizens; and

WHEREAS, the Kentucky Youth Policy Assessment identified at least 101 statewide programs and services that specifically serve young people in the Commonwealth; and

WHEREAS, the current level of coordination of youth services can be improved by creating a common vision for the neediest young people of Kentucky and by supporting collaboration of youth services in an effort to increase the quality, efficiency, and effectiveness of services, opportunities, and supports for young people; and

WHEREAS, the accountability of youth services can be improved by aligning state services around a common set of outcomes based on research findings of effective youth development approaches; and

WHEREAS, the opportunities for community, youth, family, and parent involvement in youth services can be improved by increasing the abilities of communities to use resources to involve young people in positive roles; and

WHEREAS, the General Assembly declares that the purpose of this Joint Resolution is to establish a structure for coordinated strategic planning around a common vision and set of outcomes for youth programs and services that recognizes the primary responsibility of parents for their own children;

NOW, THEREFORE,

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

Section 1. The Cabinet for Health and Family Services is hereby encouraged to establish the Kentucky Youth Development Coordinating Council, and if the council is so established, it shall be established as follows:

(1) The Council shall consist of the following twenty (20) members:

(a) One (1) ex officio member from the House of Representatives who shall be appointed by and serve at the pleasure of the Speaker of the House;

(b) One (1) ex officio member from the Senate who shall be appointed by and serve at the pleasure of the President of the Senate;

(c) The commissioner of the Department for Community Based Services or his or her designee;

(d) The commissioner of the Department for Public Health or his or her designee;

(e) The commissioner of the Department for Human Support Services or his or her designee;

(f) The commissioner of the Department for Mental Health and Mental Retardation Services or his or her designee;

- (g) The director of the Commission on Community Volunteerism and Service or his or her designee;
  - (h) The director of Family Resource and Youth Service Centers or his or her designee;
  - (i) The Secretary of State or his or her designee;
  - (j) The secretary of the Education, Arts, and Humanities Cabinet or his or her designee;
  - (k) The secretary of the Cabinet for Workforce Development or his or her designee;
  - (l) The secretary of the Environmental and Public Protection Cabinet or his or her designee;
  - (m) The secretary of the Finance and Administration Cabinet or his or her designee;
  - (n) The secretary of the Justice Cabinet or his or her designee;
  - (o) The general manager of the Department of Juvenile Services, Administrative Office of the Courts, or his or her designee;
  - (p) The executive director of the Office of Drug Control Policy or his or her designee;
  - (q) The extension associate of the Kentucky Youth Development Partnership, University of Kentucky Cooperative Extension Service, 4-H Youth Development Program; and
  - (r) Three (3) youth representatives to be appointed by the Kentucky Youth Development Partnership, University of Kentucky Cooperative Extension Service, 4-H Development Program.
- (2) The council shall be attached to the Cabinet for Health and Family Services and the chair of the council shall be the commissioner of the Department for Community Based Services. The council shall elect the vice chair from the council members. The administrative functions of the council shall be performed by the extension associate of the Kentucky Youth Development Partnership, University of Kentucky Cooperative Extension Service, 4-H Development Program.
- (3) The council shall meet at least one (1) time every three (3) months. Special meetings may be held as needed upon the call of the chair.
- (4) The council may establish subcommittees, including but not limited to the following:
- (a) The Youth Partnership Subcommittee, consisting of members who represent state youth serving agencies, nonprofit organizations, parents, faith- or community-based organizations, higher educational institutions, business leaders, and individuals who are at least fourteen (14) and less than twenty-one (21) years of age; and
  - (b) The Youth Advisory Subcommittee, consisting of individuals who are at least fourteen (14) and less than twenty-one (21) years of age.
- (5) Members shall be reimbursed for actual expenses incurred in the performance of council duties in accordance with KRS 45.101 and administrative regulations promulgated thereunder.
- (6) The duties of the council shall be to:
- (a) Develop a statewide strategic plan for the implementation of goals and objectives that are focused on a common vision for youth between the ages of eight (8) and twenty-one (21) years and aligned in accordance with existing state agency youth service outcomes and indicators under the following categories:
    1. Caring relationships with adults, parents, and peers, with an emphasis on strengthening families;
    2. Safe places and structured activities;
    3. Healthy start and future;
    4. Marketable skills through effective education and learning activities;
    5. Opportunities to serve and help others; and
    6. Promotion and encouragement of individual responsibility;
  - (b) Develop a plan to coordinate youth service and program delivery that improves communication among agencies administering programs that are designed to serve youth, especially disadvantaged youth;
  - (c) Assess the quantity and outcomes of state programs offering services, support, and opportunities to youth;

- (d) Assess existing funding resources, networks, and returns on investments for the support of youth development and community level youth services and make recommendations to the appropriate entities for the allocation and leveraging of resources in accordance with the goals and objectives of the statewide strategic plan;
  - (e) Assess existing agency professional development certifications and opportunities for adults who work with youth;
  - (f) Assess current capacities of state agencies and communities to integrate positive youth development through training, standards, technical assistance, and resource materials;
  - (g) Identify barriers to youth service collaboration at the state and local levels and propose solutions;
  - (h) Identify target populations of youth who are disproportionately at risk, and gaps in services to these populations;
  - (i) Encourage state agencies and nonprofit organizations to collaborate on model programs and demonstration projects that promote youth and parental involvement, strengthen families, and focus on target populations of youth;
  - (j) Identify state agency regional support infrastructures and make recommendations for supporting the implantation and integration of positive youth development;
  - (k) Collaborate with public and private partnerships to support statewide networks connecting quality and sustainable state and local youth development efforts, such as mentoring partnerships and after-school and extended-learning opportunities, and to leverage private, state, and federal resources to support these efforts;
  - (l) Review any information provided to the council by companies or state agencies related to youth employment opportunities;
  - (m) Submit a report no later than September 1 of each year to the Governor and the General Assembly that includes the following:
    - 1. A summary of council actions taken and results obtained to facilitate youth development program collaboration and coordination;
    - 2. A summary of additional resources leveraged and returns on investment by the council for state and local positive youth development; and
    - 3. A summary of the quality of service provision, technical assistance provided, and recommendations for improvement at the state and local levels;
  - (n) Identify best practices and positive youth development standards based on research-based evidence that supports principles in youth services, and provide technical assistance and training to communities and agencies to implement them; and
  - (o) Identify opportunities and infrastructures at the state and local levels for young people to have meaningful roles in decision-making processes and make recommendations for including young people in these mechanisms.
- (7) Appropriate agencies of the executive, judicial, and legislative branches of state government shall cooperate with the council in carrying out its duties, and shall provide information and advice upon request, to the extent possible with available funds.
- (8) Upon request of the council, any cabinet, department, or agency in the executive branch may detail staff to support the operations of the council or subcommittees of the council.
- (9) The council shall recognize and support excellence in community youth development program collaboration.

**Approved April 5, 2006.**

**CHAPTER 163****(SJR 228)**

A JOINT RESOLUTION recognizing the Kentucky Mesonet as the official source of climatological observations for the state.

WHEREAS, the Kentucky Climate Center has been located at Western Kentucky University since 1978; and

WHEREAS, the Kentucky Climate Center was recognized as the State Climate Office for Kentucky in 2002; and

WHEREAS, federal funding has been provided for the establishment of a statewide weather monitoring network; and

WHEREAS, the statewide monitoring network shall be known as recognized as the Kentucky Mesonet; and

WHEREAS, the Kentucky Mesonet shall be under the direction of the state climatologist at Western Kentucky University in accordance with a memorandum of understanding among Western Kentucky University, the National Weather Service, and the National Climatic Data Center; and

WHEREAS, Western Kentucky University shall have the authority to enter into partnerships with other Kentucky institutions of higher education and with local, state, and federal government agencies to assist in the operation and maintenance of the Kentucky Mesonet;

NOW, THEREFORE,

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

Section 1. The Kentucky Mesonet is hereby recognized as the official source of climatological observations for the state.

**Approved April 5, 2006.**

**CHAPTER 164****(HB 131)**

AN ACT relating to health insurance.

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

Section 1. KRS 18A.225 is amended to read as follows:

- (1) (a) ~~The term "health maintenance organization" for the purposes of this section means a health maintenance organization as defined in KRS 304.38-030 or as a nonprofit hospital, medical surgical, dental, and health service corporation, which has been licensed by the Kentucky Health Facilities and Health Services Certificate of Need and Licensure Board or its successor agency and issued a certificate of authority by the Office of Insurance as a health maintenance organization or as a nonprofit hospital, medical surgical, dental, and health service corporation and which is qualified under the requirements of the United States Department of Health, Education and Welfare except as provided in subsection (2) of this section; and~~

(b) The term "employee" for purposes of this section means:

1. Any person, including an elected public official, who is regularly employed by any department, office, board, agency, or branch of state government; or by a public postsecondary educational institution; or by any city, urban-county, charter county, county, or consolidated local government, whose legislative body has opted to participate in the state-sponsored health insurance program pursuant to KRS 79.080; and who is either a contributing member to any one (1) of the retirement systems administered by the state, including but not limited to the Kentucky Retirement Systems, Kentucky Teachers' Retirement System, the Legislators' Retirement Plan, or the Judicial Retirement Plan; or is receiving a contractual contribution from the state toward a retirement plan; or, in the case of a public postsecondary education institution, is an individual participating in an optional retirement plan authorized by KRS 161.567;



2. Any certified or classified employee of a local board of education;
  3. Any person who is a present or future recipient of a retirement allowance from the Kentucky Retirement Systems, Kentucky Teachers' Retirement System, the Legislators' Retirement Plan, the Judicial Retirement Plan, or the Kentucky Community and Technical College System's optional retirement plan authorized by KRS 161.567, except that a person who is receiving a retirement allowance and who is age sixty-five (65) or older shall not be included, with the exception of persons covered under KRS 61.702(4)(c), unless he or she is actively employed pursuant to subparagraph 1. of this paragraph; and
  4. Any eligible dependents and beneficiaries of participating employees and retirees who are entitled to participate in the state-sponsored health insurance program.
- (b) *The term "health benefit plan" for the purposes of this section means a health benefit plan as defined in KRS 304.17A-005;*
- (c) *The term "insurer" for the purposes of this section means an insurer as defined in KRS 304.17A-005; and*
- (d) *The term "managed care plan" for the purposes of this section means a managed care plan as defined in KRS 304.17A-500.*
- (2) (a) The secretary of the Finance and Administration Cabinet, upon the recommendation of the secretary of the Personnel Cabinet, shall procure, in compliance with the provisions of KRS 45A.080, 45A.085, and 45A.090, from one (1) or more ~~insurers~~~~[health insurance companies or from one (1) or more health maintenance organizations]~~ authorized to do business in this state, a **group health benefit plan**~~[policy or policies of group health care coverage]~~, that may include but not be limited to health maintenance organization (HMO), preferred provider organization (PPO), point of service (POS), and exclusive provider organization (EPO) benefit plans encompassing all or any class or classes of employees. With the exception of employers governed by the provisions of KRS Chapters 16, 18A, and 151B, all employers of any class of employees or former employees shall enter into a contract with the Personnel Cabinet prior to including that group in the state health insurance group. The contracts shall include but not be limited to designating the entity responsible for filing any federal forms, adoption of policies required for proper plan administration, acceptance of the contractual provisions with health insurance carriers or third-party administrators, and adoption of the payment and reimbursement methods necessary for efficient administration of the health insurance program. Health insurance coverage provided to state employees under this section shall, at a minimum, contain the same benefits as provided under Kentucky Kare Standard as of January 1, 1994, and shall include a mail-order drug option as provided in subsection ~~(13)~~~~(14)~~ of this section. All employees and other persons for whom the health care coverage is provided or made available shall annually be given an option to elect health care coverage through a self-funded plan offered by the Commonwealth or, if a self-funded plan is not available, from a list of coverage options determined by the competitive bid process under the provisions of KRS 45A.080, 45A.085, and 45A.090 and made available during annual open enrollment.
- (b) The policy or policies shall be approved by the executive director of insurance and may contain the provisions he approves, whether or not otherwise permitted by the insurance laws.
- (c) Any carrier bidding to offer health care coverage to employees shall agree to provide coverage to all members of the state group, including active employees and retirees and their eligible covered dependents and beneficiaries, within the county or counties specified in its bid. Except as provided in subsection ~~(18)~~~~(19)~~ of this section, any carrier bidding to offer health care coverage to employees shall also agree to rate all employees as a single entity, except for those retirees whose former employers insure their active employees outside the state-sponsored health insurance program.
- (d) Any carrier bidding to offer health care coverage to employees shall agree to provide enrollment, claims, and utilization data to the Commonwealth in a format specified by the Personnel Cabinet with the understanding that the data shall be owned by the Commonwealth; to provide data in an electronic form and within a time frame specified by the Personnel Cabinet; and to be subject to penalties for noncompliance with data reporting requirements as specified by the Personnel Cabinet. The Personnel Cabinet shall take strict precautions to protect the confidentiality of each individual employee; however,

confidentiality assertions shall not relieve a carrier from the requirement of providing stipulated data to the Commonwealth.

- (e) The Personnel Cabinet shall develop the necessary techniques and capabilities for timely analysis of data received from carriers and, to the extent possible, provide in the request-for-proposal specifics relating to data requirements, electronic reporting, and penalties for noncompliance. The Commonwealth shall own the enrollment, claims, and utilization data provided by each carrier and shall develop methods to protect the confidentiality of the individual. The Personnel Cabinet shall include in the October annual report submitted pursuant to the provisions of KRS 18A.226 to the Governor, the General Assembly, and the Chief Justice of the Supreme Court, an analysis of the financial stability of the program, which shall include but not be limited to loss ratios, methods of risk adjustment, measurements of carrier quality of service, prescription coverage and cost management, and statutorily required mandates. If state self-insurance was available as a carrier option, the report also shall provide a detailed financial analysis of the self-insurance fund including, but not limited to, loss ratios, reserves, and reinsurance agreements.
- (f) If any agency participating in the state-sponsored employee health insurance program for its active employees terminates participation and there is a state appropriation for the employer's contribution for active employees' health insurance coverage, then neither the agency nor the employees shall receive the state-funded contribution after termination from the state-sponsored employee health insurance program.
- (g) Any funds in flexible spending accounts that remain after all reimbursements have been processed shall be transferred to the credit of the state-sponsored health insurance plan's appropriation account.
- (h) Each entity participating in the state-sponsored health insurance program shall provide an amount at least equal to the state contribution rate for the employer portion of the health insurance premium. For any participating entity that used the state payroll system, the employer contribution amount shall be equal to but not greater than the state contribution rate.

(3) ~~The secretary of the Finance and Administration Cabinet, upon the recommendation of the secretary of the Personnel Cabinet, may procure from one (1) or more dental insurance companies, one (1) or more nonprofit hospital, medical surgical, dental, and health service corporations organized under Subtitle 32 of KRS Chapter 304, or one (1) or more prepaid dental plan organizations organized under Subtitle 43 of KRS Chapter 304, a policy or policies of group dental insurance or prepaid dental plan coverage encompassing all or any class or classes of employees. All employees for whom the dental insurance or prepaid dental plan coverage is provided shall annually be given an option to elect either standard dental insurance coverage or coverage by a prepaid dental plan. The policy or policies shall be approved by the executive director of insurance and may contain the provisions he approves, whether or not otherwise permitted by the insurance laws. It is intended that either dental insurance or prepaid dental plan coverage may be made available for employees, except that the procuring of each is permissive.~~

(4) ~~+~~ The premiums may be paid by the policyholder:

- (a) Wholly from funds contributed by the employee, by payroll deduction or otherwise;
- (b) Wholly from funds contributed by any department, board, agency, public postsecondary education institution, or branch of state, city, urban-county, charter county, county, or consolidated local government; or
- (c) Partly from each, except that any premium due for health care coverage or dental coverage, if any, in excess of the premium amount contributed by any department, board, agency, postsecondary education institution, or branch of state, city, urban-county, charter county, county, or consolidated local government for any other health care coverage shall be paid by the employee.

(4) ~~(5)~~ If an employee moves his place of residence or employment out of the service area of *an insurer offering* a managed health care plan ~~or of a prepaid dental plan~~, under which he has elected coverage, into either the service area of another managed health care plan ~~or prepaid dental plan~~ or into an area of the Commonwealth not within a managed health care plan service area ~~or prepaid dental plan service area~~, the employee shall be given an option, at the time of the move or transfer, to change his or her coverage to another health *benefit* ~~care~~ plan ~~or dental plan~~.

- ~~(5)(6)~~ No payment of premium by any department, board, agency, public postsecondary educational institution, or branch of state, city, urban-county, charter county, county, or consolidated local government shall constitute compensation to an insured employee for the purposes of any statute fixing or limiting the compensation of such an employee. Any premium or other expense incurred by any department, board, agency, public postsecondary educational institution, or branch of state, city, urban-county, charter county, county, or consolidated local government shall be considered a proper cost of administration.
- ~~(6)(7)~~ The policy or policies may contain the provisions with respect to the class or classes of employees covered, amounts of insurance or coverage for designated classes or groups of employees, policy options, terms of eligibility, and continuation of insurance or coverage after retirement.
- ~~(7)(8)~~ Group rates under this section shall be made available to the disabled child of an employee regardless of the child's age if the entire premium for the disabled child's coverage is paid by the state employee. A child shall be considered disabled if he has been determined to be eligible for federal Social Security disability benefits.
- ~~(8)(9)~~ The health care contract or contracts for employees shall be entered into for a period of not less than one (1) year.
- ~~(9)(10)~~ The secretary shall appoint thirty-two (32) persons to an Advisory Committee of State Health Insurance Subscribers to advise the secretary or his designee regarding the state-sponsored health insurance program for employees. The secretary shall appoint, from a list of names submitted by appointing authorities, members representing school districts from each of the seven (7) Supreme Court districts, members representing state government from each of the seven (7) Supreme Court districts, two (2) members representing retirees under age sixty-five (65), one (1) member representing local health departments, two (2) members representing the Kentucky Teachers' Retirement System, and three (3) members at large. The secretary shall also appoint two (2) members from a list of five (5) names submitted by the Kentucky Education Association, two (2) members from a list of five (5) names submitted by the largest state employee organization of nonschool state employees, two (2) members from a list of five (5) names submitted by the Kentucky Association of Counties, two (2) members from a list of five (5) names submitted by the Kentucky League of Cities, and two (2) members from a list of names consisting of five (5) names submitted by each state employee organization that has two thousand (2,000) or more members on state payroll deduction. The advisory committee shall be appointed in January of each year and shall meet quarterly.
- ~~(10)(11)~~ Notwithstanding any other provision of law to the contrary, the policy or policies provided to employees pursuant to this section shall not provide coverage for obtaining or performing an abortion, nor shall any state funds be used for the purpose of obtaining or performing an abortion on behalf of employees or their dependents.
- ~~(11)(12)~~ Interruption of an established treatment regime with maintenance drugs shall be grounds for an insured to appeal a formulary change through the established appeal procedures approved by the Office of Insurance, if the physician supervising the treatment certifies that the change is not in the best interests of the patient.
- ~~(12)(13)~~ Any employee who is eligible for and elects to participate in the state health insurance program as a retiree, or the spouse or beneficiary of a retiree, under any one (1) of the state-sponsored retirement systems shall not be eligible to receive the state health insurance contribution toward health care coverage as a result of any other employment for which there is a public employer contribution. This does not preclude a retiree and an active employee spouse from using both contributions to the extent needed for purchase of one (1) state sponsored health insurance policy for that plan year.
- ~~(13)(14)~~
- (a) The policies of health insurance coverage procured under subsection (2) of this section shall include a mail-order drug option for maintenance drugs for state employees. Maintenance drugs may be dispensed by mail order in accordance with Kentucky law.
  - (b) A health insurer shall not discriminate against any retail pharmacy located within the geographic coverage area of the health benefit plan and that meets the terms and conditions for participation established by the insurer, including price, dispensing fee, and copay requirements of a mail-order option. The retail pharmacy shall not be required to dispense by mail.
  - (c) The mail-order option shall not permit the dispensing of a controlled substance classified in Schedule II.

- ~~(14)~~~~(15)~~ The policy or policies provided to state employees or their dependents pursuant to this section shall provide coverage for obtaining a hearing aid and acquiring hearing aid-related services for insured individuals under eighteen (18) years of age, subject to a cap of one thousand four hundred dollars (\$1,400) every thirty-six (36) months **pursuant to KRS 304.17A-132.**
- ~~(15)~~~~(16)~~ If a state employee's residence and place of employment are in the same county, and if the hospital located within that county does not offer surgical services, intensive care services, obstetrical services, level II neonatal services, diagnostic cardiac catheterization services, and magnetic resonance imaging services, the employee may select a plan available in a contiguous county that does provide those services, and the state contribution for the plan shall be the amount available in the county where the plan selected is located.
- ~~(16)~~~~(17)~~ If a state employee's residence and place of employment are each located in counties in which the hospitals do not offer surgical services, intensive care services, obstetrical services, level II neonatal services, diagnostic cardiac catheterization services, and magnetic resonance imaging services, the employee may select a plan available in a county contiguous to the county of residence that does provide those services, and the state contribution for the plan shall be the amount available in the county where the plan selected is located.
- ~~(17)~~~~(18)~~ The Personnel Cabinet is encouraged to study whether it is fair and reasonable and in the best interests of the state group to allow any carrier bidding to offer health care coverage under this section to submit bids that may vary county by county or by larger geographic areas.
- ~~(18)~~~~(19)~~ Notwithstanding any other provision of this section, the bid for proposals for health insurance coverage for calendar year 2004 shall include a bid scenario that reflects the statewide rating structure provided in calendar year 2003 and a bid scenario that allows for a regional rating structure that allows carriers to submit bids that may vary by region for a given product offering as described in this subsection:
- (a) The regional rating bid scenario shall not include a request for bid on a statewide option;
  - (b) The Personnel Cabinet shall divide the state into geographical regions which shall be the same as the partnership regions designated by the Department for Medicaid Services for purposes of the Kentucky Health Care Partnership Program established pursuant to 907 KAR 1:705;
  - (c) The request for proposal shall require a carrier's bid to include every county within the region or regions for which the bid is submitted and include but not be restricted to a preferred provider organization (PPO) option;
  - (d) If the Personnel Cabinet accepts a carrier's bid, the cabinet shall award the carrier all of the counties included in its bid within the region. If the Personnel Cabinet deems the bids submitted in accordance with this subsection to be in the best interests of state employees in a region, the cabinet may award the contract for that region to no more than two (2) carriers; and
  - (e) Nothing in this subsection shall prohibit the Personnel Cabinet from including other requirements or criteria in the request for proposal.
- (19) *Any fully insured health benefit plan or self-insured plan issued or renewed on or after the effective date of this Act to public employees pursuant to this section which provides coverage for services rendered by a physician or osteopath duly licensed under KRS Chapter 311 that are within the scope of practice of an optometrist duly licensed under the provisions of KRS Chapter 320 shall provide the same payment of coverage to optometrists as allowed for those services rendered by physicians or osteopaths.*
- (20) *Any fully insured health benefit plan or self-insured plan issued or renewed on or after the effective date of this Act to public employees pursuant to this section shall comply with the provisions of KRS 304.17A-270 and 304.17A-525.*
- (21) *Any full insured health benefit plan or self insured plan issued or renewed on or after the effective date of this Act to public employees shall comply with KRS 304.17A-600 to 304.17A-633 pertaining to utilization review, KRS 205.593 and KRS 304.17A-700 to 304.17A-730 pertaining to payment of claims, KRS 304.14-135 pertaining to uniform health insurance claim forms, KRS 304.17A-580 and KRS 304.17A-641 pertaining to emergency medical care, and KRS 304.99-123, and any administrative regulations promulgated thereunder.*

SECTION 2. A NEW SECTION OF KRS CHAPTER 18A IS CREATED TO READ AS FOLLOWS:

- (1) (a) *In addition to the health insurance coverage required by Section 1 of this Act, the secretary of the Finance and Administration Cabinet shall procure a comprehensive dental insurance plan or plans that*

*shall be available to all state employees, as defined in subsection (1)(a) of Section 1 of this Act , on a voluntary payroll deduction basis. The dental insurance plan or plans shall be offered from one (1) or more dental insurance companies, one (1) or more nonprofit hospital, medical-surgical, dental, and health service corporations licensed pursuant to Subtitles 3, 5, and 32 of KRS Chapter 304, or one (1) or more limited health services organizations licensed pursuant to Subtitles 3, 5, and 38A of KRS Chapter 304.*

*(b) For the purposes of this section a "comprehensive dental insurance plan" shall include preventive care and diagnostic care, and may include:*

- 1. Emergency care;*
- 2. Restorative care;*
- 3. Oral and maxillofacial surgery;*
- 4. Endodontics;*
- 5. Periodontics;*
- 6. Prosthodontics; or*
- 7. Orthodontics.*

*(c) Nothing in this section shall be construed to prohibit the availability of dental benefits provided by the policy or policies of group health insurance coverage offered pursuant to Section 1 of this Act.*

*(d) The company or companies offering dental benefits to state employees shall, with the direction and approval of the Personnel Cabinet, make available to each individual eligible to enroll in dental benefits plan information on services and benefits, including maximums, limitations, and exclusions that the Personnel Cabinet considers necessary to enable the individual to make an informed decision about electing coverage.*

*(e) If an employee moves his or her place of residence or employment out of the service area of an insurer that offers a dental plan and utilizes a provider network, the employee shall be given an option, at the time of the move or transfer, to change his or her coverage to another dental plan.*

*(f) The dental insurance plan or plans offered to state employees shall comply with the provisions of KRS 304.17A-270.*

*(2) (a) In addition to health insurance coverage required by Section 1 of this Act, the secretary of the Finance and Administration Cabinet shall procure a comprehensive vision insurance plan or plans, which shall be available to all state employees, as defined in subsection (1)(a) of Section 1 of this Act, on a voluntary payroll deduction basis. The vision insurance plan or plans shall be offered from one (1) or more vision insurance companies, one (1) or more nonprofit hospital, medical-surgical dental, and health service corporations licensed pursuant to Subtitles 3, 5, and 32 of KRS Chapter 304, or one (1) or more limited health services organizations licensed pursuant to Subtitles 3, 5, and 38A of KRS Chapter 304.*

*(b) The benefits to be provided under the comprehensive vision insurance plan under this section may include:*

- 1. Diagnostic services, including refractive services;*
- 2. Preventive care; and*
- 3. Eyewear.*

*(c) Nothing in this section shall be construed to prohibit the availability of vision benefits provided by the policy or policies of group health insurance coverage offered pursuant to Section 1 of this Act.*

*(d) The company or companies offering vision benefits to state employees shall, with the direction and approval of the Personnel Cabinet, make available to each individual eligible to enroll in vision benefits plan information on services and benefits, including maximums, limitations, and exclusions that the Personnel Cabinet considers necessary to enable the individual to make an informed decision about electing coverage.*

- (e) *If an employee moves his or her place of residence or employment out of the service area of an insurer that offers a vision plan and utilizes a provider network, the employee shall be given an option, at the time of the move or transfer, to change his or her coverage to another vision plan.*
- (f) *The vision insurance plan or plans offered to state employees shall comply with the provisions of KRS 304.17A-270.*
- (3) *The dental insurance plan authorized by subsection (1) of this section and the vision insurance plan authorized by subsection (2) of this section shall be made available to state employees on a voluntary payroll deduction basis only, with the employee bearing the entire cost of the policy premium. The policy or policies shall be approved by the executive director of the Office of Insurance.*
- (4) (a) *In addition to the health insurance required by Section 1 of this Act and the comprehensive dental and vision insurance plans required under this section, the secretary of the Finance and Administration Cabinet shall procure a dental health discount plan or plans and a vision health discount plan or plans for state employees, as defined in subsection (1)(a) of Section 1 of this Act. For the purposes of this subsection, "health discount plan" has the meaning given it in KRS 367.828.*
- (b) *The health discount plans authorized by this subsection shall be made available to state employees on a voluntary payroll deduction basis only, with the employee bearing the entire cost of the discount plan.*
- (5) *The Personnel Secretary may promulgate administrative regulations to implement the provisions of this section.*

Section 3. KRS 61.702 is amended to read as follows:

- (1) (a) The board of trustees of Kentucky Retirement Systems shall arrange by appropriate contract or on a self-insured basis to provide a group hospital and medical insurance plan for present and future recipients of a retirement allowance from the Kentucky Employees Retirement System, County Employees Retirement System, and State Police Retirement System, except as provided in subsection (8) of this section. The board shall also arrange to provide health care coverage ***through an insurer licensed pursuant to KRS Chapter 304 Subtitle 38 and offering a managed care plan as defined in KRS 304.17A-500***~~by health maintenance organizations, as defined in KRS 18A.225~~, as an alternative to group hospital and medical insurance for any person eligible for hospital and medical benefits under this section. Any person who chooses coverage ***under a managed care plan***~~by a health maintenance organization~~ shall pay, by payroll deduction from the retirement allowance or by another method, the difference in premium between the cost of ***the managed care plan***~~health maintenance organization~~ coverage and the benefits to which he would be entitled under this section.
- (b) The board may authorize present and future recipients of a retirement allowance from any of the three (3) retirement systems to be included in the state employees' group for hospital and medical insurance and shall provide benefits for recipients equal to those provided to state employees having the same Medicare hospital and medical insurance eligibility status, except as provided in subsection (8) of this section. Notwithstanding the provisions of any other statute, recipients shall be included in the same class as current state employees in determining medical insurance policies and premiums.
- (c) For recipients of a retirement allowance who are not eligible for the same level of hospital and medical benefits as recipients living in Kentucky having the same Medicare hospital and medical insurance eligibility status, the board shall provide a medical insurance reimbursement plan as described in subsection (7) of this section.
- (2) Each employer participating in the State Police Retirement System as provided for in KRS 16.510 to 16.652, each employer participating in the County Employees Retirement System as provided in KRS 78.510 to 78.852, and each employer participating in the Kentucky Employees Retirement System as provided for in KRS 61.510 to 61.705 shall contribute to the Kentucky Retirement Systems insurance fund the amount necessary to provide hospital and medical insurance as provided for under this section. Such employer contribution rate shall be developed by appropriate actuarial method as a part of the determination of each respective employer contribution rate to each respective retirement system determined under KRS 61.565.
- (3) (a) The premium required to provide hospital and medical benefits under this section shall be paid:

1. Wholly or partly from funds contributed by the recipient of a retirement allowance, by payroll deduction, or otherwise;
  2. Wholly or partly from funds contributed by the Kentucky Retirement Systems insurance fund;
  3. Wholly or partly from funds contributed by another state-administered retirement system under a reciprocal arrangement, except that any portion of the premium paid from the Kentucky Retirement Systems insurance fund under a reciprocal agreement shall not exceed the amount that would be payable under this section if all the member's service were in one (1) of the systems administered by the Kentucky Retirement Systems;
  4. Partly from subparagraphs 1., 2., or 3., except that any premium for hospital and medical insurance over the amount contributed by the Kentucky Retirement Systems insurance fund or another state-administered retirement system under a reciprocal agreement shall be paid by the recipient. If the board provides for cross-referencing of insurance premiums, the employer's contribution for the working member or spouse shall be applied toward the premium, and the Kentucky Retirement Systems insurance fund shall pay the balance, not to exceed the monthly contribution.
  5. In full from the Kentucky Retirement Systems insurance fund for all recipients of a retirement allowance from any of the three (3) retirement systems where such recipient is a retired former member of one (1) or more of the three (3) retirement systems (not a beneficiary or dependent child receiving benefits) and had two hundred and forty (240) months or more of service upon retirement. Should such recipient have less than two hundred forty (240) months of service but have at least one hundred eighty (180) months of service, seventy-five percent (75%) of such premium shall be paid from the insurance fund provided such recipient agrees to pay the remaining twenty-five percent (25%) by payroll deduction from his retirement allowance or by another method. Should such recipient have less than one hundred eighty (180) months of service but have at least one hundred twenty (120) months of service, fifty percent (50%) of such premium shall be paid from the insurance fund provided such recipient agrees to pay the remaining fifty percent (50%) by payroll deduction from his retirement allowance or by another method. Should such recipient have less than one hundred twenty (120) months of service but have at least forty-eight (48) months of service, twenty-five percent (25%) of such premium shall be paid from the insurance fund provided such recipient agrees to pay the remaining seventy-five percent (75%) by payroll deduction from his retirement allowance or by another method. Notwithstanding the foregoing provisions of this subsection, an employee participating in one (1) of the retirement systems administered by the Kentucky Retirement Systems who becomes disabled in the line of duty as defined in KRS 16.505(19) or KRS 61.621, shall have his premium paid in full as if he had two hundred forty (240) months or more of service. Further, an employee participating in one (1) of the retirement systems administered by the Kentucky Retirement Systems who is killed in the line of duty as defined in KRS 16.505(19) or KRS 61.621, shall have the premium for the beneficiary, if the beneficiary is the member's spouse, and for each dependent child paid so long as they individually remain eligible for a monthly retirement benefit. "Months of service" as used in this section shall mean the total months of combined service used to determine benefits under any or all of the three (3) retirement systems, except service added to determine disability benefits shall not be counted as "months of service." For current and former employees of the Council on Postsecondary Education who were employed prior to January 1, 1993, and who earn at least fifteen (15) years of service credit in the Kentucky Employees Retirement System, "months of service" shall also include vested service in another retirement system other than the Kentucky Teachers' Retirement System sponsored by the Council on Postsecondary Education.
- (b) For a member electing insurance coverage through the Kentucky Retirement Systems, "months of service" shall include, in addition to service as described in paragraph (a) of this subsection, service credit in one of the other state-administered retirement plans.
1. Effective August 1, 1998, the Kentucky Retirement Systems shall compute the member's combined service, including service credit in another state-administered retirement plan, and calculate the portion of the member's premium to be paid by the insurance fund, according to the criteria established in paragraph (a) of this subsection. Each state-administered retirement plan

annually shall pay to the insurance fund the percentage of the system's cost of the retiree's monthly contribution for single coverage for hospital and medical insurance which shall be equal to the percentage of the member's number of months of service in the other state-administered retirement plan divided by his total combined service. The amounts paid by the other state-administered retirement plans and the insurance fund shall not be more than one hundred percent (100%) of the monthly contribution adopted by the respective boards of trustees.

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



shall be made on a quarterly basis. The recipient shall be eligible for reimbursement of substantiated medical insurance premiums for an amount not to exceed the total monthly premium determined under subsection (3) of this section. The plan shall not be made available if all recipients are eligible for the same coverage as recipients living in Kentucky.

- (8) For employees having a membership date on or after July 1, 2003, participation in the insurance benefits provided under this section shall not be allowed until the employee has earned at least one hundred twenty (120) months of service in the state-administered retirement systems.
  - (a) An employee who earns at least one hundred twenty (120) months of service in the state-administered retirement systems shall be eligible for benefits as follows:
    1. For employees who are not in a hazardous position, a monthly insurance contribution of ten dollars (\$10) for each year of service as a participating employee.
    2. For employees who are in a hazardous position or who participate in the State Police Retirement System, a monthly insurance contribution of fifteen dollars (\$15) for each year of service as a participating employee in a hazardous position or as a participating member of the State Police Retirement System. Upon the death of the retired member, the beneficiary, if the beneficiary is the member's spouse, shall be entitled to a monthly insurance contribution of ten dollars (\$10) for each year of service the member attained as a participating employee in a hazardous position or as a participating member of the State Police Retirement System.
  - (b) The one hundred twenty (120) months of service requirement shall be waived for a member who is disabled or killed in the line of duty as defined in KRS 16.505(19) or KRS 61.621, and the member or his beneficiary shall be entitled to the benefits payable under this subsection as though the member had twenty (20) years of service in a hazardous position.
  - (c) The monthly insurance contribution amount shall be increased July 1 of each year by the percentage change in the annual average of the consumer price index for all urban consumers for the most recent calendar year as published by the federal Bureau of Labor Statistics, not to exceed five percent (5%). The increase shall be cumulative and shall continue to accrue after the member's retirement for as long as a monthly insurance contribution is payable to the retired member or beneficiary.
  - (d) The benefits of this subsection provided to a member whose participation begins on or after July 1, 2003, shall not be considered as benefits protected by the inviolable contract provisions of KRS 61.692, 16.652, and 78.852. The General Assembly reserves the right to suspend or reduce the benefits conferred in this subsection if in its judgment the welfare of the Commonwealth so demands.

Section 4. KRS 161.675 is amended to read as follows:

- (1) The board of trustees shall arrange by appropriate contract or on a self-insured basis to provide a broad program of group hospital and medical insurance for present and future eligible recipients of a retirement allowance from the Teachers' Retirement System. The board of trustees may also arrange to provide health insurance coverage ***through an insurer licensed pursuant to KRS Chapter 304 Subtitle 38 and offering a managed care plan as defined in KRS 304.17A-500***~~by health maintenance organizations as defined in KRS 18A.225~~ as an alternative to group hospital and medical insurance for persons eligible for hospital and medical benefits under this section. The board of trustees may authorize present and future eligible recipients of a retirement allowance from the Teachers' Retirement System who are less than age sixty-five (65) to be included in the state-sponsored health insurance that is provided to active teachers and state employees under KRS 18A.225. Members who are sixty-five (65) or older and retired for service shall not be eligible to participate in the state employee health insurance program as described in KRS 18A.225.
- (2) The coverage provided shall be as set forth in the contracts and the administrative regulations of the board of trustees. The board of trustees may change the levels of coverage and eligibility conditions to meet the changing needs of the annuitants and when necessary to contain the expenses of the insurance program within the funds available to finance the insurance program. The contracts and administrative regulations shall provide for but not be limited to hospital room and board, surgical procedures, doctors' care in the hospital, and miscellaneous hospital costs. An annuitant whose effective date of retirement is July 1, 1974, and thereafter, must have a minimum of five (5) years' creditable Kentucky service in the Teachers' Retirement System or five (5) years of combined creditable service in the state-administered retirement systems if the member is retiring under the reciprocity provisions of KRS 61.680 and 61.702. A member retiring under the

reciprocity provisions of KRS 61.680 and 61.702 may not elect coverage through more than one (1) of the state-administered retirement systems. The board of trustees shall offer coverage to the disabled child of an annuitant regardless of the disabled child's age if the annuitant pays the entire premium for the disabled child's coverage. A child shall be considered disabled if he has been determined to be eligible for federal Social Security disability benefits.

- (3) All expenses for benefits under this section shall be paid from the funding provisions contained in KRS 161.420(5), premium charges received from the annuitants and the spouses, and from funds that may be appropriated or allocated by statute.
- (4)
  - (a) The board of trustees shall determine the amount of health insurance supplement payments that the Teachers' Retirement System will provide to assist eligible annuitants in paying the cost of their health insurance, based on the funds available in the medical insurance fund. The board of trustees shall establish the maximum monthly amounts of health insurance supplement payments that will be made by the retirement system for eligible annuitants. The board of trustees shall annually establish the percentage of the maximum monthly health insurance supplement payment that will be made, based on age and years of service credit of eligible recipients of a retirement allowance. Monthly health insurance supplement payments made by the retirement system may not exceed the amount of the single coverage insurance premium chosen by the eligible annuitants. In order to qualify for health insurance supplements made by the retirement system, the annuitant must agree to pay the difference between the insurance premium and the applicable supplement payment, by payroll deduction from his retirement allowance, or by a payment method approved by the retirement system.
  - (b) The board of trustees may offer, on a full-cost basis, health care insurance coverage provided by the retirement system to spouses and dependents of eligible annuitants not otherwise eligible for regular coverage. Recipients of a retirement allowance from the retirement system must agree to pay the cost of this coverage by payroll deduction from their retirement allowance or by a payment method approved by the retirement system.
  - (c) The board of trustees shall offer, on a full-cost basis, health insurance coverage provided by the retirement system to the disabled child of an annuitant, regardless of the age of the disabled child. A child shall be considered disabled for purposes of this section if the child has been determined to be eligible for federal Social Security disability benefits.
- (5) The board of trustees is empowered to require the annuitant and the annuitant's spouse to pay a premium charge to assist in the financing of the hospital and medical insurance program. The board of trustees is empowered to pay the expenses for insurance coverage from the medical insurance fund, from the premium charges received from the annuitants and the spouses, and from funds that may be appropriated or allocated by statute. The board may provide insurance coverage by making payment to insurance carriers including health insurance plans that are available to active and retired state employees and active teachers, institutions, and individuals for services performed, or the board of trustees may elect to provide insurance on a "self-insurance" basis or a combination of these provisions.
- (6) The board of trustees may approve health insurance supplement payments to eligible annuitants who are less than sixty-five (65) years of age, as reimbursement for hospital and medical insurance premiums made by annuitants for their individual coverage. Eligible annuitants or recipients are those annuitants who are not eligible for Medicare and who do not reside in Kentucky or in an area outside of Kentucky where comparable coverage is available. The reimbursement payments shall not exceed the minimum supplement payment that would have been made had the annuitant lived in Kentucky. Eligible annuitants or recipients shall submit proof of payment to the retirement system for hospital and medical insurance that they have obtained. Reimbursement payments shall be made on a quarterly basis.
- (7) Contracts negotiated may include the provision that a stated amount of hospital cost or period of hospitalization shall incur no obligation on the part of the insurance carrier or the retirement system.
- (8) The board of trustees is empowered to promulgate administrative regulations to assure efficient operation of the hospital and medical insurance program.
- (9) Premiums paid for hospital and medical insurance coverage procured under authority of this section shall be exempt from any premium tax which might otherwise be required under KRS Chapter 136. The payment of premiums by the insurance fund shall not constitute taxable income to an insured recipient.

- (10) In the event that a member is providing services on less than a full-time basis under KRS 161.605, the retirement system may pay the full cost of the member's health insurance coverage for the full fiscal year that the member is providing those services, at the conclusion of which, the retirement system may then bill the active employer and the active employer shall reimburse the retirement system for the cost of the health insurance coverage incurred by the retirement system on a pro rata basis for the time that the member was employed by the active employer.

SECTION 5. A NEW SECTION OF KRS CHAPTER 18A IS CREATED TO READ AS FOLLOWS:

*Any self-insured plan offered by the Personnel Cabinet shall include a mail-order drug option for maintenance drugs for public employees, and maintenance drugs may be dispensed by mail in accordance with Kentucky law. The mail-order drug option shall not permit the dispensing of a controlled substance classified in Schedule II. The self-insured plan shall not discriminate against any retail pharmacy located within the geographic coverage area of the plan that meets the terms and conditions for participation established by the plan, including price, dispensing fee, and copay requirements of a mail-order drug option. The retail pharmacy shall not be required to dispense by mail. The net cost to the plan for a quantity of maintenance drugs dispensed by mail order shall not exceed the net cost to the plan for the same quantity of the same drug dispensed by a retail pharmacy under the terms and conditions established for dispensing and reimbursement at retail.*

SECTION 6. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

*Any health benefit plan issued or renewed on or after the effective date of this Act which provides coverage for services rendered by a physician or osteopath duly licensed under KRS Chapter 311 that are within the scope of practice of an optometrist duly licensed under the provisions of KRS Chapter 320 shall provide the same payment for coverage to optometrists as allowed for those services rendered by physicians or osteopaths.*

SECTION 7. A NEW SECTION OF SUBTITLE 17B OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

*Any health benefit plan issued or renewed on or after the effective date of this Act by Kentucky Access which provides coverage for services rendered by a physician or osteopath duly licensed under KRS Chapter 311 that are within the scope of practice of an optometrist duly licensed under the provisions of KRS Chapter 320 shall provide the same payment for coverage to optometrists as allowed for those services rendered by physicians or osteopaths.*

SECTION 8. A NEW SECTION OF SUBTITLE 17C OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

*Any limited health service benefit plan issued or renewed on or after the effective date of this Act which provides coverage for services rendered by a physician or osteopath duly licensed under KRS Chapter 311 that are within the scope of practice of an optometrist duly licensed under the provisions of KRS Chapter 320 shall provide the same payment of coverage to optometrists as allowed for those services rendered by physicians or osteopaths.*

Approved April 5, 2006.

## CHAPTER 165

(HB 145)

AN ACT relating to waste tires.

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

Section 1. KRS 224.50-868 is amended to read as follows:

- (1) Until July 31, ~~2010~~<sup>2006</sup>, 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 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 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 2. KRS 224.50-872 is amended to read as follows:

The cabinet shall report to the General Assembly no later than January 15, ~~2010~~~~[2006]~~, on the effectiveness of the waste tire program in developing markets for waste tires, the effectiveness of the fee established in KRS 224.50-868 in funding the cabinet's implementation of the waste tire program, to include any waste tire amnesty program established by the cabinet as provided for in KRS 224.50-880(1)(b), and whether the fee should be extended beyond July 31, ~~2010~~~~[2006]~~.

**Approved April 5, 2006.**

## **CHAPTER 166**

### **(HB 374)**

AN ACT relating to administrative regulations.

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

Section 1. KRS 13A.240 is amended to read as follows:

- (1) Every administrative body shall prepare and submit to the Legislative Research Commission an original and five (5) duplicate copies of a regulatory impact analysis for every administrative regulation when it is filed with the Commission. The regulatory impact analysis shall include the following information:
  - (a) A brief narrative summary of:
    1. What the administrative regulation does;
    2. The necessity of the administrative regulation;
    3. How the administrative regulation conforms to the content of the authorizing statutes; and

4. How the administrative regulation currently assists or will assist in the effective administration of the statutes;
- (b) If this is an amendment to an existing administrative regulation, a brief narrative summary of:
  1. How the amendment will change the existing administrative regulation;
  2. The necessity of the amendment to the administrative regulation;
  3. How the amendment conforms to the content of the authorizing statutes; and
  4. How the amendment to the administrative regulation will assist in the effective administration of the statutes;
- (c) The type and number of individuals, businesses, organizations, or state and local governments affected by the administrative regulation;
- (d) An ~~analysis~~~~assessment~~ of how the *entities referenced in paragraph (c) of this subsection*~~above group or groups~~ will be impacted by either the implementation of this administrative regulation, if new, or by the change if it is an amendment to an existing administrative regulation. ***The analysis shall include, but not be limited to:***
  1. ***A detailed explanation of the actions the entities referenced in paragraph (c) of this subsection will be required to undertake in order to comply with the proposed administrative regulation;***
  2. ***An estimate of the costs imposed on entities referenced in paragraph (c) of this subsection in order to comply with the proposed administrative regulation; and***
  3. ***The benefits that may accrue to the entities referenced in paragraph (c) of this subsection as a result of compliance;***
- (e) An estimate of how much it will cost *the administrative body* to implement this administrative regulation, both initially and on a continuing basis;
- (f) The source of the funding to be used for the implementation and enforcement of the administrative regulation;
- (g) An assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation or amendment to an existing administrative regulation;
- (h) A statement as to whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees; and
- (i) The tiering statement required by KRS 13A.210.
- (2) The Legislative Research Commission shall review all regulatory impact analyses submitted by all administrative bodies, and prepare a written analysis thereof and of the administrative regulation. The Legislative Research Commission may require any administrative body to submit background data upon which the information required by subsection (1) is based, and an explanation of how the data was gathered.

Section 2. KRS 13A.250 is amended to read as follows:

- (1) Each administrative body ~~that~~~~which~~ promulgates an administrative regulation which relates to any aspect of *state or local government or any service provided thereby* shall ***consider the cost that the administrative regulation may cause the state or local government to incur. The cost analysis shall include the projected cost or cost savings to the Commonwealth of Kentucky and each of its affected agencies, and the projected cost or cost savings to affected local governments, including cities, counties, fire departments, and school districts. Agencies affected by the administrative regulation may submit comments in accordance with KRS 13A.270(1) to the promulgating administrative body or to a subcommittee reviewing the administrative regulation.***
- (2) ***Each administrative body that promulgates an administrative regulation which relates to any aspect of state or local government or any service provided thereby shall prepare and submit with the administrative regulation a fiscal note.***

~~{(2)}~~ The fiscal note shall state:

- (a) The number of the administrative regulation;
  - (b) The name and telephone number of the contact person of the administrative body;
  - (c) Whether the administrative regulation relates to any aspect of *state or* ~~a~~ local government, including any service provided by that *state or* local government;
  - (d) The unit, part, or division of *state or* local government the administrative regulation will affect;
  - (e) In detail, the aspect or service of *state or* local government to which the administrative regulation relates, including identification of the applicable state or federal statute or regulation that mandates the aspect or service or authorizes the action taken by the administrative regulation; and
  - (f) The estimated effect of the administrative regulation on the expenditures and revenues of a *state or* local government *agency* for the first full year the administrative regulation will be in effect. If specific dollar estimates cannot be determined, the administrative body shall provide a brief narrative to explain the fiscal impact of the administrative regulation.
- (3) Any administrative body may request the advice and assistance of the Commission in the preparation of the fiscal note.

Section 3. KRS 13A.270 is amended to read as follows:

- (1)
  - (a) In addition to the public comment period required by paragraph (c) of this subsection, following publication in the Administrative Register of the text of an administrative regulation, the administrative body shall, unless authorized to cancel the hearing pursuant to subsection (7) of this section, hold a hearing, open to the public, on the administrative regulation.
  - (b) The public hearing shall not be held before the twenty-first day or later than the last workday of the month in which the administrative regulation is published in the Administrative Register.
  - (c) The administrative body shall accept written comments regarding the administrative regulation until the end of the calendar month in which the administrative regulation was published in the Administrative Register. If the last day of the calendar month falls on a Saturday, Sunday, or holiday, the administrative body shall consider all comments received prior to the close of business of the first workday following the Saturday, Sunday, or holiday.
- (2) Each administrative regulation shall state:
  - (a) The place, time, and date of the scheduled public hearing;
  - (b) The manner in which interested persons shall submit their:
    - 1. Notification of attending the public hearing; and
    - 2. Written comments;
  - (c) That notification of attending the public hearing shall be transmitted to the administrative body no later than five (5) workdays prior to the date of the scheduled public hearing;
  - (d) The deadline for submitting written comments regarding the administrative regulation in accordance with paragraph (c) of subsection (1) of this section; and
  - (e) The name, position, address, and telephone and facsimile numbers of the person to whom a notification and written comments shall be transmitted.
- (3)
  - (a) ~~[An administrative body shall provide a form to be completed and filed by]~~ A person who wishes to be notified that ~~an~~ ~~the~~ administrative body has filed an administrative regulation ***shall:***
    - 1. ***Contact the administrative body by telephone or written letter to request that the administrative body send the information required by paragraph (c) or (d) of this subsection to the person; or***
    - 2. ***Complete an electronic registration form located on a centralized state government Web site developed and maintained by the Commonwealth Office of Technology.***
  - (b) ***A registration submitted pursuant to paragraph (a) of this subsection shall:***
    - 1. ***Indicate whether the person wishes to receive notification regarding:***
      - a. ***All administrative regulations promulgated by an administrative body; or***

- b. Each administrative regulation that relates to a specified subject area. The subject areas shall be provided by the administrative bodies and shall be listed on the centralized state government Web site in alphabetical order;*
2. *Include a request for the person to provide an e-mail address in order to receive regulatory information electronically;*
3. ~~[- This registration shall]~~ Be valid for a period of four (4) years from the date the **registration is submitted**~~[form is filed with the administrative body]~~, or until the person submits a written request to be removed from the notification list, whichever occurs first; **and**
4. *Be transmitted to the promulgating administrative body, if the registration was made through the centralized state government Web site.*~~[- The form shall include a space for the person to provide an e-mail address in order to receive the information electronically.]~~ The collected e-mail addresses shall be used solely for the purposes of this subsection and shall not be sold, transferred, or otherwise made available to third parties, ***other than the promulgating administrative body.***
- ~~(c)(b)~~ A copy of the administrative regulation as filed, and all attachments required by KRS 13A.230(1), shall be e-mailed:
1. To every person who has:
- a. ***Registered pursuant to paragraph (a) of this subsection***~~[- Filed this form with the administrative body]~~; and
- b. Provided an e-mail address ***as part of the registration request***~~[- to the administrative body]~~;
2. Within five (5) working days after the date the administrative regulation is filed with the Commission; and
3. With a request from the administrative body that affected individuals, businesses, or other entities submit written comments that identify the anticipated effects of the proposed administrative regulation.
- ~~(d)(e)~~ Within five (5) working days after the date the administrative regulation is filed with the Commission, the administrative body shall mail the following information to every person who has ***registered pursuant to paragraph (a) of this subsection***~~[- filed the form with the administrative body]~~ but did not provide an e-mail address:
1. A cover letter from the administrative body requesting that affected individuals, businesses, or other entities submit written comments that identify the anticipated effects of the proposed administrative regulation;
2. A copy of the regulatory impact analysis required by KRS 13A.240 of this Act completed in detail sufficient to put the individual on notice as to the specific contents of the administrative regulation, including all proposed amendments to the administrative regulation; and
3. A statement that a copy of the administrative regulation may be obtained from the Commission's Web site, which can be accessed on-line through public libraries or any computer with Internet access. The Commission's Web site address shall be included in the statement.
- (4) (a) If small business may be impacted by an administrative regulation, the administrative body shall e-mail a copy of the administrative regulation as filed, and all attachments required by KRS 13A.230(1), to the chief executive officer of the Commission on Small Business Advocacy within one (1) working day after the date the administrative regulation is filed with the Commission.
- (b) The e-mail shall include a request from the administrative body that the Commission on Small Business Advocacy review the administrative regulation in accordance with KRS 11.202(1)(e) and submit its report or comments in accordance with the deadline established in subsection (1)(c) of this section. A copy of the report shall be filed with the regulations compiler.
- (5) (a) If a government may be impacted by an administrative regulation, the administrative body shall send, by e-mail if the government has an e-mail address, a copy of the administrative regulation as filed and all

attachments required by KRS 13A.230(1) to each government in the state within one (1) working day after the date the administrative regulation is filed with the Commission. If the government does not have an e-mail address, the material shall not be sent.

- (b) The e-mail shall include a request from the administrative body that the government review the administrative regulation in the same manner as would the Commission on Small Business Advocacy under KRS 11.202(1)(e), and submit its report or comments in accordance with the deadline established in subsection (1)(c) of this section. A copy of the report or comments shall be filed with the regulations compiler.
- (6) Persons desiring to be heard at the hearing shall notify the administrative body in writing as to their desire to appear and testify at the hearing not less than five (5) workdays before the scheduled date of the hearing.
- (7) The administrative body shall immediately notify the regulations compiler by telephone and by letter if:
  - (a) No written notice of intent to attend the public hearing is received by the administrative body at least five (5) workdays before the scheduled hearing, and it chooses to cancel the public hearing; and
  - (b) No written comments have been received by the close of the last day of the public comment period.
- (8) (a) 1. Upon receipt from interested persons of their intent to attend a public hearing, the administrative body shall notify the regulations compiler by telephone and by letter that the public hearing shall be held.
- 2. If the public hearing is held but no comments are received during the hearing, the administrative body shall notify the regulations compiler by telephone and by letter that the public hearing was held and that no comments were received.
- (b) Upon receipt of written comments, the administrative body shall notify the regulations compiler by telephone and by letter that written comments have been received.
- (9) If the notifications required by subsections (7) and (8) of this section are not received by the regulations compiler by close of business on the second workday of the calendar month, the administrative regulation shall be deferred to the next regularly scheduled meeting of the subcommittee.
- (10) The notifications required by subsections (7) and (8) of this section shall be made by telephone and by letter. The letter may be sent by e-mail if the administrative body uses an electronic signature and letterhead for the e-mailed document.
- (11) Every hearing shall be conducted in such a manner as to guarantee each person who wishes to offer comment a fair and reasonable opportunity to do so, whether or not such person has given the notice contemplated by subsection (6) of this section. No transcript need be taken of the hearing, unless a written request for a transcript is made, in which case the person requesting the transcript shall have the responsibility of paying for same. A recording may be made in lieu of a transcript under the same terms and conditions as a transcript. This section shall not preclude an administrative body from making a transcript or making a recording if it so desires.
- (12) Nothing in this section shall be construed as requiring a separate hearing on each administrative regulation. Administrative regulations may be grouped at the convenience of the administrative body for purposes of hearings required by this section.

SECTION 4. A NEW SECTION OF KRS CHAPTER 11 IS CREATED TO READ AS FOLLOWS:

- (1) *Each cabinet secretary on the Governor's Executive Cabinet, established pursuant to KRS 11.065, shall designate a small business ombudsman from among their respective existing cabinet employees.*
- (2) *The small business ombudsman shall:*
  - (a) *Respond to inquiries from small businesses on administrative regulations and other regulatory matters; and*
  - (b) *Provide information regarding the procedure for submitting comments on administrative regulations as provided by subsection (1) of Section 3 of this Act.*
- (3) *Each cabinet shall provide contact information for the cabinet's small business ombudsman on the cabinet's Web site, including the ombudsman's name, telephone number, mailing address, and e-mail address.*



- (4) *No later than December 1 of each year, each small business ombudsman shall submit a report to the Commission on Small Business Advocacy, established pursuant to KRS 11.200, summarizing the number and nature of inquiries that the ombudsman has received from small businesses during the previous twelve (12) months.*

Approved April 5, 2006.

## CHAPTER 167

### (HB 427)

AN ACT relating to the Office of Housing, Buildings and Construction.

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

Section 1. KRS 198B.030 is amended to read as follows:

- (1) There is hereby created the Kentucky Office of Housing, Buildings and Construction within the Environmental and Public Protection Cabinet. The secretary of the Environmental and Public Protection Cabinet shall appoint, with the approval of the Governor, an executive director to head the office. The executive director shall receive for his or her services such compensation as the Governor shall determine.
- (2) The executive director may employ sufficient staff to carry out the functions of the executive director's office. Neither the executive director nor any member of his or her staff shall be employed, either directly or indirectly, in any aspect of the building industry as regulated by this chapter while employed by the Office of Housing, Buildings and Construction.
- (3) The office shall serve as staff for the board of housing, buildings and construction as established by this chapter, and shall perform all budgeting, procurement, and other administrative activities necessary to the functioning of this body. The board shall prescribe the duties of the executive director in addition to those duties otherwise delegated to him or her by the Governor or secretary, or prescribed for the executive director by law.
- (4) The office may enter into contracts *or agreements* with the federal government, *its subdivisions and instrumentalities*, other agencies of state government or with its subdivisions *and instrumentalities*, or with private profit or nonprofit organizations in order to effect the purposes of this chapter.
- (5) Subject to the direction of the board of housing, buildings and construction, the executive director shall cooperate with the agencies of the United States and with the governing bodies and housing authorities of counties, cities, and with not for profit organizations and area development districts in relation to matters set forth in this chapter, and in any reasonable manner that may be necessary for the state to qualify for, and to receive grants or aid from such agencies. To these ends and subject to the direction of the board, the executive director shall have the power to comply with each condition and execute such agreements as may be necessary, convenient, or desirable.
- (6) Nothing in this chapter shall preclude any other agency, board, or officer of the state from being designated as the directing or allocating agency, board, or officer for the distribution of federal grants and aid, or the performance of other duties to the extent necessary to qualify for and to receive grants and aid for programs under the administration of the office.
- (7) The executive director is authorized to receive, for and on behalf of the state, the office, and the board of housing, buildings and construction, from the United States and agencies thereof, and from any and all other sources, grants and aid and gifts made for the purpose of providing, or to assist in providing, any of the programs authorized by this chapter, including expenses of administration. All such funds shall be paid into the state treasury and credited to a trust and agency fund to be used by the office in carrying out the provisions of this chapter. No part of this fund shall revert to the general fund of the Commonwealth.
- (8) The Kentucky Board of Home Inspectors established in KRS 198B.704 shall be attached to the office for administrative purposes.

Section 2. KRS 318.054 is amended to read as follows:

- (1) The initial license for a master or journeyman plumber shall expire on the last day of the licensee's birth month in the following year. The office may reduce the license fee on a pro rata basis for initial licenses issued for less than twelve (12) months. Renewed licenses shall expire on the last day of the licensee's birth month of each year after the date of issuance of the renewed license.
- (2) ***The office shall require an applicant for renewal of a license to show evidence of completing the continuing education requirements set forth by the office, with advice from the State Plumbing Code Committee, in its administrative regulations issued under KRS 318.130.***
- (3) The office shall send each licensed master and journeyman plumber a notice advising them that the annual license renewal fee is due. The notice shall be sent to the licensee's last known address no later than thirty (30) days prior to the expiration of the license. The annual license renewal fee shall be a reasonable fee set by regulation of the office. The fee for the renewal of a master plumber's license shall exceed the fee charged for a journeyman plumber's license.
- (4)~~(3)~~ Any master or journeyman plumber who fails to renew his license prior to expiration may have his license renewed upon payment of the required renewal fee,~~and~~ a revival fee, ***and upon showing the completion of continuing education requirements.*** The revival fee for a master plumber shall be five dollars (\$5) and for a journeyman plumber three dollars (\$3). If the renewal and revival fees are not paid one hundred eighty (180) days after the license expires, such licenses shall be automatically canceled by operation of law for nonpayment; provided, however, that such licenses may be reinstated upon payment of all delinquent renewal fees plus a revival fee of ten dollars (\$10) for a master plumber and six dollars (\$6) for a journeyman plumber. Upon presentation of proper evidence, the office may waive payment of any renewal or revival fee specified herein for persons serving on active duty in the Armed Forces of the United States.

Section 3. Section 2 of this Act takes effect July 1, 2007.

**Approved April 5, 2006.**

## CHAPTER 168

### (HB 520)

AN ACT relating to the local occupational tax.

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

Section 1. KRS 67.750 is amended to read as follows:

As used in KRS 67.750 to 67.790, unless the context requires otherwise:

- (1) "Business entity" means each separate corporation, limited liability company, business development corporation, partnership, limited partnership, registered limited liability partnership, sole proprietorship, association, joint stock company, receivership, trust, professional service organization, or other legal entity through which business is conducted;
- (2) "Compensation" means wages, salaries, commissions, or any other form of remuneration paid or payable by an employer for services performed by an employee, which are required to be reported for federal income tax purposes and adjusted as follows:
  - (a) Include any amounts contributed by an employee to any retirement, profit sharing, or deferred compensation plan, which are deferred for federal income tax purposes under a salary reduction agreement or similar arrangement, including but not limited to salary reduction arrangements under Section 401(a), 401(k), 402(e), 403(a), 403(b), 408, 414(h), or 457 of the Internal Revenue Code; and
  - (b) Include any amounts contributed by an employee to any welfare benefit, fringe benefit, or other benefit plan made by salary reduction or other payment method which permits employees to elect to reduce federal taxable compensation under the Internal Revenue Code, including but not limited to Sections 125 and 132 of the Internal Revenue Code;
- (3) "Fiscal year" means fiscal year as defined in Section 7701(a)(24) of the Internal Revenue Code;
- (4) "Employee" means any person who renders services to another person or business entity for compensation, including an officer of a corporation and any officer, employee, or elected official of the United States, a state, or any political subdivision of a state, or any agency or instrumentality of any one (1) or more of the above. A

person classified as an independent contractor under the Internal Revenue Code shall not be considered an employee;

- (5) "Employer" means employer as defined in Section 3401(d) of the Internal Revenue Code;
- (6) "Gross receipts" means all revenues or proceeds derived from the sale, lease, or rental of goods, services, or property by a business entity reduced by the following:
  - (a) Sales and excise taxes paid; and
  - (b) Returns and allowances;
- (7) "Internal Revenue Code" means the Internal Revenue Code in effect on December 31, 2004, exclusive of any amendments made subsequent to that date, other than amendments that extend provisions in effect on December 31, ~~2005~~~~2004~~, that would otherwise terminate;
- (8) "Net profit" means gross income as defined in Section 61 of the Internal Revenue Code minus all the deductions from gross income allowed by Chapter 1 of the Internal Revenue Code, and adjusted as follows:
  - (a) Include any amount claimed as a deduction for state tax or local tax which is computed, in whole or in part, by reference to gross or net income and which is paid or accrued to any state of the United States, local taxing authority in a state, the District of Columbia, the Commonwealth of Puerto Rico, any territory or possession of the United States, or any foreign country or political subdivision thereof;
  - (b) Include any amount claimed as a deduction that directly or indirectly is allocable to income which is either exempt from taxation or otherwise not taxed;
  - (c) Include any amount claimed as a net operating loss carryback or carryforward allowed under Section 172 of the Internal Revenue Code;
  - (d) Include any amount of income and expenses passed through separately as required by the Internal Revenue Code to an owner of a business entity that is a pass-through entity for federal tax purposes; and
  - (e) Exclude any amount of income that is exempt from state taxation by the Kentucky Constitution, or the Constitution and statutory laws of the United States;
- (9) "Sales revenue" means receipts from the sale, lease, or rental of goods, services, or property;
- (10) "Tax district" means a city of the first to fifth class, county, urban-county, charter county, consolidated local government, school district, special taxing district, or any other statutorily created entity with the authority to levy net profits, gross receipts, or occupational license taxes;
- (11) "Taxable gross receipts" in case of a business entity having payroll or sales revenues both within and without a tax district means gross receipts as defined in subsection (6) of this section, as apportioned under KRS 67.753;
- (12) "Taxable gross receipts" in case of a business entity having payroll or sales revenue only in one (1) tax district means gross receipts as defined in subsection (6) of this section;
- (13) "Taxable net profit" in case of a business entity having payroll or sales revenue only in one (1) tax district means net profit as defined in subsection (8) of this section;
- (14) "Taxable net profit" in case of a business entity having payroll or sales revenue both within and without a tax district means net profit as defined in subsection (8) of this section, as apportioned under KRS 67.753; and
- (15) "Taxable year" means the calendar year or fiscal year ending during the calendar year, upon the basis of which net income or gross receipts is computed.

Section 2. KRS 68.197 is amended to read as follows:

- (1) The fiscal court of each county having a population of thirty thousand (30,000) or more may by ordinance impose license fees on franchises, provide for licensing any business, trade, occupation, or profession, and the using, holding, or exhibiting of any animal, article, or other thing.
- (2) License fees on business, trade, occupation, or profession for revenue purposes, except those of the common schools, may be imposed at a percentage rate not to exceed one percent (1%) of:

- (a) Salaries, wages, commissions, and other compensation earned by persons within the county for work done and services performed or rendered in the county;
  - (b) The net profits of self-employed individuals, partnerships, professional associations, or joint ventures resulting from trades, professions, occupations, businesses, or activities conducted in the county; and
  - (c) The net profits of corporations resulting from trades, professions, occupations, businesses, or activities conducted in the county.
- (3) In order to reduce administrative costs and minimize paperwork for employers, employees, and businesses, the fiscal court may provide:
- (a) For an annual fixed amount license fee which a person may elect to pay in lieu of reporting and paying the percentage rate as provided in this subsection on salaries, wages, commissions, and other compensation earned within the county for work done and services performed or rendered in the county; and
  - (b) For an annual fixed amount license fee which an individual, partnership, professional association, joint venture, or corporation may elect to pay in lieu of reporting and paying the percentage rate as provided in this subsection on net profits of businesses, trades, professions, or occupations from activities conducted in the county.
- (4)
- (a) Licenses imposed for regulatory purposes are not subject to limitations as to form and amount.
  - (b) No public service company that pays an ad valorem tax is required to pay a license tax.
  - (c)
    - 1. It is the intent of the General Assembly to continue the exemption from local license fees and occupational taxes that existed on January 1, 2006, for providers of multichannel video programming services or communications services as defined in KRS 136.602 that were taxed under KRS 136.120 prior to the effective date of this section.
    - 2. To further this intent, no company providing multichannel video programming services or communications services as defined in KRS 136.602 shall be required to pay a license tax. If only a portion of an entity's business is providing multichannel video programming services including products or services that are related to and provided in support of the multichannel video programming services or communications services, this exclusion applies only to that portion of the business that provides multichannel video programming services or communications services, including products or services that are related to and provided in support of the multichannel video programming services or communications services.
  - (d) No license tax shall be imposed upon or collected from any insurance company except as provided in KRS 91A.080, bank, trust company, combined bank and trust company, combined trust, banking, and title business in this state, or any savings and loan association whether state or federally chartered, or in other cases where the county is prohibited by law from imposing a license fee.
- (5) No license fee shall be imposed or collected on income received by members of the Kentucky National Guard for active duty training, unit training assemblies, and annual field training, or on income received by precinct workers for election training or work at election booths in state, county, and local primary, regular, or special elections, or upon any profits, earnings, or distributions of an investment fund which would qualify under KRS 154.20-250 to 154.20-284 to the extent any profits, earnings, or distributions would not be taxable to an individual investor.
- (6) Persons who pay a county license fee pursuant to this section and who also pay a license fee to a city contained in the county may, upon agreement between the county and the city, credit their city license fee against their county license fee. *As used in this subsection, "city contained in the county" shall include a city that is in more than one county.*
- (7) The provisions of subsection (6) of this section notwithstanding, effective with license fees imposed under the provisions of subsection (1) of this section on or after July 15, 1986, persons who pay a county license fee and a license fee to a city contained in the county shall be allowed to credit their city license fee against their county license fee. *As used in this subsection, "city contained in the county" shall include a city that is in more than one county.*
- (8) On July 14, 2000, the provisions of subsection (7) of this section notwithstanding, city license fees not credited against county license fees enacted under this section or KRS 67.083 as of January 1, 2000, shall not be

credited against county license fees. However, this exception shall not apply to county license fees enacted for the first time, or increased, on or after January 1, 2000. This provision shall expire July 15, 2002, unless otherwise extended by the General Assembly.

- (9) A county that enacted an occupational license fee under the authority of KRS 67.083 shall not be required to reduce its occupational tax rate when it is determined that the population of the county exceeds thirty thousand (30,000).
- (10) Notwithstanding any statute to the contrary:
  - (a) In those counties where a license fee has been authorized by a public question approved by the voters, there shall be no credit of a city license fee against a county license fee except by agreement between the county and the city in accordance with subsection (6) of this section;
  - (b) Notwithstanding any provision of the KRS to the contrary, no taxpayer shall be refunded or credited for any overpayment of a license tax paid to any county to the extent the overpayment is attributable to or derives from this section as it existed at any time subsequent to July 15, 1986, and the taxpayer seeks a credit for a license tax paid to a city located within such county, if such refund claim or amended tax return claim was filed or perfected after November 18, 2004, except by agreement between the city and county in accordance with subsection (6) of this section;
  - (c) In those counties where a license fee has been authorized by a public question approved by the voters, the percentage rate of the license fee in effect on January 1, 2005, and any maximum salary limit upon which the license fee is calculated shall remain unchanged for subsequent fiscal years. A percentage rate higher than the percentage rate in effect on January 1, 2005, or any change in the maximum salary limit upon which a license fee is calculated shall be prohibited unless approved by the voters at a public referendum. The percentage rate of a license fee in such counties shall at no time exceed one percent (1%). Any question to be placed before the voters as a result of this paragraph shall be placed on the ballot at a regular election or nominating primary.
  - (d) This subsection shall have retroactive application; and
  - (e) If any provision of this subsection or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or application of this section that can be given effect without the invalid provision or application, and to this end the provisions of this subsection are severable.
- (11) Pursuant to this section, no fiscal court shall regulate any aspect of the manner in which any duly ordained, commissioned, or denominationally licensed minister of religion may perform his or her duties and activities as a minister of religion. Duly ordained, commissioned, or denominationally licensed ministers of religion shall be subject to the same license fees imposed on others in the county on salaries, wages, commissions, and other compensation earned for work done and services performed or rendered.

Section 3. The amendments contained in Section 2 of this Act shall apply retroactively to August 1, 2005.

**Approved April 5, 2006.**

## CHAPTER 169

**(HB 562)**

AN ACT relating to the taxation of watercraft.

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

SECTION 1. A NEW SECTION OF KRS CHAPTER 136 IS CREATED TO READ AS FOLLOWS:

*As used in Sections 1 to 6 of this Act:*

- (1) ***“Corporation” means any corporation, company, association, partnership, limited liability company, limited liability partnership, other business association, or person operating any watercraft for commercial purposes in the Commonwealth;***
- (2) ***“Watercraft” means any boat, tow boat, push boat, barge, or similar vessel. Watercraft shall not include:***

- (a) *Floating equipment used in construction, including but not limited to dredges, pile drivers, and flats;*
- (b) *Houseboats;*
- (c) *Fishing boats;*
- (d) *Pleasure boats; or*
- (e) *Commercial dining boats;*
- (3) *"Department" means the Department of Revenue;*
- (4) *"Operating" or "operated" means owned, leased, rented, or used;*
- (5) *"Local taxing district" means a local taxing jurisdiction or district, including a county, city, charter county, school district, consolidated local government, urban-county government, and special taxing district, which has a navigable waterway within its borders;*
- (6) *"Navigable waterway" means and shall include the following:*
  - (a) *All of the Mississippi River within or bordering this state;*
  - (b) *All of the Ohio River within or bordering this state;*
  - (c) *The Kentucky River beginning at Ohio River mile marker 545.8 and ending at Kentucky River mile marker 76;*
  - (d) *The Green River beginning at Ohio River mile marker 784.4 and ending at Green River mile marker 143;*
  - (e) *The Tennessee River beginning at Ohio River mile marker 934.5 and ending at Tennessee River mile marker 62.4;*
  - (f) *The Cumberland River beginning at Ohio River mile marker 920.5 and ending at Cumberland River mile marker 74.7;*
  - (g) *The Big Sandy River beginning at Ohio River mile marker 317.2 and ending at Big Sandy River mile marker 14.2;*
  - (h) *The Licking River beginning at Ohio River mile marker 470.2 and ending at Licking River mile marker 8; and*
  - (i) *Any other waterway in this state utilized by a corporation for the transportation of watercraft during the previous calendar year.*

SECTION 2. A NEW SECTION OF KRS CHAPTER 136 IS CREATED TO READ AS FOLLOWS:

- (1) *Notwithstanding KRS 132.486, the watercraft of any corporation operating within this state, or partly within this state and partly within other states, shall be assessed by the department as of January 1 each year.*
- (2) *The department shall have the sole power to value and assess all of the corporation's watercraft.*
- (3) *The department shall bill and collect all ad valorem taxes on watercraft and shall divide, allocate, and distribute the tax receipts as provided in Section 4 of this Act to each local taxing district within this state.*
- (4) *The value of the corporation's watercraft shall be apportioned to this state by multiplying the assessed value by a fraction, the numerator of which shall include:*
  - (a) *Ninety percent (90%) of the length of the corporation's Ohio River route that borders Kentucky;*
  - (b) *Fifty percent (50%) of the length of the Mississippi River route that borders Kentucky;*
  - (c) *Fifty percent (50%) of the length of the Big Sandy River route that borders Kentucky; and*
  - (d) *One hundred percent (100%) of the length of all other navigable waterways within Kentucky;**and the denominator of which shall include the length of all waterway routes traveled in all states by the corporation during the previous calendar year.*

SECTION 3. A NEW SECTION OF KRS CHAPTER 136 IS CREATED TO READ AS FOLLOWS:

*On or before January 1, 2008, and each year thereafter, each corporation operating watercraft within this state during the previous calendar year shall file on forms prescribed by the department, a detailed description of all watercraft it operated as of January 1 of the current year.*

SECTION 4. A NEW SECTION OF KRS CHAPTER 136 IS CREATED TO READ AS FOLLOWS:

- (1) *The department shall notify the corporation of the assessed value of its watercraft by July 1 of each year. The corporation shall have forty-five (45) days from the date of the department's notice of 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 corporation shall pay to the department all state and local taxing district taxes due on the undisputed value of its watercraft as stated in the protest filed under KRS 131.110. When the valuation is finally determined upon appeal, the corporation 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 the assessment had not been appealed. The provisions of KRS 134.390 shall apply to the tax bill.*
- (3) *The state and local taxing district taxes on the watercraft are due forty-five (45) days from the date of notice of assessment. The tangible property taxes on watercraft shall be collected in accordance with the provisions of KRS 134.020.*
- (4) *The state rate of taxation on watercraft shall be forty-five cents (\$0.45) upon each one hundred dollars (\$100) of assessed value of the watercraft.*
- (5) *The department shall annually calculate an aggregate local rate, which shall be imposed upon each one hundred dollars (\$100) of assessed value of the watercraft.*
  - (a) *The aggregate local rate shall be the sum of each local personal property tax rate for each local taxing district multiplied by a fraction, the numerator of which shall be the length of the navigable waterways in the local taxing district and the denominator of which shall be the total of the length of all navigable waterways in this state. Both the numerator and the denominator shall be adjusted, if necessary, by paragraph (b) of this subsection.*
  - (b) *For purposes of computing the local property tax rate in paragraph (a) of this section, the length of the navigable waterways of the Green River shall be reduced by fifty percent (50%) and the length of the navigable waterways of the Kentucky River shall be reduced by seventy-five percent (75%).*
- (6) *The watercraft taxes collected for local taxing districts by the department shall be distributed to each local taxing district based upon the local taxing district's fractional portion of the amount calculated in subsection (5) of this section.*
- (7) *Prior to distribution of taxes to local taxing districts, the department shall retain an administrative fee of one percent (1%) of the amount due each district. The fee imposed by this subsection shall have no effect upon the discount provided to taxpayers pursuant to KRS 134.020(2).*

SECTION 5. A NEW SECTION OF KRS CHAPTER 136 IS CREATED TO READ AS FOLLOWS:

- (1) *As used in this section, "base collections" means actual collections received from property taxes assessed on watercraft for the 2007 calendar year. It shall not include collections for assessments for any other year.*
- (2) *The department shall determine for each local taxing district the amount of base collections.*
- (3) *If a local taxing district's base collections are greater than the taxes distributed to it under Section 4 of this Act for any year from 2008 to 2017, that local taxing district shall receive a distribution from the general fund equal to the difference.*

SECTION 6. A NEW SECTION OF KRS CHAPTER 136 IS CREATED TO READ AS FOLLOWS:

*The taxes levied by Sections 1 to 6 of this Act are taxes on the watercraft only. The taxes levied by Sections 1 to 6 of this Act shall be in addition to any other taxes levied by state or local jurisdictions on any corporation.*

Section 7. KRS 136.120 is amended to read as follows:

- (1) (a) *The following public service companies shall pay a tax on their operating property to the state, and to the extent the operating property is subject to local taxation, shall pay a local tax to the county, incorporated city, and taxing district where its operating property is located:*

1. Railway companies;
  2. Sleeping car companies;
  3. Chair car companies;
  4. Dining car companies;
  5. Gas companies;
  6. Water companies;
  - 7.~~{~~ ~~Ferry companies;~~
  - 8.~~}~~ Bridge companies;
  - 8.~~{~~ ~~Street railway companies;~~
  - 9.~~{~~ ~~Interurban electric railroad companies;~~
  - 10.~~{~~ ~~Express companies;~~
  - 11.~~{~~ ~~Electric light companies;~~
  - 12.~~{~~ ~~Electric power companies;~~
  - 13.~~{~~ ~~Commercial air carriers;~~
  - 14.~~{~~ ~~Air freight carriers;~~
  - 15.~~{~~ ~~Pipeline companies;~~
  - 16.~~{~~ ~~Common carrier water transportation companies;~~
  - 18.~~}~~ Privately owned regulated sewer companies;
  - 17.~~{~~ ~~Municipal solid waste disposal facilities, as defined by KRS 224.01-010(15), where solid waste is disposed by landfilling;~~
  - 18.~~{~~ ~~Railroad car line companies, 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~~
  - 19.~~{~~ ~~Every other like company or business performing any public service.~~
- (b) The following companies shall not be subject to the provisions of paragraph (a) of this subsection:
1. Bus line companies;
  2. Regular and irregular route common carrier trucking companies;
  3. Taxicab companies;
  4. Providers of communications service as defined in KRS 136.602; and
  5. Providers of multichannel video programming services as defined in KRS 136.602.
- (2) (a) The property of the taxpayers shall be classified as operating property, nonoperating tangible property, and nonoperating intangible property.
- (b) 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.
- (c) 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) (a) The Department of Revenue shall:
1. 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 previously been assessed by the department;

2. Allocate the assessment as provided by KRS 136.170; and
  3. Certify operating property subject to local taxation and nonoperating tangible property to the counties, cities, and taxing districts as provided in KRS 136.180.
- (b) All of the property assessed by the department pursuant to this section shall be assessed as of December 31 each year for the following year's taxes, and the lien on the property shall attach as of the assessment date.
- (c) 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 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 under this section and shall require the remainder of the property not so engaged to be assessed by the local taxing authorities.

Section 8. The following KRS sections are repealed:

136.181 Watercraft assessment, taxation -- Allocation -- Value determination.

136.182 Nonresident owner or operator of watercraft to furnish description of property and of route or system traversed.

136.183 When taxes on watercraft are due and payable -- Collection.

136.184 Protest against tentative assessment of watercraft.

136.187 Exemption of persons or entities covered by KRS 136.120.

Section 9. The provisions of this Act take effect January 1, 2008.

**Approved April 5, 2006.**

## CHAPTER 170

**(HB 581)**

AN ACT relating to the Office of Education Accountability.

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

Section 1. KRS 7.410 is amended to read as follows:

- (1) It is the intent of the General Assembly to provide an efficient system of common schools which shall be operated without waste, duplication, mismanagement, and political influence. The system of schools shall have the goal of providing all students with at least the seven (7) capacities referred to in KRS 158.645.
- (2)
  - (a) An Office of Education Accountability is hereby created and shall be under the direction of the Legislative Research Commission and shall be advised and monitored by the Education Assessment and Accountability Review Subcommittee.
  - (b) The Office of Education Accountability shall be administered by a deputy director appointed by the Legislative Research Commission upon recommendation of the director of the Legislative Research Commission. The deputy director shall have the qualifications set by the Commission. The salary of the deputy director shall be set by the Commission. The Commission shall have exclusive jurisdiction over the employment of personnel necessary to carry out the provisions of this section. The deputy director shall be subject to the direction of and report to the director of the Legislative Research Commission.
  - (c) The Office of Education Accountability shall have the following duties and responsibilities:
    1. Monitor the *elementary and secondary public* education system ~~and implementation of the provisions of the Kentucky Education Reform Act of 1990, 1990 Ky. Acts ch. 476~~, including actions taken and reports issued by the Kentucky Board of Education, the Education Professional

Standards Board, the *commissioner of education* ~~[chief state school officer]~~, the Department of Education, *and* local school districts, ~~[and vocational and higher education as affected by the Kentucky Education Reform Act of 1990, 1990 Ky. Acts ch. 476].~~ *Upon and under the direction of the Education Assessment and Accountability Review Subcommittee*, the monitoring of the *elementary and secondary public* education system shall also include periodic reviews of local district and school-based decision making policies relating to the recruitment, interviewing, selection, evaluation, termination, or promotion of personnel. The office shall report any district or school when evidence demonstrates a pattern of exclusionary personnel practices relating to race or sex to the Kentucky Department of Education, which shall then independently investigate facts raised in or associated with the report. The results of the investigation conducted by the department shall be forwarded to the Kentucky Board of Education which shall conduct an investigative hearing on the matter.

2. *Upon and under the direction of the Education Assessment and Accountability Review Subcommittee*, ~~[Establish a Division of School Finance which shall conduct an ongoing]~~ review ~~[of]~~ the *elementary and secondary public education* finance system. The review shall include an analysis of the level of equity achieved by the funding system and whether adequate funds are available to all school districts *and an analysis* ~~[; a review]~~ of the weights of various education program components ~~[, which are to be]~~ developed by the Department of Education ~~[no later than October 1, 1991]~~. The *review may also include* ~~[division shall develop]~~ recommendations for the base per pupil funding for the Support Education Excellence in Kentucky Program and a statewide salary schedule, *and* ~~[. It shall conduct]~~ studies of other finance issues identified *by the Education Assessment and Accountability Review Subcommittee* ~~[as needing further study, including a review of the transportation formula required in KRS 157.360. The division shall submit an annual report of its activities, findings, and recommendations to the Education Assessment and Accountability Review Subcommittee. Upon approval of the subcommittee, the annual report shall be forwarded to the Governor, the Legislative Research Commission, and the Kentucky Board of Education no later than October 1 each year]~~.
3. *Upon and under the direction of the Education Assessment and Accountability Review Subcommittee*, verify the accuracy of reports of school, district, and state performance by conducting, requesting, or upon approval of the Legislative Research Commission, contracting for periodic program and fiscal audits ~~[as necessary]~~. Upon and under the direction of the Education Assessment and Accountability Review Subcommittee, the Office of Education Accountability shall monitor and verify the accuracy of reports of the Department of Education and the Kentucky Board of Education, including but not limited to the annual fiscal conditions of grants, categorical programs, and other educational initiatives set forth by the General Assembly.
4. Investigate allegations of wrongdoing of any person or agency, including but not limited to waste, duplication, mismanagement, political influence, and illegal activity at the state, regional, or school district level; *make appropriate referrals to other agencies with jurisdiction over those allegations*; ~~[which have not been resolved or satisfactorily explained by the local superintendent, local board of education, the chief state school officer, or the Kentucky Board of Education]~~ and make recommendations for legislative action to the Education Assessment and Accountability Review Subcommittee. Upon *acceptance* ~~by [approval of]~~ the subcommittee, recommendations for legislative action shall be forwarded to the Legislative Research Commission. The Office of Education Accountability shall submit to the subcommittee, for each of its regular meetings, a report that summarizes investigative activity initiated pursuant to this subparagraph. The subcommittee may consider each report as it determines and in its discretion. Each report, and the consideration thereof by the subcommittee, shall be exempt from the open records and open meetings requirements contained in KRS Chapter 61.
5. *Upon and* under the direction of the Education Assessment and Accountability Review Subcommittee, conduct studies, analyze, verify, and validate the state assessment program through other external indicators of academic progress including but not limited to American College Test scores, Scholastic Assessment Test scores, National Assessment of Educational Progress scores, Preliminary Scholastic Assessment Test scores, Advanced Placement Program participation, standardized test scores, college remediation rates, retention and attendance rates, dropout rates, and additional available data on the efficiency of the system of schools and

whether progress is being made toward attaining the goal of providing students with the seven (7) capacities as required by KRS 158.645.

6. Make periodic reports to the Education Assessment and Accountability Review Subcommittee as directed by the subcommittee. Upon ~~acceptance by approval of~~ the subcommittee, the reports shall be forwarded to the Legislative Research Commission.
  7. Make periodic reports to the Legislative Research Commission as may be directed by the Commission.
  8. Prepare an annual report, *which shall consist of a summary of the status and results of the current year annual research agenda provided in paragraph (d) of this subsection, a summary of completed investigative activity conducted pursuant to subparagraph 4. of this paragraph, and other items of significance as determined by the Education Assessment and Accountability Review Subcommittee. The annual report* ~~[on the implementation of the provisions of the Kentucky Education Reform Act of 1990, 1990 Ky. Acts ch. 476, including recommendations for improvement which]~~ shall be submitted to the Education Assessment and Accountability Review Subcommittee. Upon ~~acceptance by approval of~~ the subcommittee, the annual report shall be submitted to the Governor, the Legislative Research Commission, and the Kentucky Board of Education.
- (d) *On or before December 1 of each calendar year, the Education Assessment and Accountability Review Subcommittee shall adopt the annual research agenda for the Office of Education Accountability. The annual research agenda may include studies, research, and investigations considered to be significant by the Education Assessment and Accountability Review Subcommittee. Staff of the Office of Education Accountability shall prepare a suggested list of study and research topics related to elementary and secondary public education for consideration by the Education Assessment and Accountability Review Subcommittee in the development of the annual research agenda. An adopted annual research agenda shall be amended to include any studies mandated by the next succeeding General Assembly for completion by the Office of Education Accountability.*
- (e) The Office of Education Accountability shall have access to all public records and information on oath as provided in KRS 7.110. The office shall also have access to otherwise confidential records, meetings, and hearings regarding local school district personnel matters. However, the office shall not disclose any information contained in or derived from the records, meetings, and hearings that would enable the discovery of the specific identification of any individual who is the focus or subject of the personnel matter.
- ~~(f)(e)~~ In compliance with KRS 48.800, 48.950, and 48.955, the Finance and Administration Cabinet and the Governor's Office for Policy and Management shall provide to the Office of Education Accountability access to all information and records, other than preliminary work papers, relating to allotment of funds, whether by usual allotment or by other means, to the Department of Education, local school districts, and to other recipients of funds for educational purposes.
- ~~(g)(f)~~ Any state agency receiving a complaint or information which, if accurate, may identify a violation of the Kentucky Education Reform Act of 1990, 1990 Ky. Acts ch. 476, shall notify the office of the complaint or information.
- ~~(h)(g)~~ The Office of Education Accountability may contract for services as approved by the Legislative Research Commission pursuant to KRS 7.090(7).
- (3) The provisions of KRS 61.878 or any other statute, including Acts of the 1992 Regular Session of the General Assembly to the contrary notwithstanding, the testimony of investigators, work products, and records of the Office of Education Accountability relating to duties and responsibilities under subsection (2) of this section shall be privileged and confidential during the course of an ongoing investigation or until authorized, released, or otherwise made public by the Office of Education Accountability and shall not be subject to discovery, disclosure, or production upon the order or subpoena of a court or other agency with subpoena power.

**Approved April 5, 2006.**

**CHAPTER 171****(HB 588)**

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

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

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

AMEC Earth and Environmental, Inc. 3800 Ezell Road, Suite 100 Nashville, TN 37211	\$54,000.00
Tana Hensley 1038 Arapaho Trail Frankfort, KY 40601	\$224.93
Johnson, True, and Guarnieri, LLP 326 West Main Street Frankfort, KY 40601-1887	\$828.00
Aspen Aerials, Inc. P.O. Box 16958 Duluth, MN 55816-0958	\$9,255.00
Air Distributors Company, Inc. 13005 Middletown Industrial Road, Suite L Louisville, KY 40223	\$3,294.00
Morrison Cohen LLP 909 Third Avenue New York, NY 10022-4731	\$4,416.26
Brenda Jackson P.O. Box 782 Shelbyville, KY 40066	\$3,263.91
Eastern Kentucky University Coates Building, Box 15A Richmond, KY 40475	\$1,034.05
Siemens Building Technologies, Inc 11001 Bluegrass Parkway, Suite 320 Louisville, KY 40299	\$131,709.00
R and G Investments	

P.O. Box 2023	
Ashland, KY 41102-8942	\$744.62
Technology Consulting Incorporated	
P.O. Box 2259	
Louisville, KY 40252	\$94,500.00
Smith and Hellman	
Attn: John Smith	
600 West Main Street, Suite 100	
Louisville, KY 40202	\$464.76
Associated Pathologists, PLC	
Attn: Beverly Harper	
5301 Virginia Way, Suite 320	
Brentwood, TN 37027	\$74.47
Bastin Optometric Clinic	
Attn: Kay Smithson	
1016 South Main	
Hopkinsville, KY 42240	\$790.00
Center for Orthopedics	
P.O. Box 280	
Madisonville, KY 42431	\$110.00
Christian County Anesthesia	
Attn: Debbie Nancock	
103 West 18th Street	
Hopkinsville, KY 42240	\$1,247.56
John M. Colby, MD	
1610 South Main Street	
Hopkinsville, KY 42240	\$11.37
Linda G. Crump, ARNP	
1717 High Street, Suite 1A	
Hopkinsville, KY 42240	\$107.00
Mark Edmons, DPM	
1610 South Main Street, Suite 9	
Hopkinsville, KY 42240	\$122.00
Tery Fuqua, MD	
Attn: Linda Eaton	
1611 South Main Street	
Hopkinsville, KY 42240	\$450.00
Gajera and Patel, PLLC	

Attn: Lisa Chapman 1717 High Street, Suite 1A Hopkinsville, KY 42240	\$1,011.21
Mary E. Gamble, DDS Attn: Edna Hooper 136 East Princeton Street Crofton, KY 42217	\$50.00
Gazza Neurology Lab, PSC Attn: Lindsey 1830 High Street, Suite A Hopkinsville, KY 42240	\$361.00
Thomas Giannini, MD Attn: Leslie Buckman 220 West 18th Street Hopkinsville, KY 42240	\$600.51
HCC Emergency Ambulance Service Attn: Linda Basham P.O. Box 589 Madisonville, KY 42431	\$2,951.60
HCC Emergency Ambulance Service Attn: Linda Basham P.O. Box 589 Madisonville, KY 42431	\$18,491.28
Heltsey Eye Care, PLLC P.O. Box 786 Hopkinsville, KY 42241	\$14.20
Jennie Stuart Medical Center Attn: Barbara McWaters P.O. Box 2400 Hopkinsville, KY 42241-2400	\$51,977.77
C. Lance Love, MD Attn: Judy Love 1724 Kenton Street Hopkinsville, KY 42240	\$816.00
John McCubbin, MD 216 West 15th Street Hopkinsville, KY 42240	\$90.00
The Medical Center of Bowling Green	

C/O Commonwealth Financial Resource	
800 Park Street	
Bowling Green, KY 42101	\$1,724.76
Mark D. Miller, DDS	
Attn: Charlie Fitzhugh	
320 Cool Water Court	
Hopkinsville, KY 42240	\$5,337.91
Gordon B. Newell, MD	
Attn: Sharon Smith	
1600 Scottsville Road, Suite 200	
Bowling Green, KY 42104	\$65.00
OB/GYN Associates, PSC	
Attn: Judy Moe	
1717 High Street, Suite 4	
Hopkinsville, KY 42240	\$100.00
Ophthalmology Associates of West Kentucky	
Attn: Teresa Wright	
205 West 15th Street	
Hopkinsville, KY 42240	\$1,218.13
Ramesh Patel, MD	
Attn: Lisa Chapman	
1717 High Street, Suite 1A	
Hopkinsville, KY 42240	\$132.00
Retina Consultants of Nashville	
3443 Dickerson Pike, Suite 200	
Nashville, TN 37202	\$320.00
Jeffrey K. Riggs, DO, PLLC	
212 West 18th Street, Suite 4	
Hopkinsville, KY 42240	\$210.00
John Roark, MD	
Attn: Debbie Bedard	
220 West 18th Street	
Hopkinsville, KY 42240	\$904.79
Prakash Shah, MD	
Attn: Kely Smith	
1724 Kenton Street, Suite 1D	
Hopkinsville, KY 42240	\$14,460.11
Paresh V. Sheth, MD	

P.O. Box 551	
Hopkinsville, KY 42241	\$2,116.00
Caroline Smith and Associates	
Attn: Kay Prima	
P.O. Box 482	
Hopkinsville, KY 42241-0482	\$112.00
Southeast Emergency Physicians	
Attn: Anita Ogle	
3429 Regal Drive	
Alcoa, TN 37701	\$7,057.98
Speech, Hearing, and Counseling, Inc.	
210 West 15th Street	
Hopkinsville, KY 42240	\$180.00
Staff Care, Inc.	
5001 Statesman Drive	
Irving, TX 75063-2414	\$16,150.00
F.M. Van Meter, MD	
Attn: Fonda Williams	
1722 High Street	
Hopkinsville, KY 42240	\$189.06
Rao Velaga, MD	
Attn: Connie Sims	
P.O. Box 548	
Hopkinsville, KY 42241	\$853.51
Vitreoretinal Foundation	
Attn: Paula Campbell	
P.O. Box 1000, Department 22	
Memphis, TN 38148-0022	\$250.00
West Kentucky Orthopedics	
Attn: Debbie Dickerson	
1717 High Street, Suite 3B	
Hopkinsville, KY 42240	\$1,168.89
West Kentucky Pulmonary Clinic	
Attn: Vetri Gurusamy	
1724 Kenton Street, Suite 1B	
Hopkinsville, KY 42240	\$2,315.00
Yellow Ambulance Service	
Attn: Margaret Compton	



1601 South Preston

Louisville, KY 40217

\$11,571.02

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

	Payee	Treasury Fee	Total Check
Check #T4995469 dated February 18, 1998			
Eva Bailey			
648 Lost Hills Road			
Olive Hill, Kentucky 41164	\$183.53	\$25.00	\$158.53
Check #T9604494 dated July 1, 1981			
Steven L Bowen			
639 Adams Ridge Road			
Clay City, Kentucky 40312	\$111.53	\$25.00	\$86.53
Check #7459195 dated December 14, 1999			
Samitra Brown			
C/O Diane Darnell, Child Support			
730 Schenkel Lane			
Frankfort, Kentucky 40601	\$100.00	\$25.00	\$75.00
Check #G10078680 dated August 13, 1999			
Calvary Child Care Center			
Attn: Dan Beckman			
214 Lincoln Avenue			
Danville, Kentucky 40422	\$1,268.50	\$25.00	\$1,243.50
Check #E0971958 dated April 4, 1995			
Emily Chipley			
C/O William Garrison			
3509 Linilo Court			
Lexington, Kentucky 40517	\$1,090.23	\$25.00	\$1,065.23
Check #T1958306 dated March 23, 1984			
Charles & Frances Cox			
102 North Elmarch Avenue			
Cynthiana, Kentucky 41031	\$28.27	\$25.00	\$3.27
Check #G1956566 dated December 17, 1986			
Albert Fischer			
10 Fischer Lane			
Ft. Thomas, Kentucky 41075	\$100.00	\$25.00	\$75.00
Check #T18201994 dated May 17, 2000			

Shanea Garretson			
10138 Spring Gate Drive			
Louisville, Kentucky 40241	\$90.00	\$25.00	\$65.00
Check #T17531934 dated February 23, 2000			
Randy H Grider			
91 Butler Drive			
Russell Springs, Kentucky 42642-4255	\$165.00	\$25.00	\$140.00
Check #T7957227 dated March 22, 1991			
C J Heichelbech			
3120 Tricia Court			
Burlington, Kentucky 41005	\$54.97	\$25.00	\$29.97
Check #E1003331 dated May 9, 1995			
Anne C Larme			
850 East Magnolia Avenue			
San Antonio, Texas 78212	\$163.00	\$25.00	\$138.00
Check #T17257552 dated July 30, 1999			
Esa Logsdon			
C/O Downing-McPeck Vision Center			
1403 Andrea Street			
Bowling Green, Kentucky 42103	\$620.00	\$25.00	\$595.00
Check #L12373575 dated August 13, 1999	\$203.24	\$25.00	\$178.24
Check #L12428378 dated October 22, 1999	\$203.24	\$25.00	\$178.24
Richard T Martin			
C/O Marsha Hall, Labor			
1027 US 127 South, Suite 4			
Frankfort, Kentucky 40601	\$406.48	\$50.00	\$356.48
Check #T6612788 dated April 15, 1999			
Sutaja Patel			
25915 Brookmere Avenue			
Loma Linda, CA 92354-3966	\$158.00	\$25.00	\$133.00
Check #M6844069 dated January 7, 1997	\$61.40	\$25.00	\$36.40
Check #M6862559 dated January 23, 1997	\$544.50	\$25.00	\$519.50
Check #M6994061 dated May 6, 1997	\$552.00	\$25.00	\$527.00
Check #M7025342 dated June 4, 1997	\$2,945.00	\$25.00	\$2,920.00
Check #M7039612 dated June 17, 1997	\$184.00	\$25.00	\$159.00
Check #M7068757 dated July 15, 1997	\$855.00	\$25.00	\$830.00
Check #M7099316 dated August 12, 1997	\$4,845.00	\$25.00	\$4,820.00
Check #M7137172 dated September 16, 1997	\$190.00	\$25.00	\$165.00

Check #M7167882 dated October 14, 1997	\$467.34	\$25.00	\$442.34
Check #M7175837 dated October 21, 1997	\$1,683.00	\$25.00	\$1,658.00
Check #M7191385 dated November 4, 1997	\$180.84	\$25.00	\$155.84
Check #M7221334 dated December 4, 1997	\$190.00	\$25.00	\$165.00
Check #M7259405 dated January 13, 1998	\$95.00	\$25.00	\$70.00
Check #M7423794 dated June 23, 1998	\$2,852.06	\$25.00	\$2,827.06
Check #M7468557 dated August 11, 1998	\$2,714.29	\$25.00	\$2,689.29
Check #M7489527 dated September 1, 1998	\$1,235.00	\$25.00	\$1,210.00
Check #M7502923 dated September 15, 1998	\$190.00	\$25.00	\$165.00
Check #M7516903 dated September 29, 1998	\$1,710.00	\$25.00	\$1,685.00
Check #M7575021 dated November 24, 1998	\$370.00	\$25.00	\$345.00
Check #M7723798 dated April 27, 1999	\$855.00	\$25.00	\$830.00
Check #M7744150 dated May 18, 1999	\$3,443.45	\$25.00	\$3,418.45
Check #M8399472 dated November 14, 2000	\$1,479.33	\$25.00	\$1,454.33
Pattie A. Clay Regional Medical Center			
P.O. Box 1600			
Richmond, Kentucky 40476-2603	\$27,642.21	\$550.00	\$27,092.21
Check #P4288562 dated September 15, 1997			
Linda Roten			
7558 Owenton Road			
Frankfort, Kentucky 40601	\$320.49	\$25.00	\$295.49
Check #6693190 dated July 9, 1999			
Velda Staggs			
C/O Diane Darnell, Child Support			
730 Schenkel Lane			
Frankfort, Kentucky 40601	\$82.40	\$25.00	\$57.40
Check #T17984566 dated April 14, 2000			
Dale Vermillion			
RR 1, Box 1167			
Fremont, MO 63941	\$242.00	\$25.00	\$217.00
Check #T1359455 dated May 18, 1994			
Ruth C. Whittle			
1241 Central Avenue			
Louisville, Kentucky 40208-1115	\$291.00	\$25.00	\$266.00
Check #G0615339 dated June 15, 1994			
Leslie Worley			
3509 Cedarwood Lane			
Beaver Creek, Ohio 45430	\$837.50	\$25.00	\$812.50

Check #835656 dated April 15, 1966

Kenneth Young

1905 Kendall Lane

Louisville, Kentucky 40216	\$50.79	\$25.00	\$25.79
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Check #T17683294 dated March 10, 2000

Jacqueline M Noland

1325 Red Stone Drive

Lexington, Kentucky 40509	\$101.00	\$25.00	\$76.00
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Check #G10711731 dated January 31, 2000

Kirk Dickey

3141 Beaumont Centre Circle, Suite 302

Lexington, Kentucky 40513	\$146.47	\$25.00	\$121.47
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Check #G10711732 dated January 31, 2000

Kirk Dickey

3141 Beaumont Centre Circle, Suite 302

Lexington, Kentucky 40513	\$199.00	\$25.00	\$174.00
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Check #E1073170 dated December 13, 1995

Raun T Carr

13394 Green Road

Walton, Kentucky 41094	\$54.00	\$25.00	\$29.00
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Check #L1461626 dated February 25, 1997

Clinton Eugene Jones

333 Booth Avenue

Owensboro, Kentucky 42301	\$186.56	\$25.00	\$161.56
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Check #P5389956 dated April 7, 1987

J Caldwell

C/O Billie J Caldwell

P.O. Box 533

London, Kentucky 40743-0533	\$351.99	\$25.00	\$326.99
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Check #M8448831 dated January 3, 2001

Gary Nakasato

P.O. Box 5007

Frankfort, Kentucky 40602	\$92.00	\$25.00	\$67.00
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Check #M8448855 dated January 3, 2001

William Feltner

P.O. Box 5007

Frankfort, KY 40602	\$1,096.00	\$25.00	\$1,071.00
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Check #P5447094 dated May 21, 1999

Kimberly S Mulder Mitchell

126 Parkside Drive

Frankfort, KY 40601

\$619.52

\$25.00

\$594.52

Section 2. The Finance and Administration Cabinet and the State Treasurer are authorized to pay the following listed claims from the following funds:

(1) The Kentucky Retirement Systems is authorized to make payment from their retirement fund for state treasury checks payable to the persons or their personal representatives but not presented for payment within a period of five (5) years from the date of issuance of such checks, the sums hereinafter specified:

			Amount
Check #C0360782 dated April 15, 1994	\$130.83	\$25.00	\$105.83
Check #C0396790 dated August 15, 1994	\$133.59	\$25.00	\$108.59
Check #C0415728 dated October 15, 1994	\$133.59	\$25.00	\$108.59
Check #C0426258 dated November 15, 1994	\$133.59	\$25.00	\$108.59
Check #C0435575 dated December 15, 1994	\$133.59	\$25.00	\$108.59
Check #C0444747 dated January 13, 1995	\$133.59	\$25.00	\$108.59
Check #C0453991 dated February 15, 1995	\$133.59	\$25.00	\$108.59
Check #C0463394 dated March 6, 1995	\$133.59	\$25.00	\$108.59
Check #C0472648 dated April 15, 1995	\$133.59	\$25.00	\$108.59
Check #C0482069 dated May 12, 1995	\$133.59	\$25.00	\$108.59
Check #C0491351 dated June 15, 1995	\$133.59	\$25.00	\$108.59
Check #C0500889 dated July 15, 1995	\$136.41	\$25.00	\$111.41
Check #C0510588 dated August 15, 1995	\$136.41	\$25.00	\$111.41
Check #C0520153 dated September 15, 1995	\$136.41	\$25.00	\$111.41
Check #C0530071 dated October 13, 1995	\$136.41	\$25.00	\$111.41
Check #C0539992 dated November 15, 1995	\$136.41	\$25.00	\$111.41
Check #C0549706 dated December 15, 1995	\$136.41	\$25.00	\$111.41
Check #C0560073 dated January 12, 1996	\$136.41	\$25.00	\$111.41
Check #C0569713 dated February 15, 1996	\$136.41	\$25.00	\$111.41
Check #C0579390 dated March 15, 1996	\$136.41	\$25.00	\$111.41
Check #C0589074 dated April 12, 1996	\$136.41	\$25.00	\$111.41
Check #C0598876 dated May 15, 1996	\$136.41	\$25.00	\$111.41
Check #C0609069 dated June 15, 1996	\$136.41	\$25.00	\$111.41
Check #C0618851 dated July 12, 1996	\$136.41	\$25.00	\$111.41
Check #C0629417 dated August 15, 1996	\$140.23	\$25.00	\$115.23
Check #C0639246 dated September 13, 1996	\$140.23	\$25.00	\$115.23
Check #C0649589 dated October 11, 1996	\$140.23	\$25.00	\$115.23
Check #C0659925 dated November 15, 1996	\$140.23	\$25.00	\$115.23
Check #C0670174 dated December 13, 1996	\$140.23	\$25.00	\$115.23
Check #C0679490 dated January 15, 1997	\$140.23	\$25.00	\$115.23

Check #C0689134 dated February 15, 1997	\$140.23	\$25.00	\$115.23
Check #C0698823 dated March 15, 1997	\$140.23	\$25.00	\$115.23
Check #C0708463 dated April 15, 1997	\$140.23	\$25.00	\$115.23
Check #C0718051 dated May 15, 1997	\$140.23	\$25.00	\$115.23
Check #C0727118 dated June 14, 1997	\$140.23	\$25.00	\$115.23
Check #C0737246 dated July 15, 1997	\$144.44	\$25.00	\$119.44
Check #C0747124 dated August 15, 1997	\$144.44	\$25.00	\$119.44
Check #C0757066 dated September 12, 1997	\$144.44	\$25.00	\$119.44
Check #C0767096 dated October 15, 1997	\$144.44	\$25.00	\$119.44
Check #C0777114 dated November 15, 1997	\$144.44	\$25.00	\$119.44
Check #C0786878 dated December 12, 1997	\$144.44	\$25.00	\$119.44
Check #C0796289 dated January 15, 1998	\$144.44	\$25.00	\$119.44
Check #C0805760 dated February 13, 1998	\$144.44	\$25.00	\$119.44

Birdie Roberson Estate

C/O Robert Gilbert

915 South Hancock Street

Louisville, KY 40203-2519	\$5,938.11	\$1,075.00	\$4,863.11
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(2) The Education Cabinet is authorized to make payment from their Unemployment Compensation Fund for state treasury checks payable to the persons or their personal representatives but not presented for payment within a period of five (5) years from the date of issuance of the checks, the amounts listed below:

Check #U2512392 dated July 2, 1998

Linda P Brandt

218 Payne Street

Frankfort, KY 40601			\$130.00
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Check #U2569711 dated August 9, 1988

Roberta B Haney, C/O Ron Haney

The North Face

2013 Farallon Drive

San Leandro, CA 94577			\$36.00
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Check #U1282734 dated January 2, 1997

John W Riffle

9775 Tumbleweed

Cannelton, IN 47520			\$492.00
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Check #U1640222 dated May 13, 1997

Jesse M Wilson

248 Herman Avenue

Bowling Green, KY 42104			\$418.00
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Section 3. Whereas the persons and companies named above have furnished in good faith the services, supplies, and materials enumerated, and the Commonwealth has received the same, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming a law.

**Approved April 5, 2006.**

## CHAPTER 172

**(HB 646)**

AN ACT relating to the Governor's Wellness and Physical Activity Initiative.

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

SECTION 1. A NEW SECTION OF KRS CHAPTER 12 IS CREATED TO READ AS FOLLOWS:

- (1) *The Governor's Council on Wellness and Physical Activity is hereby established and authorized to operate the Governor's Wellness and Physical Activity Program, Inc. for the purpose of establishing and implementing a health, wellness, and fitness program for Kentucky and to promote a healthy lifestyle for all citizens of the Commonwealth. The Governor's Council on Wellness and Physical Activity shall be attached to the Office of the Governor for administrative purposes.*
- (a) *The ex officio members of the Governor's Council on Wellness and Physical Activity shall be as follows:*
1. *The Governor or the Governor's designee from the executive cabinet;*
  2. *The Secretary of the Cabinet for Health and Family Services or designee;*
  3. *The Secretary of the Personnel Cabinet or designee;*
  4. *The Secretary of the Education Cabinet;*
  5. *The Senate co-chair of the Interim Joint Committee on Health and Welfare of the General Assembly; and*
  6. *The House co-chair of the Interim Joint Committee on Health and Welfare of the General Assembly.*
- (b) *In addition to the ex officio members, the Governor shall appoint five (5) council members to serve three (3) year terms on the Governor's Council on Wellness and Physical Activity. Members appointed by the Governor may be reappointed by the Governor to serve successive terms. In making appointments, the Governor shall attempt to include individuals from different geographic regions of the Commonwealth of Kentucky. The Governor shall make appointments to fill vacancies as they occur. Each appointment after the initial appointment shall be for a three (3) year term unless the appointment is to fill the unexpired portion of a term.*
- (c) *The Governor or if so designated by the Governor, the chairman of the council, shall have the authority to hire, fire, and manage all personnel of the Governor's Wellness and Physical Activity Program, Inc., including the executive director.*
- (d) *The council shall administer funds appropriated or gifts, donations, or funds received from any source. The council may expend funds in its discretion to carry out the intent of Sections 1, 2, 3, 4, and 5 of this Act.*
- (e) *The council shall closely coordinate with the Governor's Office of Wellness and Physical Activity to establish policies and procedures.*
- (f) *The 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.*
- (g) *The council shall develop funding and support plans that provide for the maintenance of the Governor's Office of Wellness and Physical Activity, and shall make recommendations to the Governor and Secretary of the Cabinet for Health and Family Services.*

- (h) *The council shall meet quarterly or more 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.*
- (i) *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, subject to Finance and Administration Cabinet administrative regulations.*
- (j) *The council may establish working groups as necessary.*
- (k) *The council shall establish the Governor's Wellness and Physical Activity Program, Inc. pursuant to the requirements in Sections 1, 2, 3, 4, and 5 of this Act.*
- (2) *Funds appropriated for purposes of the program shall only be used to facilitate the goals of the Governor's Office of Wellness and Physical Activity and shall not lapse at the end of the fiscal year.*
- (3) (a) *The Governor's Wellness and Physical Activity Program, Inc. shall follow standard accounting practices and shall submit the following financial reports to the Office of the Governor, the Finance and Administration Cabinet, and the Legislative Research Commission:*
  - 1. *Quarterly reports of expenditures of state funds, submitted on or before the thirtieth day after the end of each quarter in the corporation's fiscal year;*
  - 2. *Annual reports of receipts and expenditures for the Governor's Wellness and Physical Activity Program, Inc., submitted on or before the sixtieth day after the end of the fiscal year of the corporation; and*
  - 3. *The report of an annual financial audit conducted by an independent auditor, submitted on or before September 1 of each year.*
- (b) *The Governor's Wellness and Physical Activity Program, Inc. and the Governor's Office of Wellness and Physical Activity shall file quarterly reports with the Office of the Governor and the Legislative Research Commission. The report shall include a detail of the operations of the program for the preceding year. The report shall include information concerning the participant demographics, number of incentives distributed, and program outcomes according to such measures of success as the board may adopt.*

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

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

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

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



- (a) Attorney General.
  - 5. Department of the Treasury.
    - (a) Treasurer.
  - 6. Department of Agriculture.
    - (a) Commissioner of Agriculture.
    - (b) Kentucky Council on Agriculture.
  - 7. Auditor of Public Accounts.
- II. Program cabinets headed by appointed officers:
- 1. Justice Cabinet:
    - (a) Department of State Police.
    - (b) Department of Criminal Justice Training.
    - (c) Department of Corrections.
    - (d) Department of Juvenile Justice.
    - (e) Office of the Secretary.
    - (f) Offices of the Deputy Secretaries.
    - (g) Office of General Counsel.
    - (h) Division of Kentucky State Medical Examiners Office.
    - (i) Parole Board.
    - (j) Kentucky State Corrections Commission.
    - (k) Commission on Correction and Community Service.
  - 2. Education, Arts, and Humanities Cabinet:
    - (a) Department of Education.
      - (1) Kentucky Board of Education.
    - (b) Department for Libraries and Archives.
    - (c) Kentucky Educational Television.
    - (d) Kentucky Commission on the Deaf and Hard of Hearing.
    - (e) Operations and Development Office.
    - (f) Board of Directors for the Center for School Safety.
  - 3. Environmental and Public Protection Cabinet:
    - (a) Office of the Secretary.
      - 1. Office of Legislative and Intergovernmental Affairs.
      - 2. Office of Communications and Public Outreach.
      - 3. Office of Regulatory Affairs.
      - 4. Office of Legal Services.
      - 5. Office of Administrative and Information Services.
      - 6. Office of Administrative Hearings.
      - 7. Office of Inspector General.
      - 8. Mine Safety Review Commission.

9. Workers' Compensation Board.
  10. Kentucky State Nature Preserves Commission.
  11. Kentucky Environmental Quality Commission.
  12. Kentucky Occupational Safety and Health Review Commission.
- (b) Department for Environmental Protection.
1. Office of the Commissioner.
  2. Division of Air Quality.
  3. Division of Water.
  4. Division of Environmental Services.
  5. Division of Waste Management.
  6. Division of Enforcement.
  7. Division of Compliance Assistance.
- (c) Department for Natural Resources.
1. Office of the Commissioner.
  2. Office of Technical and Administrative Support.
  3. Division of Mine Permits.
  4. Division of Mine Reclamation and Enforcement.
  5. Division of Abandoned Mine Lands.
  6. Division of Oil and Gas Conservation.
  7. Office of Mine Safety and Licensing.
  8. Division of Forestry.
  9. Division of Conservation.
- (d) Department of Public Protection.
1. Office of the Commissioner.
  2. Division of Administrative Services.
  3. Crime Victims Compensation Board.
  4. Board of Claims.
  5. Board of Tax Appeals.
  6. Kentucky Boxing and Wrestling Authority.
  7. Kentucky Horse Racing Authority.
  8. Kentucky Public Service Commission.
  9. Office of Alcoholic Beverage Control.
  10. Office of Charitable Gaming.
  11. Office of Financial Institutions.
  12. Office of Housing, Buildings and Construction.
  13. Office of Insurance.
- (e) Department of Labor.
1. Office of the Commissioner.

2. Office of Occupational Safety and Health.
  3. Office of Labor Management Relations and Mediation.
  4. Office of Workplace Standards.
  5. Office of Workers' Claims.
  6. Workers' Compensation Funding Commission.
  7. Kentucky Labor Management Advisory Council.
  8. Occupational Safety and Health Standards Board.
  9. Prevailing Wage Review Board.
  10. Kentucky Employees Insurance Association.
  11. Apprenticeship and Training Council.
  12. State Labor Relations Board.
  13. Workers' Compensation Advisory Council.
  14. Workers' Compensation Nominating Commission.
  15. Employers' Mutual Insurance Authority.
  16. Division of Administrative Services.
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 Aviation.
  - (e) Department of Intergovernmental Programs.
    1. Office of Transportation Enhancement Programs.
    2. Office of Rural and Secondary Roads.
  - (f) Office of the Secretary.
    1. Office of Legislative and Intergovernmental Affairs.
    2. Office of Public Affairs.
    3. Office of Transportation Delivery.
    4. Office for Business and Occupational Development.
    5. Office of Budget and Fiscal Management.
    6. Office of Legal Services.
    7. Office of Inspector General.
    8. Office of the Transportation Operations Center.
    9. Office of Personnel Management.

5. Cabinet for Economic Development:
  - (a) Office of Administration and Support.
  - (b) Department for New Business Development.
  - (c) Department of Financial Incentives.
  - (d) Department for Existing Business 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.
  - (k) Commission on Small Business Advocacy.
6. Cabinet for Health and Family Services:
  - (a) Department for Public Health.
  - (b) Department for Medicaid Services.
  - (c) Department for Mental Health and Mental Retardation Services.
  - (d) Kentucky Commission for Children with Special Health Care Needs.
  - (e) Office of Certificate of Need.
  - (f) Office of the Secretary.
  - (g) Office of Legal Services.
  - (h) Office of Inspector General.
  - (i) Office of Legislative and Public Affairs.
  - (j) Department for Community Based Services.
  - (k) Department for Disability Determination Services.
  - (l) Office of the Ombudsman.
  - (m) Department for Human Support Services.
  - (n) Kentucky Commission on Community Volunteerism and Service.
  - (o) Office of Fiscal Services.
  - (p) Office of Human Resource Management.
  - (q) Office of Technology.
  - (r) Office of Contract Oversight.
  - (s) ***Governor's Office of Wellness and Physical Activity.***
7. Finance and Administration Cabinet:
  - (a) Office of General Counsel.
  - (b) Office of the Controller.
  - (c) Office of Administrative Services.
  - (d) Office of Public Information.
  - (e) Department for Facilities and Support Services.

- (f) Department of Revenue.
  - (g) Commonwealth Office of Technology.
  - (h) State Property and Buildings Commission.
  - (i) Kentucky Savings Bond Authority.
  - (j) Office of Equal Employment Opportunity and Contract Compliance.
  - (k) County Officials Compensation Board.
  - (l) Kentucky Employees Retirement Systems.
  - (m) Commonwealth Credit Union.
  - (n) State Investment Commission.
  - (o) Kentucky Housing Corporation.
  - (p) Kentucky Local Correctional Facilities Construction Authority.
  - (q) Kentucky Turnpike Authority.
  - (r) Historic Properties Advisory Commission.
  - (s) Kentucky Tobacco Settlement Trust Corporation.
  - (t) Eastern Kentucky Exposition Center Corporation.
  - (u) State Board for Proprietary Education.
  - (v) Kentucky Higher Education Assistance Authority.
  - (w) Kentucky River Authority.
  - (x) Kentucky Teachers' Retirement System Board of Trustees.
8. Commerce Cabinet:
- (a) Department of Tourism.
    - (1) Division of Tourism Services.
    - (2) Division of Marketing and Advertising.
    - (3) Division of Parks Marketing.
  - (b) Kentucky Department of Parks.
    - (1) Division of Information Technology.
    - (2) Division of Personnel and Payroll.
    - (3) Division of Financial Operations.
    - (4) Division of Facilities Management.
    - (5) Division of Project Administration.
    - (6) Division of Customer Services.
    - (7) Division of Recreation.
    - (8) Division of Golf Courses.
    - (9) Division of Food Services.
    - (10) Division of Rangers.
    - (11) Division of Eastern Parks.
    - (12) Division of Southern Parks.
    - (13) Division of Western Parks.

- (c) Department of Fish and Wildlife Resources.
  - (1) Division of Law Enforcement.
  - (2) Division of Administrative Services.
  - (3) Division of Engineering.
  - (4) Division of Fisheries.
  - (5) Division of Information and Education.
  - (6) Division of Wildlife.
  - (7) Division of Public Affairs.
- (d) Kentucky Horse Park.
  - (1) Division of Support Services.
  - (2) Division of Buildings and Grounds.
  - (3) Division of Operational Services.
- (e) Kentucky State Fair Board.
  - (1) Division of Expositions and Admission.
  - (2) Division of Kentucky Fair and Exposition Center Operations.
  - (3) Division of Commonwealth Convention Center.
  - (4) Division of Public Relations and Media.
  - (5) Division of Administrative Services.
  - (6) Division of Personnel Management and Staff Development.
  - (7) Division of Sales.
  - (8) Division of Security and Traffic Control.
- (f) Office of the Secretary.
- (g) Office of Finance and Administration.
- (h) Office of Legal Affairs.
- (i) Office of Intergovernmental Affairs.
- (j) Office of Human Resources.
- (k) Office of Public Affairs and Constituent Services.
- (l) Office of Information Technology.
- (m) Office of Purchase and Procurement.
- (n) Office of Creative Services.
- (o) Office of Capital Plaza Operations.
- (p) Office of Energy Policy.
- (q) Coal Marketing and Export.
- (r) Kentucky Coal Council.
- (s) Kentucky Foundation for the Arts.
- (t) Kentucky Humanities Council.
- (u) Kentucky Heritage Council.
- (v) Kentucky Arts Council.

- (w) Kentucky Historical Society.
  - (1) Division of Museums.
  - (2) Division of Oral History and Educational Outreach.
  - (3) Division of Research and Publications.
  - (4) Division of Administration.
- (x) Kentucky Center for the Arts.
  - (1) Division of Governor's School for the Arts.
- (y) Kentucky Artisans Center at Berea.
- 9. 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.
- 10. Personnel Cabinet:
  - (a) Office of the Secretary.
  - (b) Department for Personnel Administration.
  - (c) Office for Employee Relations.
  - (d) Kentucky Public Employees Deferred Compensation Authority.
  - (e) Office of Administrative Services.
  - (f) Office of Legal Services.
  - (g) Office of Government Training.
  - (h) Department for Employee 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. Education Professional Standards Board.
9. Office of Minority Empowerment.
- 10. Governor's Council on Wellness and Physical Activity.**

Section 3. KRS 12.023 is amended to read as follows:

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

- (1) Council on Postsecondary Education;
- (2) Department of Military Affairs;
- (3) Department for Local Government;
- (4) Kentucky Commission on Human Rights;
- (5) Kentucky Commission on Women;
- (6) Kentucky Commission on Military Affairs;
- (7) Governor's Scholars Program;
- (8) Agricultural Development Board;
- (9) Office of Early Childhood Development;
- (10) Kentucky Agency for Substance Abuse Policy;
- (11) Education Professional Standards Board;
- (12) Kentucky Agricultural Finance Corporation;~~[-and]~~
- (13) Office of Minority Empowerment; *and*
- (14) Governor's Council on Wellness and Physical Activity.**

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

- (1) *The Governor's Office of Wellness and Physical Activity is hereby established to implement a health, wellness, and fitness program for Kentucky and to promote a healthy lifestyle for all citizens of the Commonwealth. The office shall be headed by an executive director, who shall be appointed by the Governor in accordance with KRS 11.040 and shall serve at the pleasure of and under the direction of the Governor.*
- (2) *The office's duties, rights, and responsibilities shall include, but not be limited to, the following:*
  - (a) *Create a strategic plan to design Kentucky's wellness efforts;*
  - (b) *Implement and operate the Governor's Challenge Program;*
  - (c) *Provide assistance to the Governor's Council on Wellness and Physical Activity in accomplishing its mission and charge;*
  - (d) *Identify and assess the most common challenges, existing resources, and services within the state and make recommendations to the Governor, state Legislature, or other governing bodies regarding the demand and effectiveness of present services and improvements that should be addressed;*
  - (e) *Develop, implement, and coordinate all physical activity and wellness related programs for residents of the Commonwealth;*
  - (f) *Develop a comprehensive statewide strategy that coordinates state and local efforts to promote wellness and physical activity;*



- (g) *Coordinate the efforts of the Governor's Council of Wellness and Physical Activity with the efforts of the Education Cabinet, Cabinet for Health and Family Services, and the Personnel Cabinet;*
- (h) *Design information campaigns to raise public awareness and promote citizen engagement regarding the critical nature of wellness in the state and to increase the will to make quality resources and services more widely available; and*
- (i) *Promulgate any administrative regulations necessary to carry out the provisions of this chapter.*
- (3) *The executive director may, at the request of the Governor or any cabinet secretary, serve as a designee on boards, commissions, task forces, or other committees addressing issues relating to wellness and physical activity.*
- (4) *The Finance and Administration Cabinet, the Governor's Office of Policy and Management, the Education Cabinet, and the Personnel Cabinet shall take all steps necessary to effectuate the provisions of this section.*

Section 5. KRS 194A.030 is amended to read as follows:

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

- (1) Office of the Secretary. Within the Office of the Secretary, there shall be an Office of Legislative and Public Affairs, an Office of Legal Services, and an Office of Inspector General, *and the Governor's Office of Wellness and Physical Activity.*
  - (a) The Office of Legislative and Public Affairs shall be responsible for the development and implementation of the major legislative and policy initiatives of the cabinet, and shall include oversight of administrative hearings, legislative affairs, and communications with internal and external audiences of the cabinet. The Office of Legislative and Public Affairs shall be headed by an executive director who shall be appointed by the secretary with the approval of the Governor under KRS 12.050.
  - (b) The Office of Legal Services shall provide legal advice and assistance to all units of the cabinet in any legal action in which it may be involved. The Office of Legal Services shall employ all attorneys of the cabinet who serve the cabinet in the capacity of attorney, giving legal advice and opinions concerning the operation of all programs in the cabinet. The Office of Legal Services shall be headed by a general counsel who shall be appointed by the secretary with the approval of the Governor under KRS 12.050 and 12.210. The general counsel shall be the chief legal advisor to the secretary and shall be directly responsible to the secretary. The Attorney General, on the request of the secretary, may designate the general counsel as an assistant attorney general under the provisions of KRS 15.105.
  - (c) The Office of Inspector General shall be responsible for:
    - 1. The conduct of audits and investigations for detecting the perpetration of fraud or abuse of any program by any client, or by any vendor of services with whom the cabinet has contracted; and the conduct of special investigations requested by the secretary, commissioners, or office heads of the cabinet into matters related to the cabinet or its programs;
    - 2. Licensing and regulatory functions as the secretary may delegate;
    - 3. Review of health facilities participating in transplant programs, as determined by the secretary, for the purpose of determining any violations of KRS 311.165 to 311.235, 311.241, 311.243, 311.245, and 311.247; and
    - 4. The notification and forwarding of any information relevant to possible criminal violations to the appropriate prosecuting authority.

The Office of Inspector General shall be headed by an inspector general who shall be appointed by the secretary with the approval of the Governor. The inspector general shall be directly responsible to the secretary;
  - (d) *The Governor's Office of Wellness and Physical Activity shall be responsible for establishing and implementing a health, wellness, and fitness program for Kentucky and to promote a healthy lifestyle for all citizens of the Commonwealth as defined in Section 4 of this Act.*
- (2) Department for Medicaid Services. The Department for Medicaid Services shall serve as the single state agency in the Commonwealth to administer Title XIX of the Federal Social Security Act. The Department for

Medicaid Services shall be headed by a commissioner for Medicaid services, who shall be appointed by the secretary with the approval of the Governor under KRS 12.050. The commissioner for Medicaid services shall be a person who by experience and training in administration and management is qualified to perform the duties of this office. The commissioner for Medicaid services shall exercise authority over the Department for Medicaid Services under the direction of the secretary and shall only fulfill those responsibilities as delegated by the secretary;

- (3) Department for Public Health. The Department for Public Health shall develop and operate all programs of the cabinet that provide health services and all programs for assessing the health status of the population for the promotion of health and the prevention of disease, injury, disability, and premature death. The Department for Public Health shall be headed by a commissioner for public health who shall be appointed by the secretary with the approval of the Governor under KRS 12.050. The commissioner for public health shall be a duly licensed physician who by experience and training in administration and management is qualified to perform the duties of this office. The commissioner shall advise the head of each major organizational unit enumerated in this section on policies, plans, and programs relating to all matters of public health, including any actions necessary to safeguard the health of the citizens of the Commonwealth. The commissioner shall serve as chief medical officer of the Commonwealth. The commissioner for public health shall exercise authority over the Department for Public Health under the direction of the secretary and shall only fulfill those responsibilities as delegated by the secretary;
- (4) Department for Mental Health and Mental Retardation Services. The Department for Mental Health and Mental Retardation Services shall develop and administer programs for the prevention of mental illness, mental retardation, brain injury, developmental disabilities, and substance abuse disorders and shall develop and administer an array of services and support for the treatment, habilitation, and rehabilitation of persons who have a mental illness or emotional disability, or who have mental retardation, brain injury, developmental disability, or a substance abuse disorder. The Department for Mental Health and Mental Retardation Services shall be headed by a commissioner for mental health and mental retardation who shall be appointed by the secretary with the approval of the Governor under KRS 12.050. The commissioner for mental health and mental retardation shall be by training and experience in administration and management qualified to perform the duties of the office. The commissioner for mental health and mental retardation shall exercise authority over the department under the direction of the secretary and shall only fulfill those responsibilities as delegated by the secretary;
- (5) Commission for Children with Special Health Care Needs. The duties, responsibilities, and authority set out in KRS 200.460 to 200.490 shall be performed by the commission. The commission shall advocate the rights of children with disabilities and, to the extent that funds are available, shall provide the services and facilities for children with disabilities as are deemed appropriate by the commission. The commission shall be composed of seven (7) members appointed by the Governor to serve a term of office of four (4) years. The commission may promulgate administrative regulations under KRS Chapter 13A as may be necessary to implement and administer its responsibilities. The duties, responsibilities, and authority of the Commission for Children with Special Health Care Needs shall be performed through the office of the executive director of the commission. The executive director shall be appointed by the Governor under KRS 12.040, and the commission may at any time recommend the removal of the executive director upon filing with the Governor a full written statement of its reasons for removal. The executive director shall report directly to the Commission for Children with Special Health Care Needs and serve as the commission's secretary;
- (6) Office of Certificate of Need. The duties, responsibilities, and authority pertaining to the certificate of need functions and the licensure appeal functions, as set out in KRS Chapter 216B, shall be performed by this office;
- (7) Department for Human Support Services. The Department for Human Support Services shall streamline the various responsibilities associated with the human services programs for which the cabinet is responsible. This shall include, but not be limited to, oversight of the Division of Aging Services, the Division of Child Abuse and Domestic Violence Services, the Division of Women's Physical and Mental Health, the Division of Family Resource and Youth Services Centers, and the Kentucky Commission on Community Volunteerism and Services. The Department for Human Support Services shall be headed by a commissioner for human support services who shall be appointed by the secretary with the approval of the Governor under KRS 12.050. The commissioner for human support services shall be by training and experience in administration and management qualified to perform the duties of the office. The commissioner for human support services shall

exercise authority over the department under the direction of the secretary and shall only fulfill those responsibilities as delegated by the secretary;

- (8) Office of the Ombudsman. The Office of the Ombudsman shall provide professional support in the evaluation of programs, including but not limited to quality improvement and information analysis and reporting, including contract monitoring, program monitoring, and the development of quality service delivery, and a review and resolution of citizen complaints about programs or services of the cabinet when those complaints are unable to be resolved through normal administrative remedies. The Office of the Ombudsman shall place an emphasis on research and best practice and program accountability and shall monitor federal compliance. The Office of the Ombudsman shall be headed by an executive director who shall be appointed by the secretary with the approval of the Governor under KRS 12.050;
- (9) Office of Technology. The Office of Technology shall develop and maintain technology, technology infrastructure, and information management systems in support of all units of the cabinet. The Office of Technology shall be headed by a chief information officer who shall be appointed by the secretary with the approval of the Governor under KRS 12.050. The chief information officer shall exercise authority over the Office of Technology under the direction of the secretary and shall only fulfill those responsibilities as delegated by the secretary;
- (10) Office of Human Resource Management. The Office of Human Resource Management shall coordinate, oversee, and execute all personnel, training, and management functions of the cabinet. The office shall focus on the oversight, development, and implementation of quality personnel services; curriculum development and delivery of instruction to staff; the administration, management, and oversight of training operations; health, safety, and compliance training; and equal employment opportunity compliance functions. The office shall be headed by an executive director appointed by the secretary with the approval of the Governor in accordance with KRS 12.050;
- (11) Office of Fiscal Services. The Office of Fiscal Services shall coordinate, oversee, and execute the accounting, treasury, and financial reporting functions of the cabinet. The office shall be headed by a chief financial officer appointed by the secretary with the approval of the Governor in accordance with KRS 12.050;
- (12) Office of Contract Oversight. The Office of Contract Oversight shall coordinate, oversee, and execute the contracting and procurement processes of the cabinet and shall maintain these processes in compliance with all applicable laws, rules, regulations, and procedures. The office shall ensure that the cabinet executes its contracting and procurement processes within the highest ethical standards and with the utmost integrity. The office shall oversee existing contracts to assure that the cabinet receives those services for which it has contracted or receives funds in payment for services that it has provided by contract, and shall have responsibility for determining that the cabinet maximizes the value of dollars spent by the cabinet for commodities and services. The office shall be headed by an executive director appointed by the secretary with the approval of the Governor in accordance with KRS 12.050;
- (13) Department for Community Based Services. The Department for Community Based Services shall administer and be responsible for child and adult protection, foster care and adoption, permanency, and services to enhance family self-sufficiency, including child care, social services, public assistance, and family and child support. The department shall be headed by a commissioner appointed by the secretary with the approval of the Governor in accordance with KRS 12.050; and
- (14) Department for Disability Determination Services. The Department for Disability Determination Services shall serve as the state unit as required by Title II and Title XVI of the Social Security Act, and shall have responsibility for determining eligibility for disability for those citizens of the Commonwealth who file applications for disability with the Social Security Administration. The department shall also make determinations for citizens of the Commonwealth who make application for the Kentucky Transitional Assistance Program and determine medical exemptions for participants in the Kentucky Works Program. The department shall be headed by a commissioner appointed by the secretary with the approval of the Governor in accordance with KRS 12.050.

**Approved April 5, 2006.**

**CHAPTER 173****(HB 710)**

AN ACT relating to transportation.

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

Section 1. KRS 189.030 is amended to read as follows:

- (1) **Headlamps**~~[Lights]~~, when required on a vehicle, shall be illuminated:
  - (a) During the period from one-half (1/2) hour after sunset to one-half (1/2) hour before sunrise;~~and~~
  - (b) At such other times as atmospheric conditions render visibility as low as or lower than is ordinarily the case during that period.
- (2) Provisions as to distances that lights must be visible refer to visibility under ordinary atmospheric conditions.
- ~~[(2) Cities may by ordinance designate certain well lighted streets or parts of the streets as being sufficiently illuminated during certain periods as to make lights unnecessary. In this case subsection (1) shall not apply to vehicles parked in those streets during such periods.]~~

Section 2. KRS 189.040 is amended to read as follows:

- (1) Every motor vehicle other than a motorcycle or motor-driven cycle shall be equipped with at least two (2) head lamps with at least one (1) on each side of the front of the motor vehicle, which head lamps shall comply with the requirements and limitations set forth in this section.
- (2) Every motorcycle, moped and every motor-driven cycle shall be equipped with at least one (1) and not more than two (2) head lamps which shall comply with the requirements and limitations of this section.
- (3) Except as hereinafter provided, the head lamps or the auxiliary driving lamps or the auxiliary passing lamp or combinations thereof on motor vehicles other than a motorcycle or motor-driven cycle shall be so arranged that the driver may control the selection between distribution of light projected to different elevations, subject to the following requirements and limitations:
  - (a) There shall be an uppermost distribution of light, or composite beam, so aimed and of such intensity as to reveal persons and vehicles at a distance of at least three hundred fifty (350) feet ahead for all conditions of loading;
  - (b) There shall be a lowermost distribution of light, or composite beam, so aimed and of sufficient intensity to reveal persons and vehicles at a distance of at least one hundred (100) feet ahead; and on a straight level road under any condition of loading none of the high-intensity portion of the beam shall be directed to strike the eyes of an approaching driver;
  - (c) Every new motor vehicle, other than a motorcycle or motor-driven cycle, registered in this state after January 1, 1956, which has multiple-beam road-lighting equipment shall be equipped with a beam indicator, which shall be lighted whenever the uppermost distribution of light from the head lamps is in use, and shall not otherwise be lighted. Said indicator shall be so designed and located that when lighted it will be readily visible without glare to the driver of the vehicle so equipped.
- (4) Whenever a motor vehicle is being operated on a roadway or shoulder adjacent thereto during the times specified in KRS 189.030, the driver shall use a distribution of light, or composite beam, directed high enough and of sufficient intensity to reveal persons and vehicles at a safe distance in advance of the vehicle, subject to the requirements and limitations hereinafter set forth.
- (5) Whenever a driver of a vehicle approaches an oncoming vehicle within five hundred (500) feet, such driver shall use a distribution of light, or composite beam, so aimed that the glaring rays are not projected into the eyes of the oncoming driver. The lowermost distribution of light, or composite beam, specified in paragraph (b) of subsection (3) of this section shall be deemed to avoid glare at all times, regardless of road contour and loading.
- (6) Whenever the driver of a vehicle follows another vehicle within ~~three~~~~two~~ hundred (300)~~[(200)]~~ feet to the rear, except when engaged in the act of overtaking and passing, such driver shall use a distribution of light~~permissible under subsection (5) of KRS 189.340, subsection (1) of KRS 189.370, KRS 189.375, and subsection (3)~~

~~of KRS 189.560~~ other than the uppermost distribution of light specified in paragraph (a) of subsection (3) of this section.

- (7) **Headlamps**~~[Headlights]~~ arranged to provide a single distribution of light not supplemented by auxiliary driving lights shall be permitted on motor vehicles manufactured and sold prior to May 30, 1939, in lieu of multiple-beam road-lighting equipment, if the single distribution of light complies with the following requirements and limitations:
- (a) The **headlamps**~~[headlights]~~ shall be so aimed that when the vehicle is not loaded none of the high intensity portion of the light shall, at a distance of twenty-five (25) feet ahead, project higher than a level of five (5) inches below the level of the center of the light from which it comes, and in no case higher than forty-two (42) inches above the level on which the vehicle stands, at a distance of seventy-five (75) feet ahead;
  - (b) The intensity shall be sufficient to reveal persons and vehicles at a distance of at least two hundred (200) feet;
  - (c) Whenever the operator of a motor vehicle approaches an oncoming vehicle within five hundred (500) feet, he shall use a distribution of light or composite beam so aimed that the glaring rays are not projected into the eyes of the oncoming driver. In no case shall the high intensity portion which is projected to the left of the prolongation of the extreme left side of the vehicle be aimed higher than the center of the lamp from which it comes at a distance of twenty-five (25) feet ahead, and in no case higher than a level of forty-two (42) inches above the level upon which the vehicle stands at a distance of seventy-five (75) feet ahead.
- (8) Flashing lights are prohibited on all motor vehicles except as a means for indicating a right or left turn or for the purpose of warning the operators of other vehicles of the presence of a vehicular traffic hazard requiring the exercise of unusual care in approaching, overtaking or passing.
- (9) ***The height of the headlamps, from the center of the lamp to level ground when the vehicle is unloaded, shall be between twenty-four (24) and fifty-four (54) inches***~~[Except as provided in any regulations adopted pursuant to KRS 189.287, bicycles need have only one (1) light in front which will reveal clearly substantial objects at least fifty (50) feet ahead].~~

Section 3. KRS 189.050 is amended to read as follows:

- (1) ~~[Except as provided in any regulations adopted pursuant to KRS 189.287,]~~ All **motor** vehicles shall display at the rear **two (2)**~~[one (1)]~~ red **lights**~~[light]~~ visible when lighted for at least five hundred (500) feet, ***unless the motor vehicle was originally equipped with only one (1) such light.*** ~~[A red reflector meeting the requirements may be used in lieu of a red light.]~~
- (2) ~~[Every motor bus used for the transportation of persons for hire shall be equipped with at least one (1) red light with the word "STOP" on it which can be seen for one hundred and fifty (150) feet when illuminated. This subsection shall not apply to school buses or church buses.]~~
- ~~(3)~~ ~~[A~~**No**~~] person shall **not** operate any motor truck or semitrailer truck on any highway unless it is equipped with a~~ ~~[yellow or]~~ red light that automatically indicates the application of brakes and is visible from the rear a distance of not less than **five**~~[two]~~ hundred **(500)**~~[(200)]~~ feet.
- ~~(3)~~~~[(4)]~~ No person shall operate on any highway a motor truck or semitrailer truck having a width of any part in excess of eighty-four (84) inches, unless it carries at least two (2) clearance lights to indicate the outside left limit of the motor truck or semitrailer truck, one (1) light colored white~~[or green]~~, to be attached to and be visible from the front of the motor truck or semitrailer truck, and **two (2) lights**~~[one (1) light]~~ colored red, to be attached to and be visible from the rear, in each case a distance of not less than five hundred (500) feet.
- ~~(4)~~~~[(5)]~~ When in operation on any highway slow-moving or motorless vehicles, except bicycles, shall have at least one (1) **light**~~[lamp]~~ on the left side of the vehicle whether from the front or rear, showing white and of sufficient power to reveal clearly the outline of the left side of the vehicle and in such a manner that the outline may be observed clearly by approaching vehicles from a distance of at least **five**~~[one]~~ hundred **(500)**~~[(100)]~~ feet.

Section 4. KRS 189.055 is amended to read as follows:

~~A [No]~~ person shall **not** operate any vehicle required by law to be licensed upon a highway unless it is equipped with a mechanical signal device which would indicate an intention to stop or suddenly decrease speed by illuminating at least **two (2) red lights, on the rear of the vehicle, which are visible from the rear a distance of not less than five hundred (500) feet, unless the vehicle was originally manufactured with only one (1) such red light on the rear of the vehicle.**

Section 5. KRS 189.060 is amended to read as follows:

- (1) Each vehicle towed by a towline shall display the lights required on vehicles of the class to which it belongs.
- (2) Each vehicle being hauled by another and connected to it in a manner that will keep them uniformly spaced shall carry at least one (1) light on the left side in such a manner as to show **an amber**~~[a green]~~ light to the front and a red light to the rear visible at least **one thousand (1,000)**~~[five hundred (500)]~~ feet away.
- (3) When any part of a load projects more than **four (4)**~~[five (5)]~~ feet beyond a vehicle **two (2) red flags**~~[a red flag]~~ by day and **two (2) red lights**~~[a red light]~~ during the period provided in KRS 189.030 must be placed upon the extremity of the projection **marking the width of the overhang.**

Section 6. KRS 189.070 is amended to read as follows:

- (1) ~~A [No]~~ person shall **not** operate any **commercial** motor vehicle upon a highway outside of a business or residence district at any time from a half (1/2)-hour before sunset to a half (1/2)-hour before sunrise unless that vehicle carries the number and type of flares, electric lanterns or other signals which the Department of Vehicle Regulation shall by regulation require.
- (2) Whenever any **commercial** motor ~~vehicle~~~~[truck]~~ and its lighting equipment are disabled during a period when lighted lamps must be illuminated on vehicles and the ~~vehicle~~~~[truck]~~ cannot immediately be removed from the main traveled portion of a highway outside of a business or residence district, the person in charge of the vehicle shall cause to be placed upon the highway such flares, lanterns and other signals as the Department of Vehicle Regulation shall by regulation require, and such flares, lanterns or other signals shall be **utilized as required by the**~~[placed at such distances and in such positions as required by such]~~ regulations.

Section 7. KRS 189.080 is amended to read as follows:

~~[Except as provided in any regulations adopted pursuant to KRS 189.287, ]~~Every motor vehicle~~[and bicycle]~~, when in use on a highway, shall be equipped with a horn or other device capable of making an abrupt sound sufficiently loud to be heard **from a distance of at least two hundred (200) feet** under all ordinary traffic conditions. Every person operating an automobile or bicycle shall sound the horn or sound device whenever necessary as a warning of the approach of such vehicle to pedestrians, or other vehicles, but shall not sound the horn or sound device unnecessarily. A bell may be used on a bicycle.

Section 8. KRS 189.090 is amended to read as follows:

- (1) No owner shall knowingly operate or permit to be operated on a highway a motor vehicle upon which the brakes are defective.
- (2) Every motor vehicle, other than a motorcycle, when operated upon a highway shall be equipped with brakes adequate to control the movement of and to stop and hold the vehicle. There shall be two (2) separate means of applying the brakes, each of which means shall be effective to apply the brakes to at least two (2) wheels. If the two (2) separate means are connected in any way, they shall be so constructed that failure of any one (1) part of the operating mechanism shall not leave the motor vehicle without brakes on at least two (2) wheels.
- (3)
  - (a) **Except for commercial motor vehicles with a declared gross vehicle weight of more the ten thousand (10,000) pounds,** the service brakes upon any motor vehicle or combination of vehicles shall be adequate to stop the vehicle when traveling twenty (20) miles per hour within a distance of **forty (40)**~~[thirty (30)]~~ feet when upon dry asphalt or concrete pavement surface free from loose material where the grade does not exceed one percent (1%).
  - (b) Under the conditions described in subsection (3)(a) the hand brake shall be adequate to stop the vehicle within a distance of fifty-five (55) feet and the hand brake shall be adequate to hold the vehicle stationary on any grade upon which it is operated.
  - (c) Under the conditions described in subsection (3)(a) the service brakes upon a motor vehicle equipped with two (2)-wheel brakes only shall be adequate to stop the vehicle within a distance of forty (40) feet and the hand brake adequate to stop the vehicle within a distance of fifty-five (55) feet.

- (d) All braking distances specified in this section shall apply whether or not the vehicles are loaded to the maximum capacity permitted by law.
- (e) All brakes shall be maintained in good working order and shall be so adjusted as to operate with equal effect with respect to the wheels on opposite sides of the vehicle.
- (4) ~~A [No]~~ person shall **not** operate any **commercial motor vehicle with a declared gross weight of over ten thousand (10,000) pounds** ~~[semitrailer or semitrailer-trailer combination or truck-trailer combination or truck-semitrailer combination]~~ on any highway in this state unless it is equipped with efficient brakes that **meet the federal motor carrier safety standards in 49 C.F.R. Part 393 and** may be operated by the operator of the **vehicle** ~~[truck or tractor to which the semitrailer or semitrailer-trailer is attached]~~.

Section 9. KRS 189.130 is amended to read as follows:

- (1) ***Except as provided in subsection (4) of this section,*** every motor vehicle ~~[which is so constructed or loaded as to obstruct the operator's view to the rear, and every commercial motor vehicle of more than one-half (1/2) ton capacity]~~ shall be equipped with ***the following mirrors*** ~~[a mirror]~~ so located and adjusted as to reflect to the driver a view of the highway ~~[for a distance of at least two hundred (200) feet]~~ to the rear of the vehicle:
  - (a) ***One (1) mirror mounted on the left side of the vehicle; and***
  - (b) ***One (1) mirror, mounted either inside the vehicle approximately in the center or on the right side of the vehicle.***
- (2) No person shall, by himself or through his agent or servant, operate a motor vehicle upon the highways without the equipment required by subsection (1). Each day of operation without the equipment shall constitute a separate offense.
- (3) No person shall sell, barter or otherwise dispose of any motor vehicle described in subsection (1) unless it is equipped with a mirror as provided in that subsection.
- (4) ***A motorcycle shall be required only to have the mirror identified a paragraph (a) of subsection (1) of this section.***

Section 10. KRS 189.285 is amended to read as follows:

- (1) A person shall not operate a motorcycle on a highway:
  - (a) Except when that person is in possession of a valid motorcycle operator's license; and
  - (b) Unless that person uses an approved eye-protective device, in the manner prescribed by the secretary of the Transportation Cabinet, at all times such vehicle is in motion; and
  - (c) Unless the motorcycle is equipped with a rear-view mirror ***as required under Section 9 of this Act.***
- (2) A person shall not operate or ride as a passenger on a motorcycle:
  - (a) Except on a seat permanently attached to that vehicle and specifically designed to carry the operator or passenger in a safe manner; and
  - (b) Except when using a footrest permanently attached to that vehicle and specifically designed to carry that person in a safe manner.
- (3) The following persons shall be required to wear protective headgear, in the manner prescribed by the secretary of the Transportation Cabinet, at all times the motorcycles they are riding are in motion on a public highway:
  - (a) A person under the age of twenty-one (21) years who is operating a motorcycle or who is a passenger on a motorcycle or in a sidecar attachment;
  - (b) A person who possesses a motorcycle instruction permit and who is operating a motorcycle; and
  - (c) A person who has held a valid motorcycle operator's license, or combination motor vehicle-motorcycle operator's license, for less than one (1) year and who is operating a motorcycle.
- (4) A motorcycle operator authorized to drive a motorcycle on an instruction permit shall not be authorized to carry passengers.

- (5) The secretary of the Transportation Cabinet shall by regulation fix minimum standards for approved protective headgear and for approved eye-protective devices, and prescribe the manner in which they shall be used. The secretary shall maintain and cause to be published a list of approved protective headgear and of approved eye-protective devices. The secretary may prescribe by regulation minimum standards for other protective devices and require the use of those devices.
- (6) As used in this chapter:
  - (a) "Motorcycle" means any motor driven vehicle having a seat or saddle for the use of the operator and designed to travel on not more than three (3) wheels in contact with the ground, but excluding tractors and vehicles on which the operator and passengers ride in an enclosed cab and excluding a moped as defined in this subsection; and
  - (b) "Moped" means either a motorized bicycle whose frame design may include one (1) or more horizontal crossbars supporting a fuel tank so long as it also has pedals, or a motorized bicycle with a step-through type frame which may or may not have pedals rated no more than two (2) brake horsepower, a cylinder capacity not exceeding fifty (50) cubic centimeters, an automatic transmission not requiring clutching or shifting by the operator after the drive system is engaged, and capable of a maximum speed of not more than thirty (30) miles per hour.

Section 11. KRS 189.287 is amended to read as follows:

The Transportation Cabinet ~~shall~~~~may~~ promulgate ***administrative regulations pursuant to KRS Chapter 13A to set forth standards for bicycle equipment and the safe operation of a*** bicycle ~~safety regulations and standards~~. ***The regulations shall include requirements for lights, reflectors, and audible warning devices***~~Bicycle riders and bicycles complying with such regulations and standards are exempt from the provisions of KRS 189.040(9), 189.050(1), 189.050(5), and 189.080. [Such ]Bicycles and riders which comply with the regulations promulgated under this section are~~~~also~~ exempt from municipal and other local government regulations concerning safety equipment but not method of operation. In promulgating ***the administrative*** regulations ~~and standards~~ the Transportation Cabinet shall permit use of lightweight modern technological substitutes for lights, reflectors, and bells. The purpose of this section is to encourage bicycling and bicycle touring in this state by enabling bicycle riders to make use of modern technology to make their presence known to other users of the road. The Transportation Cabinet may consult with organizations of bicycle riders to aid it in the search for bicycle safety equipment and rules convenient for long distance bicycle riders.

Section 12. KRS 189.300 is amended to read as follows:

- (1) The operator of any vehicle when upon a highway shall travel upon the right side of the highway whenever possible, and unless the left side of the highway is clear of all other traffic or obstructions ***for a sufficient distance ahead to permit the overtaking and passing of another vehicle to be completed without interfering with the operation of any vehicle approaching from the opposite direction or any vehicle being overtaken. The overtaking vehicle shall return to the proper traffic lane as soon as practicable and, if the passing vehicle enters the oncoming traffic lane, before coming within two hundred (200) feet of any approaching vehicle***~~and presents a clear vision for a distance of at least one hundred and fifty (150) feet ahead~~.
- (2) The operator of any vehicle moving slowly upon a highway shall keep his vehicle as closely as practicable to the right-hand boundary of the highway, allowing more swiftly moving vehicles reasonably free passage to the left.

Section 13. KRS 189.310 is amended to read as follows:

- (1) Two (2) vehicles passing or about to pass each other in opposite directions shall have the right-of-way, and no other vehicle to the rear of those two (2) vehicles shall pass or attempt to pass either of those vehicles.
- (2) Vehicles proceeding from opposite directions shall pass each other from the right, each giving to the other one-half (1/2) of the highway as nearly as possible.
- (3) Every person operating a vehicle on a highway and approaching any animal being ridden or driven, shall exercise every reasonable precaution to prevent frightening the animal and to insure the safety of the person riding or driving it.~~[ If the animal appears frightened, the operator, when requested by a signal of the hand by the driver or rider of the animal, shall not proceed further toward the animal, unless the movement is necessary to avoid injury or accident, until the animal is under the control of its rider or driver.]~~

Section 14. KRS 189.330 is amended to read as follows:



- (1) When two (2) vehicles approach or enter an intersection from different roadways at approximately the same time, the operator of the vehicle on the left shall yield the right-of-way to the vehicle on the right.
- (2) The right-of-way rule declared in subsection (1) is modified at highways and through intersections and as otherwise stated in this chapter.
- (3) Preferential right-of-way may be indicated by stop signs or yield signs. The state highway commissioner with reference to state highways and local authorities with reference to other highways under their jurisdiction may designate any intersection as a stop intersection or as a yield intersection and erect stop signs or yield signs at one (1) or more entrances to such intersections.
- (4) Except when directed to proceed by a police officer, every operator of a vehicle approaching a stop sign shall stop at a clearly marked stop line, but if none, before entering the crosswalk on the near side of the intersection, or, if none, then at the point nearest the intersecting roadway where the operator has view of approaching traffic on the intersecting roadway before entering it. After having stopped the operator shall yield the right-of-way to any vehicle in the intersection or approaching on another roadway so closely as to constitute an immediate hazard during the time when such operator is moving across or within the intersection or junction of roadways.
- (5) The operator of a vehicle approaching a yield sign shall in obedience to such sign slow down to a speed reasonable for the existing conditions and, if required for safety to stop, shall stop at a clearly marked stop line, but if none, before entering the crosswalk on the near side of the intersection, or, if none, then at the point nearest the intersecting roadway where the operator has a view of approaching traffic on the intersecting roadway before entering it. After slowing and stopping, the operator shall yield the right-of-way to any vehicle in the intersection or approaching on another roadway so closely as to constitute an immediate hazard during the time such operator is moving across or within the intersection or junction of roadways. Provided, however, that if such an operator is involved in a collision with a vehicle in the intersection or junction of roadways after driving past a yield sign without stopping, such collision shall be deemed prima facie evidence of his failure to yield right-of-way.
- (6) The operator of a vehicle intending to turn shall do so as follows:
  - (a) Right turns - both the approach for a right turn and a right turn shall be made as close as practicable to the right-hand curb or edge of the roadway;
  - (b) Left turns - the operator of a vehicle intending to turn left shall approach the turn in the extreme left-hand lane lawfully available to traffic moving in the direction of travel of such vehicle. Whenever practicable the left turn shall be made to the left of the center of the intersection and so as to leave the intersection or other location in the extreme right-hand lane lawfully available to traffic moving in the same direction as such vehicle on the roadway being entered.
- (7) The Transportation Cabinet and local authorities in their respective jurisdictions may cause official traffic control devices to be placed and thereby require and direct that a different course from that specified in this section be traveled by turning vehicles and when such devices are so placed no operator shall turn a vehicle other than as directed and required by such devices.
- (8) The operator of any vehicle shall not turn such vehicle so as to proceed in the opposite direction unless such movement can be made in safety without interfering with other traffic.
- (9) The operator of a vehicle intending to turn to the left within an intersection or into an alley, private road or driveway shall yield the right-of-way to any vehicle approaching from the opposite direction which is within the intersection or so close thereto as to constitute an immediate hazard.
- (10) The operator of a vehicle about to enter or cross a roadway from any place other than another roadway shall yield the right-of-way to all vehicles approaching on the roadway to be entered or crossed.
- (11) ***On highways with a center lane restricted for left turns off the highway by vehicles proceeding in both directions:***
  - (a) ***A left turn shall not be made from any other lane; and***
  - (b) ***A vehicle shall not be driven in a center lane as described in this subsection except when preparing for or making a left turn off the highway or merging onto the highway after making a left turn from a side road or other entrance.***

Section 15. KRS 189.337 is amended to read as follows:

- (1) As used in this chapter "official traffic control devices" shall mean all signs, signals, markings, and devices placed or erected by authority of a public body or official having jurisdiction, for the purpose of regulating, warning, or dividing traffic.
- (2) The Department of Highways shall promulgate and adopt a manual of standards and specifications for a uniform system of official traffic control devices for use upon all roads and streets *open to public travel*. The manual and its future revisions and supplements shall be applicable to all roads and streets under the control of the Department of Highways or any county or incorporated city.
- (3) All traffic control devices installed on any road or street after the adoption of the manual shall conform to the provisions thereof. Satisfactory operating traffic devices in use on the date of the adoption of the manual may continue to be used; however, if such devices are replaced or revised, they must be replaced or revised in conformance with the provisions of the manual.
- (4) *No person shall place, maintain, or display on or in the view of any highway any authorized sign, signal, marking, or device which resembles, purports to be, or is an imitation of an official traffic control device or signal.*
- (5) *A person shall not attempt to or in fact alter, twist, deface, injure, knock down, or interfere with the effective operation of any official traffic control device or signal, or any part thereof.*

Section 16. KRS 189.338 is amended to read as follows:

Whenever traffic is controlled by traffic-control signals exhibiting different colored lights, or colored lighted arrows, successively one at a time or in combination, only the colors green, red and yellow shall be used, except for special pedestrian signals carrying a word legend *or symbolic message*, and said lights shall indicate and apply to drivers of vehicles and pedestrians as follows:

- (1) Green indication.
  - (a) Vehicular traffic facing a circular green signal may proceed straight through or turn right or left unless a sign at such place prohibits either such turn. But vehicular traffic, including vehicles turning right or left, shall yield the right-of-way to other vehicles and to pedestrians lawfully within the intersection or an adjacent crosswalk at the time such signal is exhibited.
  - (b) Vehicular traffic facing a green arrow signal, shown alone or in combination with another indication, may cautiously enter the intersection only to make the movement indicated by such arrow, or such other movement as is permitted by other indications shown at the same time. Such vehicular traffic shall yield the right-of-way to pedestrians lawfully within an adjacent crosswalk and to other traffic lawfully using the intersection.
  - (c) Unless otherwise directed by a pedestrian-control signal, pedestrians facing any green signal, except when the sole green signal is a turn arrow, may proceed across the roadway within any marked or unmarked crosswalk.
  - (d) *Vehicular traffic that entered an intersection on a circular green or yellow indication is allowed to complete a left turn during the red indication.*
- (2) Steady yellow indication.
  - (a) Vehicular traffic facing a steady yellow signal is thereby warned that the related green movement is being terminated or that a red indication will be exhibited immediately thereafter when vehicular traffic shall not enter the intersection.
  - (b) Pedestrians facing a steady yellow signal, unless otherwise directed by a pedestrian-control signal, are thereby advised that there is insufficient time to cross the roadway before a red indication is shown and no pedestrian shall then start to cross the roadway.
- (3) Steady red indication.
  - (a) Vehicular traffic facing a circular red signal alone shall stop at a clearly marked stop line, but if none, then before entering the crosswalk on the near side of the intersection, or if none, then before entering the intersection and shall remain standing until a green indication is shown, except as follows:

1. The driver of a vehicle which is stopped as required by subsection (3)(a) with the intention of making a right turn, may make such right turn, after stopping, unless an official sign has been erected prohibiting such movement, but shall yield the right-of-way to pedestrians and other traffic lawfully proceeding through the intersection.
2. The driver of a vehicle which is stopped as required by subsection (3)(a) whose vehicle is in the left lane of a one-way highway with the intention of making a left turn onto the left lane of another one-way highway with the flow of traffic, may make such left turn, after stopping, unless an official sign has been erected prohibiting such movement, but shall yield the right-of-way to pedestrians and other traffic lawfully proceeding through the intersection.
3. ***In instances where there are two (2) right or left turn lanes, an allowable turn under this paragraph may be made from either lane unless a regulatory sign specifically prohibits it.***
  - (b) Cities and counties may, by ordinance, and the department of highways may, by regulation, prohibit any such right or left turn against a steady red signal at any intersection, which prohibition shall be effective when an official sign prohibiting such movement is erected at the intersection.
  - (c) Unless otherwise directed by a pedestrian-control signal, pedestrians facing a steady red signal alone shall not enter the roadway.
- (4) In the event an official traffic-control signal is erected and maintained at a place other than an intersection, the provisions of this section shall be applicable except as to those provisions which by their nature can have no application. Any stop required shall be made at a sign or marking on the pavement indicating where the stop shall be made, but in the absence of any such sign or marking the stop shall be made at the signal.
- (5) Whenever an illuminated flashing red or yellow light is used in a traffic signal or with a traffic sign it shall require obedience by vehicular traffic as follows:
  - (a) Flashing red (stop signal) - When a red lens is illuminated with rapid intermittent flashes, operators of vehicles shall stop at a clearly marked stop line, but if none, before entering the crosswalk on the near side of the intersection, or if none, then at the point nearest the intersecting roadway where the operator has a view of approaching traffic on the intersecting roadway before entering it, and the right to proceed shall be subject to the rules applicable after making a stop at a stop sign.
  - (b) Flashing yellow (caution signal) - When a yellow lens is illuminated with rapid intermittent flashes, operators of vehicles may proceed through the intersection or past such signal only with caution.
- ~~[(6) To ensure that the provisions of this section are fully understood by the citizens of the Commonwealth, an intensive campaign to inform all Kentuckians of this change shall be undertaken by the Transportation Cabinet's Office of Public Information utilizing the statewide news media, especially Kentucky Educational Television (KET). This campaign shall begin June 17, 1978, and shall be thirty (30) days in duration.]~~

Section 17. KRS 189.340 is amended to read as follows:

- (1) Vehicles overtaking other vehicles proceeding in the same direction shall pass to the left of them and shall not again drive to the right until reasonably clear of those vehicles. Vehicles overtaking streetcars may pass either to the right or left when so directed by a police officer, when on a one (1) way street or where the location of the tracks prevents compliance with this section, with regard for other traffic.
- (2) The operator of a vehicle may overtake and pass upon the right of another vehicle only under the following conditions:
  - (a) When the vehicle overtaken is making or about to make a left turn;
  - (b) Upon a roadway with unobstructed pavement of sufficient width for two (2) or more lines of vehicles moving lawfully in the direction being traveled by the overtaking vehicle.
- (3) The operator of a vehicle may overtake and pass another vehicle upon the right only under conditions permitting such movements in safety. Such movement shall not be made by driving off the roadway unless passing vehicle comes to a complete stop and such movement may be made safely.
- (4) No vehicle shall be driven to the left side of the center of the roadway in overtaking and passing another vehicle proceeding in the same direction unless the left side is clearly visible and free of oncoming traffic for a sufficient distance ahead to permit overtaking and passing to be completely made without interfering with the

safe operation of any vehicle approaching from the opposite direction or any vehicle overtaken. In every event the overtaking vehicle must return to the right-hand side of the roadway before coming within ~~two~~~~one~~ hundred (200) feet~~[(100)]~~ of any vehicle approaching from the opposite direction.

- (5) The commissioner of highways is hereby authorized to determine those portions of any highway where overtaking and passing or driving to the left of the roadway would be especially hazardous and may by appropriate signs or markings on the roadway indicate the beginning and end of such zones, and when such signs or markings are in place and clearly visible to an ordinarily observant person, every driver of a vehicle shall obey the directions thereof.
- (6) Whenever any roadway has been divided into three (3) clearly marked lanes for travel, the following additional rules shall apply:
  - (a) A vehicle shall be driven as nearly as may be practical entirely within a single lane and shall not be moved from that lane until the driver has first ascertained that the movement can be made with safety;
  - (b) A vehicle shall not be driven in the center lane except when overtaking and passing another vehicle where the roadway is clearly visible and the center lane is clear of traffic within a safe distance, or in preparation for a left turn or where a center lane is at the time allocated exclusively to traffic moving in the direction in which the vehicle is proceeding and is signposted to give notice of the allocation;
  - (c) Official signs may be erected directing slow-moving traffic to use a designated lane or allocating specified lanes to traffic moving in the same direction and operators of vehicles shall obey the directions of such signs.
- (7) A vehicle shall not be driven in the left lane of any limited access highway of four (4) lanes or more with a posted speed limit of sixty-five (65) miles per hour, except in overtaking a slower vehicle, yielding to traffic coming onto such a highway or when traffic conditions exist which would prohibit safe use of the right or center lanes.
- (8)
  - (a) The operator of a motor vehicle shall not follow another vehicle more closely than is reasonable and prudent, having regard for the speed of the vehicle and the traffic upon and condition of the highway.
  - (b) The operator of any motor truck, semitrailer truck, bus or heavy construction equipment unit when traveling upon a highway outside of a business or residential district shall not follow within two hundred fifty (250) feet of another such vehicle or equipment unit. This subsection shall not prevent overtaking and passing, nor shall it apply to any lane specially designated for use of motor trucks or semitrailer trucks, buses or heavy construction equipment units.

Section 18. KRS 189.375 is amended to read as follows:

No school or church bus shall be licensed or operated for the transportation of school children unless it is equipped with bus alternating flashing signal lamps and a stop arm folding sign. The bus body shall be equipped with a system of four (4) red signal lamps, two (2) on the front and two (2) on the rear of the bus, and four (4) amber signal lamps. Each amber signal lamp shall be located near each red signal lamp, at the same level, but closer to the vertical centerline of the bus. The bus body shall be equipped with a stop arm folding sign on the driver's side with letters at least six (6) inches in height displaying the word "stop" on both sides. Prior to stopping the school bus for the purpose of receiving or discharging school children, the driver shall activate the amber flashing signal lamps. Once the bus comes to a complete stop, the driver shall extend the stop arm and activate the red flashing signal lights prior to opening the door so it shall be plainly visible to traffic approaching from both directions that the bus is in the process of receiving or discharging passengers. No driver shall stop a school or church bus for receiving or discharging passengers in a no passing zone which does not afford reasonable visibility to approaching motor vehicles from both directions ***unless a "School Bus Stop Ahead" sign has been installed a reasonable distance before that spot in the roadway.*** No driver shall stop a school or church bus for the purpose of receiving passengers from or discharging passengers to the opposite side of the road on a highway of four (4) or more lanes; provided, that this provision does not prohibit the discharging of passengers at a marked pedestrian crossing.

Section 19. KRS 189.450 is amended to read as follows:

- (1) No person shall stop a vehicle, leave it standing or cause it to stop or to be left standing upon any portion of the roadway; provided, however, that this section shall not be construed to prevent parking in front of a private residence off the roadway or street in a city or suburban area where such parking is otherwise permitted, as long as the vehicle so parked does not impede the flow of traffic. This subsection shall not apply to:

- (a) A vehicle that has been disabled on the right-of-way of such a highway in such a manner and to such extent that it is impossible to avoid the occupation of the shoulder of a state-maintained highway or impracticable to remove it from the shoulder of the highway until repairs have been made or sufficient help obtained for its removal. In no event shall a disabled vehicle remain on the shoulder of a state-maintained highway for twenty-four (24) hours or more;
  - (b) Motor vehicles when required to stop in obedience to the provisions of any section of the Kentucky Revised Statutes or any traffic ordinance, regulation or sign or the command of any peace officer;
  - (c) Vehicles operating as common carriers of passengers for hire and school buses taking passengers on such vehicle or discharging passengers therefrom, provided that no such vehicle shall stop for such purposes at a place on the highway which does not afford reasonable visibility to approaching motor vehicles from both directions; or
  - (d) Any vehicle required to stop by reason of an obstruction to its progress.
- (2) When any police officer finds a vehicle standing upon such a highway in violation of this section, he may move or cause to be moved the vehicle, or require the operator or other person in charge of the vehicle to move it. The police officer may cause the vehicle to be removed by ordering any person engaged in the business of storing or towing motor vehicles to remove the vehicle to a site chosen by such person. Ownership of the vehicle shall be determined by the police officer's enforcement agency through the vehicle's license plates, serial number or other means of determining ownership. As soon as practicable, the police officer's enforcement agency shall notify the owner by mail that the vehicle was illegally upon public property; the name and address of the storage facility where the vehicle is located; that removal of the vehicle from the storage facility will involve payment of towing and storage charges; and that the vehicle may be sold pursuant to the provisions of KRS 376.275 if not claimed within sixty (60) days. No notification shall be required if ownership cannot be determined. In the event of a sale pursuant to KRS 376.275, the state shall receive any proceeds after the satisfaction of all liens placed on the vehicle.
- (3) No vehicle shall be parked, stopped, or allowed to stand on the shoulders of any toll road, interstate highway, or other fully controlled access highway, including ramps thereto, nor shall any vehicle registered at a gross weight of over forty-four thousand (44,000) pounds be parked, stopped or allowed to stand on the shoulders of any state-maintained highway except that in the case of emergency, or in response to a peace officer's signal, vehicles shall be permitted to stop on the shoulders to the right of the traveled way with all wheels and projecting parts of the vehicles, including the load, completely clear of the traveled way. Parking of any vehicle which is disabled on the shoulders of a toll road, interstate highway, other fully controlled access highway, including ramps thereto, or any state-maintained highway not mentioned in this section for twenty-four (24) hours continuously is prohibited and vehicles violating this provision may be towed away at the cost of the owner.
- (4) When any police officer finds a vehicle unattended upon any bridge or causeway or in a tunnel where the vehicle constitutes an obstruction to traffic, the officer may provide for the removal of the vehicle to the nearest garage or other place of safety as provided in subsection (2) of this section.
- (5) No person shall stop or park a vehicle except when necessary to avoid conflict with other traffic or in compliance with the directions of a police officer or traffic control device, in the following places:
- (a) On a sidewalk;
  - (b) In front of sidewalk ramps provided for persons with disabilities;
  - (c) In front of a public or private driveway;
  - (d) Within an intersection ***or on a crosswalk***;
  - (e) At any place where official signs prohibit stopping or parking;~~{or}~~
  - (f) Within thirty (30) feet upon the approach to any flashing beacon, stop sign or traffic control signal located at the side of a roadway;
  - (g) ***On any controlled access highway***;
  - (h) ***Within a highway tunnel***;
  - (i) ***Within fifteen (15) feet of a fire hydrant; or***

(j) *In an area between the roadways of a divided highway.*

- (6) No person shall move a vehicle not lawfully under his control into any such prohibited area.
- (7) The restrictions in subsection (5)(e) of this section shall not apply to sheriffs and their deputies or police officers when operating properly identified vehicles during performance of their official duties.

Section 20. KRS 189.480 is amended to read as follows:

No vehicle shall haul with a towline more than one (1) other vehicle. The towline shall not be over fifteen (15) feet in length, and a white cloth or flag shall be fastened to the towline at or near the center of the line, during both day and night so as to make it plainly discernible. No vehicle shall at one (1) time haul more than two (2) vehicles connected in such a manner as to keep them uniformly spaced. ***Any vehicle being towed under the provisions of this chapter shall have the brake lights required under Section 3 of this Act.***

Section 21. KRS 189.560 is amended to read as follows:

- (1) The operator of a vehicle shall stop and remain standing at a railroad grade crossing when any of the following conditions exist:
  - (a) A visible electric or mechanical signal device warns of the immediate approach of a railroad train;
  - (b) A crossing gate is lowered warning of the immediate approach or passage of a railroad train;
  - (c) An approaching train is visible and in hazardous proximity; or
  - (d) A human flagman signals the approach or passage of a train.
- (2) Whenever the tracks of any railroad or interurban railway over which trains or cars are regularly operated cross a state maintained highway at grade, the cabinet may designate that crossing as "unsafe," and no operator of any vehicle shall cross the crossing without first bringing his vehicle to a full stop ***no closer than a marked stop line or fifteen (15) feet***~~at not less than ten feet (10')~~, nor more than thirty (30) feet~~-(30')~~, from the nearest rail of the tracks.
- (3) At crossings designated "unsafe," the cabinet shall place and maintain on each side of the tracks on the right side of the highway, at the marked stopping position, or, if the stopping position is not marked, on the pavement not more than ***twenty-five (25) feet***~~25'~~ in advance of the track, an octagonal shape sign of a type and size currently approved for use by the cabinet bearing the word "Stop" in white letters not less than ***ten (10) inches***~~10"~~ in height.
- (4) The cabinet shall install the signs described in subsection (3), within sixty (60) days after the crossing is designated unsafe.
- (5) Subsections (2) to (4) shall not apply to grade crossings at which have been constructed and maintained gates, electric warning signals, or other automatic audible signals, or which are protected by watchmen.
- (6) The failure to observe subsections (2) to (5) shall not change the liability of any railroad or interurban railway in the trial of any civil case against the railroad or interurban railway for death or injuries, to person or property.
- (7) If subsection (6) is declared unconstitutional, then subsections (2) to (7) shall be ineffective.

Section 22. KRS 189.565 is amended to read as follows:

The operator of any motor vehicle used in the transportation of inflammable liquids or explosives shall stop such motor vehicle before crossing at grade the main track of any railroad or interurban electric railway, except where the crossing is a guarded crossing protected by gates or a flag controlled crossing or operated by an employee of the railroad or interurban company. The stop shall be made ***no closer than a marked stop line or fifteen (15) feet***~~at not less than ten feet (10')~~ nor more than thirty (30) feet~~-(30')~~ from the nearest track to be crossed. After making the stop, the operator shall look carefully in each direction for approaching cars or trains, and shall not start his vehicle until he has ascertained that no cars or trains are approaching in either direction.

Section 23. KRS 189.752 is amended to read as follows:

- (1) "State highway" means any public road maintained by the State Department of Highways.
- (2) "Motor vehicle" means any vehicle propelled by an internal combustion engine capable of transporting persons or property. Motor vehicle shall not mean "moped" as defined in KRS 189.285.

- (3) "Abandoned vehicle" means any *motor vehicle*~~automobile~~ that is left upon the right-of-way of a state highway for three (3) days, whether or not it is fit for future use.
- (4) "Owner" means the last registered owner.

Section 24. KRS 189.910 is amended to read as follows:

- (1) As used in KRS 189.920 to 189.950, "emergency vehicle" means any vehicle used for emergency purposes by a fire department; any vehicle used for emergency purposes by the State Police, a public police department, Department of Corrections, or sheriff's office; any vehicle used for emergency purposes by a rescue squad; any publicly owned vehicle used for emergency purposes by an emergency management agency; any vehicle used to respond to emergencies or to transport a patient with a critical medical condition if the vehicle is operated by a Cabinet for Health Services-licensed ambulance provider or medical first-response provider; any vehicle commandeered by a police officer; or any motor vehicle ***with the emergency lights required under Section 25 of this Act*** used by a paid or volunteer fireman or paid or volunteer ambulance personnel or a paid or volunteer local emergency management director while responding to an emergency or to a location where an emergency vehicle is on emergency call.
- (2) As used in KRS 189.920 to 189.950, "public safety vehicle" means public utility repair vehicle; wreckers; state, county, or municipal service vehicles and equipment; highway equipment which performs work that requires stopping and standing or moving at slow speeds within the traveled portions of highways; and vehicles which are escorting wide-load or slow-moving trailers or trucks.

Section 25. KRS 189.920 is amended to read as follows:

- (1) All fire department, rescue squad, or publicly owned emergency management agency emergency vehicles and all ambulances shall be equipped with one (1) or more flashing, rotating, or oscillating red lights, visible under normal atmospheric conditions from a distance of five hundred (500) feet to the front of the vehicle, and a siren, whistle, or bell, capable of emitting a sound audible under normal conditions from a distance of not less than five hundred (500) feet. This equipment shall be in addition to any other equipment required by the motor vehicle laws.
- (2) All state, county, or municipal police vehicles and all sheriffs' vehicles used as emergency vehicles shall be equipped with one (1) or more flashing, rotating, or oscillating blue lights, visible under normal atmospheric conditions from a distance of five hundred (500) feet to the front of the vehicle, and a siren, whistle, or bell, capable of emitting a sound audible under normal conditions from a distance of not less than five hundred (500) feet. This equipment shall be in addition to any other equipment required by the motor vehicle laws.
- (3) By ordinance, the governing body of any city or county may direct that the police or sheriffs' vehicles in that jurisdiction be equipped with a combination of red and blue flashing, rotating, or oscillating lights.
- (4) All public safety vehicles shall be equipped with one (1) or more flashing, rotating, or oscillating yellow lights, visible under normal atmospheric conditions from a distance of five hundred (500) feet to the front of the vehicle. Yellow flashing, rotating, or oscillating lights may also be used by vehicles operated by mail carriers while on duty, funeral escort vehicles, and church buses.
- (5) All Department of Corrections vehicles used as emergency vehicles shall be equipped with one (1) or more flashing, rotating, or oscillating blue lights, visible under normal atmospheric conditions from a distance of five hundred (500) feet to the front of the vehicle. The Department of Corrections vehicles shall not be equipped with or use a siren, whistle, or bell. The equipment prescribed by this subsection shall be in addition to any other equipment required by motor vehicle laws.
- (6) Red flashing lights may be used by school buses.
- (7) No emergency vehicle, public safety vehicle, or any other vehicle covered by KRS 189.910 to 189.950 shall use any light of any other color than those specified by KRS 189.910 to 189.950. Sirens, whistles, and bells may not be used by vehicles other than those specified by KRS 189.910 to 189.950, except that any vehicle may be equipped with a theft alarm signal device which is so arranged that it cannot be used by the driver as an ordinary warning signal.
- (8) Vehicles used as command posts at incidents may be equipped with and use when on scene, a green rotating, oscillating, or flashing light. This light shall be in addition to the lights and sirens required in this section.

- (9) *A personal vehicle used by a paid or volunteer firefighter, ambulance personnel or emergency services director who is responding to an emergency shall display the lights required in subsection (1) of this section.*

Section 26. KRS 177.315 is amended to read as follows:

- (1) As used in this section, "partial control of access" means the limited right or easement of access granted by the Transportation Cabinet under subsection (2) of this section.
- (2) The Transportation Cabinet shall establish minimum spacing requirements for partial control of access to a limited access facility, and the manner that the access is to be provided, for the owners or occupants of land or other persons who have a limited right or easement of access under KRS 177.220. Minimum spacing between access points shall be one thousand two hundred (1,200) feet in rural areas and six hundred (600) feet in urban areas.
- (3) The Transportation Cabinet may change the spacing of access control points if:
  - (a) 1. An owner or occupant of land abutting a limited access facility requests the cabinet for the change; or
  2. A local government requests the cabinet for the change; and
  - (b) The change in spacing of access points is supported by an engineering and traffic study approved by the state highway engineer.

~~{(4) A change in spacing of access control points shall not exceed fifteen percent (15%) of the limit established in subsection (2) of this section.}~~

Section 27. KRS 177.240 is amended to read as follows:

~~{(1)}~~ The highway authorities of the state, county, city, town, and village are authorized to so design any limited access facility and to so regulate, restrict, or prohibit access as to best serve the traffic for which such facility is intended; and its determination of such design shall be final. In this connection such highway authorities are authorized to divide and separate any limited access facility into separate roadways by the construction of raised curbs, central dividing sections, or other physical separations, or by designating such separate roadways by signs, markers, stripes, and the proper lane for such traffic by appropriate signs, markers, stripes, and other devices. No person shall have any right of ingress or egress to, from or across limited access facilities to or from abutting lands, except at such designated points at which access may be permitted, upon such terms and conditions as may be specified from time to time.

~~{(2) The Department of Highways shall construct or cause to be constructed on all interstate highways and toll roads suitable public facilities to replace any structures closed by the department after April 1, 1980, at a location within fifteen (15) miles of the previously available facility. Such facilities shall include restrooms which shall be available to the motoring public on a twenty four (24) hour basis.}~~

Section 28. KRS 186.405 is amended to read as follows:

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



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

Section 29. KRS 186.410 is amended to read as follows:

- (1) Every person except those exempted by KRS 186.420 and 186.430 shall before operating a motor vehicle, motorcycle, or moped upon a highway secure an operator's license as provided in this chapter.
- (2) Except as provided in KRS 186.412, all original, renewal, and duplicate licenses for the operation of motor vehicles, motorcycles, or mopeds shall be issued by the circuit clerk in the county of the applicant's residence. Applications for renewal licenses shall be made every four (4) years within the birth month of the applicant. A license shall not be issued until the application has been certified by the cabinet and the applicant has, if required under KRS 186.6401, successfully completed the examinations required under KRS 186.480.
- (3) All color photo ~~personal non-driver~~ identification cards shall be issued under the provisions of KRS 186.412.
- (4) A person may, at any time between the age of sixteen (16) and before the person's eighteenth birthday, enroll in one (1) of the following driver training programs:
  - (a) A driver's education course administered by a school district;
  - (b) A driver training school licensed pursuant to KRS Chapter 332 which offers a course meeting or exceeding the minimum standards established by the Transportation Cabinet; or
  - (c) State traffic school. The person may seek to enroll in state traffic school before the person's eighteenth birthday. Persons enrolling in state traffic school pursuant to this paragraph shall not be required to pay a fee.
- (5) If, for any reason, a person fails to successfully complete the required driver training pursuant to subsection (4) of this section within one (1) year of being issued an operator's license, the Transportation Cabinet shall enroll the person in state traffic school and cancel or suspend the operator's driving privileges until the person completes state traffic school.

Section 30. KRS 189.280 is amended to read as follows:

- (1) KRS 189.221 to 189.230 ~~and~~ 189.280 ~~and 189.490~~ shall not apply to motor trucks, semitrailer trucks or trailers owned by the United States, the Commonwealth of Kentucky, or any agency of them, any county or city.
- (2) If any motor truck, semitrailer truck or trailer is lawfully licensed by a city pursuant to KRS 186.270, then KRS 189.221 ~~and~~ subsection (1) of 189.222 ~~and 189.490~~ shall not apply thereto, within the limits of the city issuing the license, or within fifteen (15) miles of the limits of the city, if it is a city of the first, second, third, or fourth class, or within five (5) miles of its limits if it is a city of the fifth or sixth class, except on such state-maintained highways or portions thereof, including connecting-link streets, as may be designated by the commissioner of highways, and on such county highways as may be designated by the county judge/executive; provided, however, that in no case shall any vehicle exceed the weight and size limitations established by the city ordinance when those limitations are less stringent than those provided in the aforementioned sections of the statutes. For the purposes of this subsection vehicles exempt from the imposition of a city license tax by reason of subsection (2) of KRS 281.830 shall be entitled to the same exemptions as those so licensed.
- (3) Cities may, by ordinance, provide maximum limits with respect to the weight, height, width and length of motor trucks, semitrailer trucks and trailers, within their respective boundaries, not less, however, than the maximum limits prescribed in KRS 189.221 and subsection (1) of 189.222, and may authorize the operation of trailers.

Section 31. KRS 189A.345 is amended to read as follows:

- (1) No person shall operate a motor vehicle or motorcycle without a functioning ignition interlock device when prohibited to do so under KRS 189A.340(1) or under KRS 189A.410(2).
- (2)
  - (a) No person shall start a motor vehicle or motorcycle equipped with an ignition interlock device for the purpose of providing an operable motor vehicle or motorcycle to a person subject to the prohibition established in KRS 189.340(1) or under KRS 189A.440(2)(b).
  - (b) Any person who violates paragraph (a) of this subsection shall:
    1. For a first offense, be guilty of a Class B misdemeanor; and
    2. For a second or subsequent offense, be guilty of a Class A misdemeanor.
- (3)
  - (a) No person shall:
    1. Knowingly install a defective ignition interlock device on a motor vehicle or motorcycle; or
    2. Tamper with an installed ignition interlock device with the intent of rendering it defective.
  - (b) Any person who violates paragraph (a) of this subsection shall:
    1. For a first offense, be guilty of a Class B misdemeanor; and
    2. For a second or subsequent offense, be guilty of a Class A misdemeanor and be prohibited from installing ignition interlock devices or directing others in the installation of ignition interlock devices.
- (4)
  - (a) No person shall direct another person to install a defective ignition interlock device on a motor vehicle or motorcycle when the person giving the direction knows that the ignition interlock device is defective.
  - (b) Any person who violates paragraph (a) of this subsection shall:
    1. For a first offense, be guilty of a Class B misdemeanor; and
    2. For a second or subsequent offense, be guilty of a Class A misdemeanor and be prohibited from directing others in the installation of ignition interlock devices or installing ignition interlock devices.

Section 32. KRS 189.990 is amended to read as follows:

- (1) Any person who violates any of the provisions of KRS 189.020 to 189.040, subsections (1) ~~or (4), (2), and (5)~~ of KRS 189.050, KRS 189.060 to 189.080, subsections (1) to (3) of KRS 189.090, KRS 189.100, 189.110, 189.130 to 189.160, subsections (2) to (4) of KRS 189.190, KRS 189.200, 189.285, 189.290, 189.300 to 189.360, KRS 189.380, KRS 189.400 to 189.430, KRS 189.450 to 189.458, KRS 189.4595 to 189.480, subsection (1) of KRS 189.520, KRS 189.540, KRS 189.570 to ~~189.599~~ ~~189.630~~, except subsection (1) of KRS 189.580, KRS 189.345, subsection (4) of KRS 189.456, and 189.960 shall be fined not less than twenty dollars (\$20) nor more than one hundred dollars (\$100) for each offense. Any person who violates subsection (1) of KRS 189.580 shall be fined not less than twenty dollars (\$20) nor more than two thousand dollars (\$2,000) or imprisoned in the county jail for not more than one (1) year, or both. Any person who violates paragraph (c) of subsection (5) of KRS 189.390 shall be fined not less than eleven dollars (\$11) nor more than thirty dollars (\$30). Neither court costs nor fees shall be taxed against any person violating paragraph (c) of subsection (5) of KRS 189.390.
- (2)
  - (a) Any person who violates the weight provisions of KRS 189.212, 189.221, 189.222, 189.226, 189.230, or 189.270 shall be fined two cents (\$0.02) per pound for each pound of excess load when the excess is five thousand (5,000) pounds or less. When the excess exceeds five thousand (5,000) pounds the fine shall be two cents (\$0.02) per pound for each pound of excess load, but the fine levied shall not be less than one hundred dollars (\$100) and shall not be more than five hundred dollars (\$500).
  - (b) Any person who violates the provisions of KRS 189.271 and is operating on a route designated on the permit shall be fined one hundred dollars (\$100); otherwise, the penalties in paragraph (a) of this subsection shall apply.
  - (c) Any person who violates any provision of subsections (2) ~~or (3) and (4)~~ of KRS 189.050, subsection (4) of KRS 189.090, KRS 189.221 to 189.230, 189.270, 189.280, ~~189.490,~~ or the dimension provisions of KRS 189.212, for which another penalty is not specifically provided shall be fined not less than ten dollars (\$10) nor more than five hundred dollars (\$500).

- (d) Nothing in this subsection or in KRS 189.221 to 189.228 shall be deemed to prejudice or affect the authority of the Department of Vehicle Regulation to suspend or revoke certificates of common carriers, permits of contract carriers, or drivers' or chauffeurs' licenses, for any violation of KRS 189.221 to 189.228 or any other act applicable to motor vehicles, as provided by law.
- (3) (a) Any person who violates subsection (1) of KRS 189.190 shall be fined not more than fifteen dollars (\$15).
- (b) Any person who violates subsection (5) of KRS 189.190 shall be fined not less than thirty-five dollars (\$35) nor more than two hundred dollars (\$200).
- (4) (a) Any person who violates subsection (1) of KRS 189.210 shall be fined not less than twenty-five dollars (\$25) nor more than one hundred dollars (\$100).
- (b) Any peace officer who fails, when properly informed, to enforce KRS 189.210 shall be fined not less than twenty-five dollars (\$25) nor more than one hundred dollars (\$100).
- (c) All fines collected under this subsection, after payment of commissions to officers entitled thereto, shall go to the county road fund if the offense is committed in the county, or to the city street fund if committed in the city.
- (5) Any person who violates KRS 189.370 shall for the first offense be fined not less than one hundred dollars (\$100) nor more than two hundred dollars (\$200) or imprisoned not less than thirty (30) days nor more than sixty (60) days, or both. For each subsequent offense occurring within three (3) years, the person shall be fined not less than three hundred dollars (\$300) nor more than five hundred dollars (\$500) or imprisoned not less than sixty (60) days nor more than six (6) months, or both. The minimum fine for this violation shall not be subject to suspension. A minimum of six (6) points shall be assessed against the driving record of any person convicted.
- (6) Any person who violates KRS 189.500 shall be fined not more than fifteen dollars (\$15) in excess of the cost of the repair of the road.
- (7) Any person who violates KRS 189.510 or KRS 189.515 shall be fined not less than twenty dollars (\$20) nor more than fifty dollars (\$50).
- (8) Any peace officer who violates subsection (2) of KRS 189.520 shall be fined not less than thirty-five dollars (\$35) nor more than one hundred dollars (\$100).
- (9) (a) Any person who violates KRS 189.530(1) shall be fined not less than thirty-five dollars (\$35) nor more than one hundred dollars (\$100), or imprisoned not less than thirty (30) days nor more than twelve (12) months, or both.
- (b) Any person who violates KRS 189.530(2) shall be fined not less than thirty-five dollars (\$35) nor more than one hundred dollars (\$100).
- (10) Any person who violates any of the provisions of KRS 189.550 shall be guilty of a Class B misdemeanor.
- (11) Any person who violates subsection (2) of KRS 189.560 shall be fined not less than thirty dollars (\$30) nor more than one hundred dollars (\$100) for each offense.
- (12) The fines imposed by paragraph (a) of subsection (3) and subsections (6) and (7) of this section shall, in the case of a public highway, be paid into the county road fund, and, in the case of a privately owned road or bridge, be paid to the owner. These fines shall not bar an action for damages for breach of contract.
- (13) Any person who violates any of the provisions of KRS 189.120 shall be fined not less than twenty dollars (\$20) nor more than one hundred dollars (\$100) for each offense.
- (14) Any person who violates any provision of KRS 189.575 shall be fined not less than twenty dollars (\$20) nor more than twenty-five dollars (\$25).
- (15) Any person who violates subsection (2) of KRS 189.231 shall be fined not less than twenty dollars (\$20) nor more than one hundred dollars (\$100) for each offense.
- (16) Any person who violates restrictions or regulations established by the secretary of transportation pursuant to subsection (3) of KRS 189.231 shall, upon first offense, be fined one hundred dollars (\$100) and, upon

subsequent convictions, be fined not less than one hundred dollars (\$100) nor more than five hundred dollars (\$500) or imprisoned for thirty (30) days, or both.

- (17) (a) Any person who violates any of the provisions of KRS 189.565 shall be guilty of a Class B misdemeanor.
- (b) In addition to the penalties prescribed in paragraph (a) of this subsection, in case of violation by any person in whose name the vehicle used in the transportation of inflammable liquids or explosives is licensed, the person shall be fined not less than one hundred dollars (\$100) nor more than five hundred dollars (\$500). Each violation shall constitute a separate offense.
- (18) Any person who abandons a vehicle upon the right-of-way of a state highway for three (3) consecutive days shall be fined not less than thirty-five dollars (\$35) nor more than one hundred dollars (\$100), or imprisoned for not less than ten (10) days nor more than thirty (30) days.
- (19) Every person violating KRS 189.393 shall be guilty of a Class B misdemeanor, unless the offense is being committed by a defendant fleeing the commission of a felony offense which the defendant was also charged with violating and was subsequently convicted of that felony, in which case it is a Class A misdemeanor.
- (20) Any law enforcement agency which fails or refuses to forward the reports required by KRS 189.635 shall be subject to the penalties prescribed in KRS 17.157.
- (21) A person who ~~operates~~~~elects to operate~~ a bicycle in ***violation of the administrative regulations promulgated***~~[accordance with any regulations adopted]~~ pursuant to KRS 189.287~~[and who willfully violates a provision of a regulation]~~ shall be fined not less than ten dollars (\$10) nor more than one hundred dollars (\$100).~~[A person who operates a bicycle without complying with any regulations adopted pursuant to KRS 189.287 or vehicle safety statutes shall be prosecuted for violation of the latter.]~~
- (22) Any person who violates KRS 189.860 shall be fined not more than five hundred dollars (\$500) or imprisoned for not more than six (6) months, or both.
- (23) Any person who violates KRS 189.754 shall be fined not less than twenty-five dollars (\$25) nor more than three hundred dollars (\$300).
- (24) Any person who violates the provisions of KRS 189.125(3) shall be fined fifty dollars (\$50).
- (25) Any person who violates the provisions of KRS 189.125(6) shall be fined an amount not to exceed twenty-five dollars (\$25).
- (26) Fines levied pursuant to this chapter shall be assessed in the manner required by KRS 534.020, in amounts consistent with this chapter. Nonpayment of fines shall be governed by KRS 534.060.
- (27) A licensed driver under the age of eighteen (18) charged with a moving violation pursuant to this chapter as the driver of a motor vehicle may be referred, prior to trial, by the court to a diversionary program. The diversionary program under this subsection shall consist of one (1) or both of the following:
  - (a) Execution of a diversion agreement which prohibits the driver from operating a vehicle for a period not to exceed forty-five (45) days and which allows the court to retain the driver's operator's license during this period; and
  - (b) Attendance at a driver improvement clinic established pursuant to KRS 186.574. If the person completes the terms of this diversionary program satisfactorily the violation shall be dismissed.
- (28) A person who violates the provisions of subsection (2) or (3) of KRS 189.459 shall be fined two hundred fifty dollars (\$250). The fines and costs for a violation of subsection (2) or (3) of KRS 189.459 shall be collected and disposed of in accordance with KRS 24A.180. Once deposited into the State Treasury, ninety percent (90%) of the fine collected under this subsection shall immediately be forwarded to the personal care assistance program under KRS 205.900 to 205.920. Ten percent (10%) of the fine collected under this subsection shall annually be returned to the county where the violation occurred and distributed equally to all law enforcement agencies within the county.

Section 33. KRS 189.993 is amended to read as follows:

- (1) Any person who violates KRS 189.045 shall be fined not less than one hundred dollars (\$100) nor more than one thousand dollars (\$1,000).

- (2) Any person convicted of violating any of the provisions of KRS 189.095 shall be fined sixty dollars (\$60) and costs of prosecution.
- (3) Any person who violates any provision of KRS 189.205 shall be fined not less than twenty dollars (\$20) nor more than one hundred dollars (\$100).
- (4) Any person who violates any provision of KRS 189.375 shall be fined not less than twenty dollars (\$20) nor more than one hundred dollars (\$100).
- (5) Any person who violates KRS 189.505 shall be fined not less than sixty dollars (\$60) nor more than two hundred dollars (\$200) or be imprisoned for not more than thirty (30) days, or both.
- (6) Any person found violating any provision of KRS 189.820 or 189.830 is guilty of a misdemeanor and shall be fined not less than twenty dollars (\$20) nor more than thirty-five dollars (\$35).
- (7) Any person who violates KRS 189.920 shall be fined not less than one hundred dollars (\$100) nor more than one thousand dollars (\$1,000), or imprisoned in the county jail for not more than thirty (30) days, or both. In the case of a private vehicle *not authorized to use emergency lights under Section 25 of this Act*, all lighting and other equipment used in violation of KRS 189.910 to 189.950 shall be confiscated and forfeited to the county in which the offense occurred.
- (8) Any person who violates KRS 189.930 shall be fined not less than sixty dollars (\$60) nor more than five hundred dollars (\$500), or be imprisoned in the county jail for not more than thirty (30) days, or both.
- (9) Any person who violates KRS 189.940 shall be fined not less than sixty dollars (\$60) nor more than one thousand dollars (\$1,000) or be imprisoned in the county jail for not more than six (6) months, or both. In the case of a private vehicle, all lighting and other equipment used in violation of KRS 189.910 to 189.950 shall be confiscated and forfeited to the county in which the offense occurred.
- (10) If a member of a regular or volunteer fire department, ambulance service, or rescue squad violates any provisions of subsection (6) of KRS 189.940, he shall, in addition to any other penalty provided under KRS 189.990 or this section, be immediately dismissed from his membership or employment with the fire department, ambulance service, or rescue squad and shall be disqualified from being employed by or being a member of any fire department, ambulance service, or rescue squad in the Commonwealth for a period of three (3) years. Upon conviction of a second offense he shall be permanently barred from employment or membership in any fire department, ambulance service, rescue squad, police department, or sheriff's office in the Commonwealth, nor shall he be permitted to operate any public safety vehicle as defined in KRS 189.910.
- (11) Any person who violates KRS 189.950 shall be fined not less than one hundred dollars (\$100) nor more than one thousand dollars (\$1,000) or be imprisoned in the county jail for not more than thirty (30) days, or both. In the case of a privately owned vehicle, all lighting and other equipment used or installed in violation of KRS 189.910 to 189.950 shall be confiscated and forfeited to the county in which the offense occurred.
- (12) Any person who violates any provision of this chapter for which no penalty is otherwise provided shall, upon conviction, be fined not less than twenty dollars (\$20) nor more than one hundred dollars (\$100) for each offense.
- (13) No producer or processor of natural resources shall allow the transporting of natural resources over the highways of the Commonwealth in excess of the weight limits without possessing a resource recovery road hauling permit. Violation for hauling in excess of prescribed limits without possession of a permit or transporting natural resources over prescribed limits of the resource recovery road hauling permit shall be not less than five hundred dollars (\$500) nor more than one thousand dollars (\$1,000) for each violation and shall be deposited in the resource recovery road fund.

Section 34. The following KRS section is repealed:

189.490 Trailer operation restricted.

189.630 City may require accident reports.

**Approved April 5, 2006.**

**CHAPTER 174****(HJR 14)**

A JOINT RESOLUTION directing the executive director of the Education Professional Standards Board with the cooperation of the commissioner of education and the president of the Council on Postsecondary Education to establish an interagency task force to collaborate with public and private postsecondary education institutions for the redesign of preparation programs and the professional development of educational leaders.

WHEREAS, there is a critical need for Kentucky schools to have leaders who are prepared to improve teaching and learning; and

WHEREAS, all Kentucky school leaders need to have a mastery of current knowledge and skills, and the dispositions to improve teaching and learning; and

WHEREAS, it is a goal of the General Assembly that every school have leadership that improves schools and increases the learning and development of all students; and

WHEREAS, there is a need for a seamless system of education leadership that includes the recruitment and selection of potential education leaders; and preparation and certification, induction, professional development, and supportive working conditions that focus on a vision of school leaders as instructional leaders; and

WHEREAS, activities to redesign education leadership preparation programs are underway among state regulatory agencies to create integrated and embedded programs addressing the school leadership needs of the Commonwealth;

NOW, THEREFORE,

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

Section 1. The executive director of the Education Professional Standards Board, with the cooperation of the commissioner of education and the president of the Council on Postsecondary Education, shall organize an interagency task force to collaborate with private and public postsecondary education institutions for the redesign of programs for school and district leaders, including the preparation and certification of principals, assistant principals, superintendents, and other central office and school-based administrators.

- (1) The size and make-up of the task force shall be determined by consensus of the executive director, commissioner, and president.
- (2) The work of the task force shall begin no later than August 15, 2006.
- (3) The redesigned programs for developing educational leaders shall have:
  - (a) Recruitment and selection policies that ensure that persons with high leadership potential and talent are being prepared to lead Kentucky schools;
  - (b) Strong emphasis on developing the essential competencies necessary for improving the safe and efficient management of schools and increasing student achievement;
  - (c) A standards and research base with coherent goals, learning activities, and assessment around a shared set of values, beliefs, and knowledge about effective administrative practices;
  - (d) Provisions for field-based internships that incorporate problem-based learning and utilize cohort groups and mentors whenever possible and appropriate;
  - (e) Strong clinical training options throughout the programs that include extensive collaborations between postsecondary education institutions and school districts;
  - (f) Induction components for newly hired principals and other education leaders, which provide both collegial support and individual mentoring with documented evidence of the new principals' or other education leaders' abilities to focus on high levels of student learning, growth, and achievement;
  - (g) Provisions for high-quality professional development that strengthen current school leaders' capacity to work with faculty in changing school and classroom practices to increase student learning, growth, and achievement; and

- (h) Support for working conditions that enable leaders to implement strong instructional leadership that improves opportunities for teaching and learning for all students.
- (4) The interagency task force in collaboration with postsecondary education institutions shall:
  - (a) Ensure involvement of all appropriate education entities during all stages of the redesign processes;
  - (b) Identify postsecondary education institution and school district resources that can be utilized to make educational leadership programs as effective as possible;
  - (c) Identify the competencies, knowledge, skill sets, and dispositions that all instructional leaders must possess;
  - (d) Require instruction and the improvement of student learning, growth, and achievement;
  - (e) Require problem-based learning while addressing state and national leadership standards; and
  - (f) Require the relevant field-based experiences and internships that allow candidates to demonstrate leadership competencies in real-life situations.
- (5) The interagency task force shall:
  - (a) Utilize regionally and nationally recognized experts in educational leadership to assess Kentucky's current needs and evaluate institutional redesign proposals to meet those needs;
  - (b) Study and determine best practices for implementing the redesign of educational leadership programs in Kentucky, including the use of institution-based redesign coordinators to spearhead, coordinate, and administer a multi-year development process and the establishment of an executive leadership academy with a clear focus on improving student learning, growth, and achievement by developing the instructional leadership and management expertise of Kentucky's principals; and
  - (c) Require alignment of doctoral programs in education with the redesigned masters' and other leadership programs to ensure rigor and relevance.

Section 2. The interagency task force shall provide a progress report to the Interim Joint Committee on Education by October 1, 2007, and as requested thereafter.

**Approved April 5, 2006.**

## CHAPTER 175

(SB 127)

AN ACT relating to medical licensing.

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

Section 1. KRS 311.550 is amended to read as follows:

As used in KRS 311.530 to 311.620 and KRS 311.990(4) to (6):

- (1) "Board" means the State Board of Medical Licensure;
- (2) "President" means the president of the State Board of Medical Licensure;
- (3) "Secretary" means the secretary of the State Board of Medical Licensure;
- (4) "Executive director" means the executive director of the State Board of Medical Licensure or any assistant executive directors appointed by the board;
- (5) "General counsel" means the general counsel of the State Board of Medical Licensure or any assistant general counsel appointed by the board;
- (6) "Regular license" means a license to practice medicine or osteopathy at any place in this state;
- (7) "Limited license" means a license to practice medicine or osteopathy in a specific institution or locale to the extent indicated in the license;

- (8) "Temporary permit" means a permit issued to a person who has applied for a regular license, and who appears from verifiable information in the application to the executive director to be qualified and eligible therefor;
- (9) "Emergency permit" means a permit issued to a physician currently licensed in another state, authorizing the physician to practice in this state for the duration of a specific medical emergency, not to exceed thirty (30) days;
- (10) Except as provided in subsection (11) of this section, the "practice of medicine or osteopathy" means the diagnosis, treatment, or correction of any and all human conditions, ailments, diseases, injuries, or infirmities by any and all means, methods, devices, or instrumentalities;
- (11) The "practice of medicine or osteopathy" does not include the practice of Christian Science, the domestic administration of family remedies, the rendering of first aid or medical assistance in an emergency in the absence of a person licensed to practice medicine or osteopathy under the provisions of this chapter, the use of automatic external defibrillators in accordance with the provisions of KRS 311.665 to 311.669, the practice of podiatry as defined in KRS 311.380, the practice of a midlevel health care practitioner as defined in KRS 216.900, the practice of dentistry as defined in KRS 313.010, the practice of optometry as defined in KRS 320.210, the practice of chiropractic as defined in subsection (2) of KRS 312.015, the practice as a nurse as defined in KRS 314.011, the practice of physical therapy as defined in KRS 327.010, the performance of duties for which they have been trained by paramedics licensed under KRS Chapter 311A, first responders, or emergency medical technicians certified under Chapter 311A, the practice of pharmacy by persons licensed and registered under KRS 315.050, the sale of drugs, nostrums, patented or proprietary medicines, trusses, supports, spectacles, eyeglasses, lenses, instruments, apparatus, or mechanisms that are intended, advertised, or represented as being for the treatment, correction, cure, or relief of any human ailment, disease, injury, infirmity, or condition, in regular mercantile establishments, or the practice of midwifery by women. KRS 311.530 to 311.620 shall not be construed as repealing the authority conferred on the Cabinet for Health and Family Services by KRS Chapter 211 to provide for the instruction, examination, licensing, and registration of all midwives through county health officers;
- (12) "Physician" means a doctor of medicine or a doctor of osteopathy;
- (13) "Grievance" means any allegation in whatever form alleging misconduct by a physician;
- (14) "Charge" means a specific allegation alleging a violation of a specified provision of this chapter;
- (15) "Complaint" means a formal administrative pleading that sets forth charges against a physician and commences a formal disciplinary proceeding;
- (16) As used in KRS 311.595(4), "crimes involving moral turpitude" shall mean those crimes which have dishonesty as a fundamental and necessary element, including but not limited to crimes involving theft, embezzlement, false swearing, perjury, fraud, or misrepresentation;
- (17) "Telehealth" means the use of interactive audio, video, or other electronic media to deliver health care. It includes the use of electronic media for diagnosis, consultation, treatment, transfer of medical data, and medical education;
- (18) "Order" means a direction of the board or its panels made or entered in writing that determines some point or directs some step in the proceeding and is not included in the final order;
- (19) "Agreed order" means a written document that includes but is not limited to stipulations of fact or stipulated conclusions of law that finally resolves a grievance, a complaint, or a show cause order issued informally without expectation of further formal proceedings in accordance with KRS 311.591(6);
- (20) "Final order" means an order issued by the hearing panel that imposes one (1) or more disciplinary sanctions authorized by this chapter;
- (21) "Letter of agreement" means a written document that informally resolves a grievance, a complaint, or a show cause order and is confidential in accordance with KRS 311.619;
- (22) "Letter of concern" means an advisory letter to notify a physician that, although there is insufficient evidence to support disciplinary action, the board believes the physician should modify or eliminate certain practices and that the continuation of those practices may result in action against the physician's license;
- (23) "Motion to revoke probation" means a pleading filed by the board alleging that the licensee has violated a term or condition of probation and that fixes a date and time for a revocation hearing;



- (24) "Revocation hearing" means a hearing conducted in accordance with KRS Chapter 13B to determine whether the licensee has violated a term or condition of probation;
- (25) "Chronic or persistent alcoholic" means an individual who is suffering from a medically diagnosable disease characterized by chronic, habitual, or periodic consumption of alcoholic beverages resulting in the interference with the individual's social or economic functions in the community or the loss of powers of self-control regarding the use of alcoholic beverages;
- (26) "Addicted to a controlled substance" means an individual who is suffering from a medically diagnosable disease characterized by chronic, habitual, or periodic use of any narcotic drug or controlled substance resulting in the interference with the individual's social or economic functions in the community or the loss of powers of self-control regarding the use of any narcotic drug or controlled substance;
- (27) "Provisional permit" means a temporary permit issued to a licensee engaged in the active practice of medicine within this Commonwealth who has admitted to violating any provision of KRS 311.595 that permits the licensee to continue the practice of medicine until the board issues a final order on the registration or reregistration of the licensee;
- (28) "Fellowship training license" means a license to practice medicine or osteopathy in a fellowship training program as specified by the license; and
- (29) "Special faculty license" means a license to practice medicine that is limited to ***the extent that this practice is incidental to a necessary part of the practitioner's academic appointment at***~~instruction as part of~~ an accredited medical school program or osteopathic school program and any affiliated institution for which the medical school or osteopathic school has assumed direct responsibility.

Section 2. KRS 311.571 is amended to read as follows:

- (1) No applicant who is a graduate of a medical or osteopathic school located within the United States and its territories and protectorates or Canada shall be eligible for a regular license to practice medicine in the Commonwealth unless the applicant:
  - (a) Is able to understandably speak, read, and write the English language;
  - (b) Has graduated from an accredited college or university or has satisfactorily completed a collegiate course of study necessary for entry into an approved medical or osteopathic school or college;
  - (c) Has graduated from a prescribed course of instruction in a medical or osteopathic school or college situated in the United States or Canada and approved by the board;
  - (d) Has satisfactorily completed a prescribed course of postgraduate training of a duration to be established by the board in an administrative regulation promulgated in accordance with KRS Chapter 13A, after consultation with the University of Kentucky College of Medicine, the University of Louisville School of Medicine, and the Pikeville College School of Osteopathic Medicine;
  - (e) Has successfully completed an examination prescribed by the board;
  - (f) Has complied with the requirements of KRS 214.615(1); and
  - (g) Has fulfilled all other reasonable qualifications for regular licensure that the board may prescribe by regulation.
- (2) No applicant who is a graduate of a medical or osteopathic school located outside the United States or Canada shall be eligible for a regular license to practice medicine in the Commonwealth unless the applicant:
  - (a) Is able to understandably speak, read, and write the English language;
  - (b) Has successfully completed a course of study necessary for entry into an approved medical or osteopathic school or college;
  - (c) Has graduated from a prescribed course of instruction in a medical or osteopathic school or college situated outside the United States or Canada and approved by the board or is a citizen of the United States and has been awarded a diploma by an approved medical or osteopathic school located within the United States or Canada as part of a program designed to allow for the transfer of students to such schools from schools located outside the United States or Canada;

- (d) Has successfully completed an examination prescribed by the board;
  - (e) Has been certified by the educational commission for foreign medical graduates or by an approved United States specialty board;
  - (f) Has satisfactorily completed a prescribed course of postgraduate training of a duration to be established by the board in an administrative regulation promulgated in accordance with KRS Chapter 13A, after consultation with the University of Kentucky College of Medicine, the University of Louisville School of Medicine, and the Pikeville College School of Osteopathic Medicine;
  - (g) Has complied with the requirements of KRS 214.615(1); and
  - (h) Has fulfilled all other reasonable qualifications for regular licensure that the board may prescribe by regulation.
- (3) No applicant shall be eligible for a limited license-institutional practice unless the applicant:
- (a) Has fulfilled all the requirements for regular licensure as delineated in subsection (1) of this section; or
  - (b) Has fulfilled the requirements for regular licensure as delineated in paragraphs (a) through (e) and (h) of subsection (2) of this section and in addition has satisfactorily completed a prescribed course of postgraduate training of at least one (1) full year's duration approved by the board;
  - (c) Has complied with the requirements of KRS 214.615(1); and
  - (d) Has fulfilled all other reasonable qualifications for limited licensure that the board may prescribe by regulation.
- (4) The board may grant an applicant a limited license-institutional practice for a renewable period of one (1) year if the applicant:
- (a) Has fulfilled the requirements for regular licensure as delineated in paragraphs (a), (b), (d), (e), and (h) of subsection (2) of this section;
  - (b) Has fulfilled the requirements for a limited license-institutional practice as indicated in subsection (3)(d) of this section;
  - (c) Has satisfactorily completed a prescribed course of postgraduate training of at least one (1) full year's duration approved by the board; and
  - (d) Has complied with the requirements of KRS 214.615(1).
- (5) The board may grant an applicant a fellowship training license for a renewable period of one (1) year if the applicant:
- (a) Has been accepted for a fellowship approved by the administration of any of Kentucky's medical schools and conducted under the auspices of that medical school; or
  - (b) Has graduated from a medical school located outside the United States or Canada that has been approved by the board; and
    - 1. Has been certified by the appropriate licensing authority in his or her home country in the subject specialty of the fellowship; and
    - 2. Is able to demonstrate that he or she is a physician of good character and is in good standing in the country where he normally practices medicine.
- (6) (a) The board may grant an applicant a special faculty license for a renewable period of one (1) year if the applicant:
- 1. Holds or has been offered a full-time faculty appointment at an accredited Kentucky medical or osteopathic school approved by the board and is nominated for a special faculty license by the dean of the school of medicine or school of osteopathy;
  - 2. Possesses a current valid license to practice medicine or osteopathy issued by another state, country, or other jurisdiction;
  - 3. Is able to understandably speak, read, and write the English language;
  - 4. Is board certified in his or her specialty;

5. Is not otherwise eligible for a regular license under this chapter; and
  6. Is not subject to denial of a license under any provision of this chapter.
- (b) The applicant shall submit the fee established by administrative regulation promulgated by the board for an initial license to practice medicine.
  - (c) An applicant approved for a license under this subsection shall not engage in the practice of medicine or osteopathy outside an ***accredited medical school program or osteopathic school program and any affiliated institution or program for which the medical school or osteopathic school has assumed direct responsibility***~~[academic setting]~~.
  - (d) The board may grant a regular license to practice medicine or osteopathy to a person who has had a special faculty license for a period of at least five (5) consecutive years.
- (7) An applicant seeking regular licensure in the Commonwealth who was originally licensed in another state may obtain licensure in the Commonwealth without further testing and training if the applicant:
    - (a) Has been endorsed in writing by the applicant's original licensing state as being licensed in good standing in that state; and
    - (b) Would have satisfied all the requirements for regular licensure described in the preceding subsections had the applicant sought original licensure in this state.
  - (8) No applicant shall be granted licensure in the Commonwealth unless the applicant has successfully completed an examination prescribed by the board in accordance with any rules that the board may establish by regulation concerning passing scores, testing opportunities and test score recognition.
  - (9) Notwithstanding any of the requirements for licensure established by subsections (1) to (8) of this section and after providing the applicant or reregistrant with reasonable notice of its intended action and after providing a reasonable opportunity to be heard, the board may deny licensure to an applicant or the reregistrant of an inactive license without a prior evidentiary hearing upon a finding that the applicant or reregistrant has violated any provision of KRS 311.595 or 311.597 or is otherwise unfit to practice. Orders denying licensure may be appealed pursuant to KRS 311.593.
  - (10) Notwithstanding any of the foregoing, the board may grant licensure to an applicant in extraordinary circumstances upon a finding by the board that based on the applicant's exceptional education, training, and practice credentials, the applicant's practice in the Commonwealth would be beneficial to the public welfare.
  - (11) Notwithstanding any provision of this section, the board may exercise its discretion to grant a visiting professor license to an applicant after considering the following:
    - (a) Whether the applicant meets the qualifications for a regular license;
    - (b) Whether the applicant is licensed to practice medicine in other states or in other countries; and
    - (c) The recommendation of the program director of an accredited medical school that confirms the applicant's employment as a visiting professor and that includes, if necessary, written justification for a waiver of the requirements specified in subsections (1) and (2) of this section.

Orders denying applications for a visiting professor license shall not be appealed under KRS 311.593.

Section 3. KRS 311.592 is amended to read as follows:

- (1) At any time when an inquiry panel has probable cause to believe that a physician has violated the terms of an agreed order or violated the terms of a disciplinary order, or a physician's practice constitutes a danger to the health, welfare, and safety of his patients or the general public, the inquiry panel may issue an emergency order, in accordance with KRS 13B.125, suspending, limiting, or restricting the physician's license.
- (2) For the purposes of a hearing conducted under KRS 13B.125 on an emergency order issued under subsection (1) of this section, the findings of fact in the emergency order shall constitute a rebuttable presumption of substantial evidence of a violation of law that constitutes immediate danger to the health, welfare, or safety of patients or the general public. For the purposes of this hearing only, hearsay shall be admissible and may serve as a basis of the board's findings.

- (3) An emergency order as described in subsection (1) of this section shall not be issued unless grounds exist for the issuance of a complaint ***or a motion to revoke probation or an order of indefinite restriction or limitation***. The inquiry panel shall issue a complaint ***or a motion to revoke probation or indefinite restriction or limitation*** prior to the date of the emergency hearing or the emergency order shall become void.
- (4) An order of temporary suspension, restriction, or limitation shall not be maintained after a final order is served on the charged physician pursuant to the proceeding on the complaint ***or on the motion to revoke***. An appeal of an emergency order shall not prejudice the board from proceeding upon the complaint ***or the motion to revoke***.

Section 4. KRS 311.594 is amended to read as follows:

- (1) When a hearing panel imposes discipline in a final order pursuant to KRS 13B.120 and 311.591(7), the panel may fix the appropriate sanction for the violation, but withhold imposition of the sanction under an order of probation for a period of not more than five (5) years, ***or under an order of indefinite restriction or limitation***, with the requirement that the physician fully comply with the terms and conditions specified by the panel as necessary for the protection of the public and rehabilitation of the physician's practice.
- (2) If the board receives information that a licensee has violated a term or condition of an order of probation, ***or an order of indefinite restriction or limitation***, issued under subsection (1) of this section during the effective period of that order, the board shall investigate the allegations as necessary. The board shall have all of the powers outlined in KRS 311.591(2) and 311.605(2) to conduct its investigation.
- (3) Upon completion of its inquiry relating to a violation of probation, the hearing panel shall make a finding that:
  - (a) The investigation does not disclose a violation of the order of probation ***or the order of indefinite restriction or limitation***;
  - (b) The investigation discloses a violation of a term or condition of the order of probation ***or the order of indefinite restriction or limitation*** but that revocation of probation ***or the order of indefinite restriction or limitation*** and imposition of the previously fixed sanction may not be necessary for protection of the public, and the panel may admonish or issue a letter of concern to the physician stating its findings and cautioning that another violation shall result in revocation of probation ***or the order of restriction or limitation*** and imposition of the previously fixed sanction; or
  - (c) The investigation discloses one (1) or more violations of the terms and conditions of the order of probation ***or of the order of indefinite restriction or limitation***, and the panel shall cause a motion to revoke probation ***or a motion to revoke the order of indefinite restriction or limitation***, to be prepared and signed by the presiding officer. The motion shall identify the term or condition violated and include a general statement of the nature of the violation and shall set a date and time for a revocation hearing.
- (4) The hearing panel shall cause the motion to revoke probation ***or the motion to revoke the indefinite restriction or limitation***, to be served on the physician by personal delivery or by certified mail to the last address on record with the board for the physician or the physician's representative.
- (5) The hearing on the motion to revoke probation ***or the motion to revoke the order of indefinite restriction or limitation*** shall be conducted in accordance with KRS Chapter 13B, but the single issue to be decided shall be whether the physician has violated a term or condition of the order of probation ***or the order of indefinite restriction or limitation***. Any recommended order issued under KRS 13B.110 shall be limited to recommended findings of fact and recommended conclusions of law.
- (6) Upon completion of the hearing on the motion to revoke probation ***or the motion to revoke the indefinite restriction or limitation***, the hearing panel shall issue an order that:
  - (a) Denies the motion upon a conclusion that the order of probation has not been violated;
  - (b) Finds a violation of the order of probation ***or the order of indefinite restriction or limitation*** but does not impose the previously fixed sanction and the panel may:
    - 1. Modify the terms and conditions of probation ***or the indefinite restriction or limitation*** to address issues presented during the hearing; or
    - 2. Admonish the physician or issue a letter of concern to the physician; or
  - (c) Imposes the previously fixed sanction.

Section 5. KRS 311.605 is amended to read as follows:

- (1) The county boards of health shall report to the board and to the county and Commonwealth's attorneys of their respective counties all violations of KRS 311.550 to 311.620 and shall assist in the enforcement thereof.
- (2) (a) For the purpose of enforcing the provisions of KRS 311.550 to 311.620, agents of the board shall have the power and authority:
  1. To administer oaths;~~{,}~~
  2. To enter upon *professional* premises *during periods when those premises are otherwise open to patients or the public*; ~~{at all times for the purpose of making inspections,}~~
  3. To *obtain*~~{seize}~~ evidence, including but not limited to psychiatric or nonpsychiatric records, *by consent or pursuant to a subpoena or search warrant*;
  4. To *interview*~~{interrogate}~~ all persons;~~{,}~~ and
  5. To require the production of books, papers, documents, or other evidence, *either by consent or pursuant to a subpoena or search warrant*.
- (b) The term "premises" as used in this subsection shall ~~mean~~~~{include}~~ physician offices, *or a physician's primary place of practice*, and all pharmacies and health care facilities licensed or regulated by the Commonwealth. Agents of the board may only require pharmacies to produce prescription records and health care facilities to produce records of patients or physician peer reviews. Such inspection or seizure of peer review records shall not affect the confidential nature of those records as provided in KRS 311.377, and the board shall maintain such peer review records so as to protect the confidentiality thereof.
- (3) The board may institute, in its own name, proceedings to temporarily or permanently restrain and enjoin the practice of medicine by:
  - (a) An individual who is not licensed to practice medicine or who is not involved in conduct specifically exempted from the requirements of this chapter by KRS 311.550(11); or
  - (b) An individual who was previously licensed by the board to practice medicine but is currently practicing medicine in violation of an emergency order of restriction or suspension, regardless of whether the respondent has been convicted for violation of the penal provisions thereof.
- (4) A petition for injunction filed under subsection (3) of this section may be filed in Jefferson Circuit Court, in the county of residence of the respondent, or in the county in which the acts are alleged to have been committed, and the board shall not be required to pay any costs or filing fees or furnish any bond in connection therewith.
  - (a) In the petition it shall be sufficient to charge that the respondent on a day certain in a named county engaged in the practice of medicine in violation of subsection (3)(a) or (b) of this section. No showing of damage or injury shall be required.
  - (b) Issuance of an injunction shall enjoin any act specified under subsection (3)(a) or (b) of this section and shall remain in place as long as necessary to prevent the unlawful practice of medicine.
  - (c) Issuance of an injunction shall not relieve the respondent from being subject to any other proceeding under law provided by this chapter or otherwise.
  - (d) Violation of injunctions and restraining orders shall be punished as a contempt without the intervention of a jury.

Section 6. KRS 311.990 is amended to read as follows:

- (1) Any person who violates KRS 311.250 shall be guilty of a violation.
- (2) Any college or professor thereof violating the provisions of KRS 311.300 to 311.350 shall be civilly liable on his bond for a sum not less than one hundred dollars (\$100) nor more than one thousand dollars (\$1,000) for each violation, which may be recovered by an action in the name of the Commonwealth.
- (3) Any person who presents to the county clerk for the purpose of registration any license which has been fraudulently obtained, or obtains any license under KRS 311.380 to 311.510 by false or fraudulent statement or

representation, or practices podiatry under a false or assumed name or falsely impersonates another practitioner or former practitioner of a like or different name, or aids and abets any person in the practice of podiatry within the state without conforming to the requirements of KRS 311.380 to 311.510, or otherwise violates or neglects to comply with any of the provisions of KRS 311.380 to 311.510, shall be guilty of a Class A misdemeanor. Each case of practicing podiatry in violation of the provisions of KRS 311.380 to 311.510 shall be considered a separate offense.

- (4) ~~Each first violation of KRS 311.560 is a Class A misdemeanor. Each subsequent violation of KRS 311.560 shall constitute a Class D felony.~~
- (5) Each violation of KRS 311.590 shall constitute a Class D felony. Conviction under this subsection of a holder of a license or permit shall result automatically in permanent revocation of such license or permit.
- (6) Conviction of willfully resisting, preventing, impeding, obstructing, threatening, or interfering with the board or any of its members, or of any officer, agent, inspector, or investigator of the board or the Cabinet for Health and Family Services, in the administration of any of the provisions of KRS 311.550 to 311.620 shall be a Class A misdemeanor.
- (7) Each violation of subsection (1) of KRS 311.375 shall, for the first offense, be a Class B misdemeanor, and, for each subsequent offense shall be a Class A misdemeanor.
- (8) Each violation of subsection (2) of KRS 311.375 shall, for the first offense, be a violation, and, for each subsequent offense, be a Class B misdemeanor.
- (9) Each day of violation of either subsection of KRS 311.375 shall constitute a separate offense.
- (10)
  - (a) Any person who intentionally or knowingly performs an abortion contrary to the requirements of KRS 311.723(1) shall be guilty of a Class D felony; and
  - (b) Any person who intentionally, knowingly, or recklessly violates the requirements of KRS 311.723(2) shall be guilty of a Class A misdemeanor.
- (11)
  - (a)
    - 1. Any physician who performs a partial-birth abortion in violation of KRS 311.765 shall be guilty of a Class D felony. However, a physician shall not be guilty of the criminal offense if the partial-birth abortion was necessary to save the life of the mother whose life was endangered by a physical disorder, illness, or injury.
    - 2. A physician may seek a hearing before the State Board of Medical Licensure on whether the physician's conduct was necessary to save the life of the mother whose life was endangered by a physical disorder, illness, or injury. The board's findings, decided by majority vote of a quorum, shall be admissible at the trial of the physician. The board shall promulgate administrative regulations to carry out the provisions of this subparagraph.
    - 3. Upon a motion of the physician, the court shall delay the beginning of the trial for not more than thirty (30) days to permit the hearing, referred to in subparagraph 2. of this paragraph, to occur.
  - (b) Any person other than a physician who performs a partial-birth abortion shall not be prosecuted under this subsection but shall be prosecuted under provisions of law which prohibit any person other than a physician from performing any abortion.
  - (c) No penalty shall be assessed against the woman upon whom the partial-birth abortion is performed or attempted to be performed.
- (12) Any person who intentionally performs an abortion with knowledge that, or with reckless disregard as to whether, the person upon whom the abortion is to be performed is an unemancipated minor, and who intentionally or knowingly fails to conform to any requirement of KRS 311.732 is guilty of a Class A misdemeanor.
- (13) Any person who negligently releases information or documents which are confidential under KRS 311.732 is guilty of a Class B misdemeanor.
- (14) Any person who performs an abortion upon a married woman either with knowledge or in reckless disregard of whether KRS 311.735 applies to her and who intentionally, knowingly, or recklessly fails to conform to the requirements of KRS 311.735 shall be guilty of a Class D felony.
- (15) Any person convicted of violating KRS 311.750 shall be guilty of a Class B felony.

- (16) Any person who violates KRS 311.760(2) shall be guilty of a Class D felony.
- (17) Any person who violates KRS 311.770 or 311.780 shall be guilty of a Class D felony.
- (18) A person convicted of violating KRS 311.780 shall be guilty of a Class C felony.
- (19) Any person who violates KRS 311.810 shall be guilty of a Class A misdemeanor.
- (20) Any professional medical association or society, licensed physician, or hospital or hospital medical staff who shall have violated the provisions of KRS 311.606 shall be guilty of a Class B misdemeanor.
- (21) Any administrator, officer, or employee of a publicly owned hospital or publicly owned health care facility who performs or permits the performance of abortions in violation of KRS 311.800(1) shall be guilty of a Class A misdemeanor.
- (22) Any person who violates KRS 311.914 shall be guilty of a violation.
- (23) Any person who violates the provisions of KRS 311.820 shall be guilty of a Class A misdemeanor.
- (24) (a) Any person who fails to test organs, skin, or other human tissue which is to be transplanted, or violates the confidentiality provisions required by KRS 311.281, shall be guilty of a Class A misdemeanor;  
(b) Any person who has human immunodeficiency virus infection, who knows he is infected with human immunodeficiency virus, and who has been informed that he may communicate the infection by donating organs, skin, or other human tissue who donates organs, skin, or other human tissue shall be guilty of a Class D felony.
- (25) Any person who sells or makes a charge for any transplantable organ shall be guilty of a Class D felony.
- (26) Any person who offers remuneration for any transplantable organ for use in transplantation into himself shall be fined not less than five thousand dollars (\$5,000) nor more than fifty thousand dollars (\$50,000).
- (27) Any person brokering the sale or transfer of any transplantable organ shall be guilty of a Class C felony.
- (28) Any person charging a fee associated with the transplantation of a transplantable organ in excess of the direct and indirect costs of procuring, distributing, or transplanting the transplantable organ shall be fined not less than fifty thousand dollars (\$50,000) nor more than five hundred thousand dollars (\$500,000).
- (29) Any hospital performing transplantable organ transplants which knowingly fails to report the possible sale, purchase, or brokering of a transplantable organ shall be fined not less than ten thousand dollars (\$10,000) or more than fifty thousand dollars (\$50,000).

**Approved April 5, 2006.**

## **CHAPTER 176**

**(HB 208)**

AN ACT relating to the designation of the official state dance.

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

SECTION 1. A NEW SECTION OF KRS CHAPTER 2 IS CREATED TO READ AS FOLLOWS:

***Clogging is named and designated as the official dance of Kentucky.***

**Approved April 17, 2006.**

## **CHAPTER 177**

**(SB 102)**

AN ACT relating to urban-county governments.

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

Section 1. KRS 67A.6901 is amended to read as follows:

As used in KRS 67A.6901 to 67A.6911:

- (1) "Commissioner" means the commissioner of the department;
- (2) *"Corrections personnel" means an employee of an urban-county government permanently assigned to a detention facility and working in any capacity in that detention facility;*
- (3) "Department" means the Kentucky Department of Labor within the Environmental and Public Protection Cabinet;
- (4)~~(3)~~ "Exclusive representative" means the labor organization which has been designated by the department as the representative of the majority of police officers, *firefighter personnel, firefighters, or corrections personnel*~~firefighters~~ in appropriate units or has been so recognized by the urban-county government;
- (5)~~(4)~~ "Firefighter" means an employee of an urban-county government engaged in serving the public by providing fire protection, including those covered by KRS Chapter 95;
- (6) *"Firefighter personnel" means dispatch communications officers;*
- (7)~~(5)~~ "Labor organization" means any chartered labor organization of any kind in which police officers, *firefighter personnel, firefighters, or corrections personnel*~~firefighters~~ participate and which exists for the primary purpose of dealing with urban-county governments concerning grievances, labor disputes, wages, rate of pay, hours of employment, or conditions of employment;
- (8)~~(6)~~ "Person" includes one (1) or more individuals, labor organizations, associations, corporations, legal representatives, trustees, trustees in bankruptcy, or receivers; and
- (9)~~(7)~~ "Police officer" means an employee, sworn or certified, of an urban-county government who participates in the Law Enforcement Foundation Program Fund provided in KRS 15.410 to 15.510.

Section 2. KRS 67A.6902 is amended to read as follows:

- (1) Police officers, *firefighter personnel, firefighters, and corrections personnel*~~firefighters~~ of an urban-county government shall have, and shall be protected in the exercise of, the right of self-organization, to form, join, or assist any labor organization, to bargain collectively through representatives of their own choosing on questions of wages, hours, and other conditions of employment free from interference, restraint, or coercion.
- (2) Labor organizations designated by the department as the representative of the majority of police officers, *firefighter personnel, firefighters, or corrections personnel*~~firefighters~~ in an appropriate unit or recognized by an urban-county government as the representative of the majority of employees in an appropriate unit shall be the exclusive representative for the employees of that unit for the purpose of collective bargaining with respect to rates of pay, wages, hours, and other conditions of employment.
- (3) Labor organizations recognized by an urban-county government as the exclusive representative or so designated in accordance with the provisions of this section shall be responsible for representing the interests of all police officers, *firefighter personnel, firefighters, or corrections personnel*~~firefighters~~ in the unit without discrimination.

Section 3. KRS 67A.6903 is amended to read as follows:

The urban-county government and the labor organization that has been designated as the exclusive representative of police officers, *firefighter personnel, firefighters, or corrections personnel*~~firefighters~~ in an appropriate unit, through appropriate officials or their representatives, shall have the authority and the duty to bargain collectively.

Section 4. KRS 67A.6904 is amended to read as follows:

- (1) Urban-county governments and their representatives and agents are prohibited from:
  - (a) Interfering, restraining, or coercing police officers, *firefighter personnel, firefighters, or corrections personnel*~~firefighters~~ in the exercise of the rights guaranteed in KRS 67A.6902;
  - (b) Dominating or interfering with the formation, existence, or administration of any labor organization;
  - (c) Discriminating in regard to hiring or tenure of employment or any term or condition of employment to encourage or discourage membership in any labor organization; provided that nothing in this section, or in any other statute of this state, shall preclude an urban-county government from making an agreement with a labor organization to require as a condition of employment membership therein on or after the



thirtieth day following the beginning of that employment or on the effective date of the agreement, whichever is the later;

- (d) Discharging or otherwise discriminating against an employee because he or she has signed or filed any affidavit, petition, or complaint or given any information or testimony under this section; or
  - (e) Refusing to bargain collectively in good faith with a labor organization which is the exclusive representative of employees in an appropriate unit, including but not limited to the discussing of grievances with the exclusive representative.
- (2) Labor organizations and their agents are prohibited from:
- (a) Restraining or coercing:
    - 1. Police officers, **firefighter personnel, firefighters, or corrections personnel**~~(firefighters)~~ in the exercise of the right guaranteed in KRS 67A.6902; and
    - 2. An urban-county government in the selection of a representative for the purposes of collective bargaining or the adjustment of grievances; or
  - (b) Refusing to bargain collectively in good faith with an urban-county government, if they have been designated in accordance with the provisions of this section as the exclusive representative of police officers, **firefighter personnel, firefighters, or corrections personnel**~~(firefighters)~~ in an appropriate unit.
- (3) For the purposes of this section, to bargain collectively is to carry out in good faith the mutual obligation of the parties, or their representatives; to meet together at reasonable times, including meetings in advance of the budget-making process; to negotiate in good faith with respect to wages, hours, and other conditions of employment; to negotiate an agreement; to negotiate any question arising under any agreement; and to execute a written contract incorporating any agreement reached, if requested by either party. The obligation shall not be interpreted to compel either party to agree to a proposal, or require either party to make a concession.

Section 5. KRS 67A.6905 is amended to read as follows:

- (1) Whenever, in accordance with administrative regulations that may be promulgated by the department, a petition has been filed:
  - (a) By a police officer, group of police officers, **firefighter personnel**, a firefighter, group of firefighters, **a corrections officer, group of corrections personnel**, or any labor organization acting on behalf of thirty percent (30%) of the employees who have signed labor organization affiliation cards and the labor organization showing proof of representation:
    - 1. Alleging that they wish to be represented for collective bargaining by a labor organization as exclusive representative; or
    - 2. Asserting that the labor organization which has been certified or is currently being recognized by the urban-county government as bargaining representative is no longer the representative of the majority of employees in the unit; or
  - (b) By an urban-county government alleging that one (1) or more labor organizations has presented to it a claim to be recognized as the representative of the majority of police officers, **firefighter personnel, firefighters, or corrections personnel**~~(firefighters)~~ in an appropriate unit;

the department shall investigate the petition, and if it has reasonable cause to believe that a question of representation exists, shall provide for an appropriate hearing upon due notice. If the department finds that there is a question of representation, it shall direct an election by secret ballot to determine whether or by which labor organization the police officers, **firefighter personnel, firefighters, or corrections personnel**~~(firefighters)~~ desire to be represented, and shall certify the result thereof to the legislative council of the urban-county government.

- (2) The department shall decide in each case, in order to assure police officers, **firefighter personnel, firefighters, and corrections personnel**~~(firefighters)~~ the fullest freedom in exercising the rights guaranteed by this section, the unit appropriate for the purposes of collective bargaining, based on such factors as community of interest, wages, hours, and other working conditions of the police officers, **firefighter personnel, firefighters, or**

*corrections personnel*~~[firefighters]~~ involved; the history of collective bargaining; and the desires of the police officers, *firefighter personnel, firefighters, or corrections personnel*~~[firefighters]~~.

- (3) An election shall not be directed in any bargaining unit or in any subdivision thereof within which in the preceding twelve (12) month period a valid election has been held. The department shall determine who is eligible to vote in the election and shall promulgate administrative regulations governing the election. In any election where none of the choices on the ballot receives a majority, a runoff shall be conducted and the ballot shall provide for the selection between the two (2) choices receiving the largest and the second largest number of valid votes cast in the election. A labor organization which receives the majority of the votes cast in an election shall be certified by the department as exclusive representative of all the police officers, *firefighter personnel, firefighters, or corrections personnel*~~[firefighters]~~ in the unit.
- (4) Nothing in this or any other law shall be construed to prohibit recognition of a labor organization as the exclusive representative by an urban-county government by mutual consent.
- (5) No election shall be directed by the department in any bargaining unit where there is in force and effect a valid collective bargaining agreement; provided, however, no collective bargaining agreement shall bar an election upon the petition of persons not parties thereto where more than four (4) years have elapsed since the execution of the agreement or the last timely renewal, whichever was later.

Section 6. KRS 67A.6906 is amended to read as follows:

Violations of the provisions of KRS 67A.6904 shall be deemed to be unfair labor practices remedial by the department in the following manner.

- (1) Whenever it is charged by an urban-county government or a labor organization that any person has engaged in or is engaging in any unfair labor practices, the department or any hearing officer designated by the department shall conduct an administrative hearing in accordance with KRS Chapter 13B.
- (2) If, upon the preponderance of the evidence presented, the department is of the opinion that any person named in the charge has engaged in or is engaging in an unfair labor practice, then it shall issue a final order requiring the person to cease and desist from the unfair labor practice, and to take any affirmative action including reinstatement of police officers, *firefighter personnel, firefighters, or corrections personnel*~~[firefighters]~~ with or without back pay, as will effectuate the policies of this section. The final order may further require the person to make reports from time to time showing the extent to which he or she has complied with the order. If, upon the preponderance of the evidence presented, the department is not of the opinion that the person named in the charge has engaged in or is engaging in the unfair labor practice, then the department shall issue a final order dismissing the complaint. No final order shall issue based upon any unfair labor practice occurring more than six (6) months prior to the filing of the charge with the department, unless the person aggrieved thereby was prevented from filing the charge by reason of service in the Armed Forces, in which event, the six (6) month period shall be computed from the day of his or her discharge. No final order of the department shall require the reinstatement of any individual as a police officer, *firefighter personnel, firefighters, or corrections personnel*~~[firefighter]~~ who has been suspended or discharged, or the payment to the individual of any back pay, if the individual was suspended or discharged for cause.
- (3) Until a final order has been appealed, the department at any time, upon reasonable notice and in the manner that it deems proper, may modify or set aside, in whole or in part, any final order made or issued by it.
- (4) The department or the charging party may petition for the enforcement of the final order and for appropriate temporary relief or restraining order in the Circuit Court for the county in which the violation occurred.
- (5) Any person aggrieved by a final order of the department may obtain a review of the final order by filing a petition in the Circuit Court assigned jurisdiction under subsection (4) of this section in accordance with KRS Chapter 13B.

Section 7. KRS 67A.6908 is amended to read as follows:

- (1) Any agreement reached by the negotiators shall be reduced to writing and shall be executed by both parties.
- (2) An agreement between the urban-county government and a labor organization shall be valid and enforced under its terms when entered into in accordance with the provisions of this section and signed by the mayor of the urban-county government or his or her representative. No publication thereof shall be required to make it effective. The procedure for the making of an agreement between an urban-county government and a labor organization provided by this section shall be the exclusive method of making a valid agreement for police

officers, **firefighter personnel, firefighters, or corrections personnel**~~firefighters~~ represented by a labor organization.

- (3) Suits for violation of agreements between an urban-county government and a labor organization representing police officers, **firefighter personnel, firefighters, or corrections personnel**~~firefighters~~ may be brought by the parties to the agreement in the Circuit Court of the urban-county government.

Section 8. KRS 67A.6909 is amended to read as follows:

Upon the written authorization of any police officers, **firefighter personnel, firefighters, or corrections personnel**~~firefighters~~ within a bargaining unit, the urban-county government shall deduct from the payroll of the police officer, **firefighter personnel, firefighters, or corrections personnel**~~firefighter~~ the monthly amount of dues as certified by the secretary of the exclusive bargaining representative, and shall deliver the same to the treasurer of the exclusive bargaining representative.

Section 9. KRS 67A.6910 is amended to read as follows:

No police officer, **firefighter personnel, firefighter, or corrections officer**~~firefighter~~ of an urban-county government shall engage in, and no police officer labor organization, **firefighter personnel labor organization**,~~or~~ firefighter labor organization, **or corrections officer labor organization** shall sponsor or condone, any strike.

**Approved April 17, 2006.**

## CHAPTER 178

(SB 28)

AN ACT relating to the issuance of bonds.

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

SECTION 1. A NEW SECTION OF KRS CHAPTER 103 IS CREATED TO READ AS FOLLOWS:

*After the effective date of this Act, no city, county, charter county, urban-county, consolidated local government, or special district shall issue revenue bonds as provided in this chapter for any housing project which is located outside the jurisdictional boundaries of the issuing entity, without the express written consent of the elected legislative body of the city, county, charter county, urban-county, or consolidated local government in which the housing project will be located.*

SECTION 2. A NEW SECTION OF KRS CHAPTER 58 IS CREATED TO READ AS FOLLOWS:

*After the effective date of this Act, no city, county, charter county, urban-county, consolidated local government, or special district shall issue revenue bonds as provided in this chapter for any housing project which is located outside the jurisdictional boundaries of the issuing entity without the express written consent of the elected legislative body of the city, county, charter county, urban-county, or consolidated local government in which the housing project will be located.*

**Approved April 17, 2006.**

## CHAPTER 179

(SB 82)

AN ACT relating to wineries and making an appropriation therefor.

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

Section 1. KRS 243.155 is amended to read as follows:

- (1) *Any in-state or out-of-state small farm winery may apply for a small farm winery license. In addition to all other licensing requirements, an applicant for a small farm winery license shall submit with its application a copy of the small farm winery's federal basic permit and proof documenting its annual wine production. An out-of-state winery shall submit additional documentation evidencing its resident state. As part of the application process, an out-of-state winery shall publish its notice of intent, as required by KRS 243.360, in*

*the Kentucky newspaper of highest circulation. The office shall promulgate administrative regulations establishing the form the documentation of proof of production shall take.*

- (2) A small ***farm*** winery license shall authorize the licensee to perform the following functions without having to obtain separate licenses, except that each ***small farm winery*** off-premises retail site shall be separately licensed:
  - (a) Manufacture wines and bottle wines produced by that small ***farm*** winery ~~in an amount not to exceed fifty thousand (50,000) gallons in one (1) year~~;
  - (b) ***Bottle wines produced by another small farm winery***;
  - (c) Serve on the premises or at ***small farm winery*** off-premise retail sites complimentary samples of wine produced by it in amounts not to exceed six (6) ounces per patron per day, if the small ***farm*** winery or its off-premise retail site is located in wet territory;
  - ~~(d)(e)~~ Sell by the drink or by the package on premises, at ***small farm winery*** off-premise retail sites, and at fairs, festivals, and other similar types of events, wine produced on the premises of the small ***farm*** winery or produced by a licensed ***small farm*** winery, at retail to consumers if all sales sites are located in wet territory;
  - ~~(e)(d)~~ Sell and transport wine produced on the premises of the small ***farm*** winery to wholesale license holders and ***small farm wineries*** ~~to retail package or retail drink license holders, if the wine has been offered for sale to wholesale license holders and the wine is sold at the wholesale price to the retail package or retail drink license holders~~;
  - ~~(f)(e)~~ Consume on the premises wine produced by the small ***farm*** winery or a licensed ***small farm*** winery and purchased by the drink or by the package at the licensed premises, if the small ***farm*** winery is located in wet territory; and
  - ~~(g)(f)~~ Ship to a customer wine produced by a small ***farm*** winery ~~or a farm winery~~ if:
    1. The wine is purchased by the customer in person at the small ***farm*** winery;
    2. The wine is shipped by licensed common carrier; and
    3. The amount of wine shipped is limited to two (2) cases per customer ***per visit***.
- ~~[(2) In accordance with administrative regulations promulgated by the board, the holder of a small winery license or farm winery license, upon affidavit filed with the board that grapes, grape juice, other fruits, other fruit juices, or honey produced in Kentucky are not obtainable, may apply for a permit to import these products. The burden of proof shall be upon the applicant to show that the grapes, grape juice, other fruits, other fruit juices, or honey are not available from any other source within the Commonwealth of Kentucky.]~~
- (3) If a licensed small ***farm*** winery is located in a dry territory, KRS 242.230 to 242.430 shall apply, unless a local option election is held in accordance with the provisions of this subsection. A limited sale precinct election may be held in a precinct containing a licensed small ***farm*** winery ***or a proposed small farm winery located*** in a dry territory. The election shall be held in the same manner as prescribed by KRS 242.010 to 242.040 and 242.060 to 242.120. ***If the precinct contains a licensed small farm winery, the proposition to be voted on shall state, "Are you in favor of the sale of wine at the (name of the licensed small farm winery or wineries)?" If the precinct contains a proposed small farm winery or wineries, the proposition voted on shall state, "Are you in favor of the sale of wine at the (name of the proposed small farm winery or wineries)?"*** If the proposition is approved, a ***licensed small farm*** winery within the precinct may sell wine in accordance with subsection ~~(2)(4)~~ of this section.
- (4) Other provisions of this chapter and KRS Chapter 244 notwithstanding, a small ***farm*** winery license holder may also hold a restaurant wine license and a retail malt beverage license, provided the issuance of these licenses is in connection with the establishment and operation of a restaurant, hotel, inn, bed and breakfast, conference center, or any similar business enterprise the purpose of which is to promote viticulture, enology, and tourism. The retail malt beverage license issued under this subsection shall limit the licensee to the sale of malt beverages for consumption on the premises only.
- (5) This section shall not exempt the holder of a small ***farm*** winery license from the provisions of KRS Chapters 241, 242, 243, and 244, nor from the administrative regulations of the board, nor from regulation by the board at all premises licensed by the small ***farm*** winery, except as expressly stated in this section.

- (6) *Nothing contained in this section shall exempt a licensed out-of-state winery from obeying the laws of its resident state.*
- (7) *Any person previously licensed as a small or farm winery under this chapter prior to the effective date of this Act shall hereby be authorized to conduct business as a small farm winery licensee, until such time as the term of his or her small or farm winery license expires. Upon the expiration of the term remaining on his or her small or farm winery license, a licensee who is in good standing shall be issued a small farm winery license as part of the renewal process after he or she submits to the office the winery's federal basic permit and proof of its annual wine production.*

Section 2. KRS 244.165 is amended to read as follows:

- (1) *Except as provided in subsection (2) of this section*, it shall be unlawful for any person in the business of selling alcoholic beverages in another state or country to ship or cause to be shipped any alcoholic beverage directly to any Kentucky resident who does not hold a valid wholesaler or distributor license issued by the Commonwealth of Kentucky.
- (2) *A small farm winery located in another state may ship wine to a customer in Kentucky if:*
  - (a) *The wine is purchased by the customer in person at the winery;*
  - (b) *The wine is shipped by licensed common carrier; and*
  - (c) *The amount of wine shipped is limited to two (2) cases per customer per visit.*
- (3) Any person who violates subsection (1) of this section shall, for the first offense, be mailed a certified letter by the office ordering that person to cease and desist any shipments of alcoholic beverages to Kentucky residents, and for the second and each subsequent offense, be guilty of a Class D felony.

Section 3. KRS 260.166 is amended to read as follows:

- (1) The Kentucky Grape and Wine Council, created in KRS 260.165 to promote and facilitate the development of a grape, grape products, and wine industry, may:
  - (a) Conduct and contract with others to conduct research on grapes, grape products, and wine in Kentucky and elsewhere for use in Kentucky, including but not limited to:
    - 1. Methods of marketing, market development, and distribution;
    - 2. Methods of storage, refrigeration, processing, and transportation;
    - 3. Methods of production and product development;
    - 4. Methods of agronomic, enological, and viticultural practices to improve these practices in Kentucky; and
    - 5. Economic benefits and impact from the industry;
  - (b) Publish and provide and contract with others to publish and provide wholesalers and retailers in the Kentucky grape, grape products, and wine industry with information on proper methods of handling and selling grapes, grape products, and wine;
  - (c) Publish and provide and contract with others to publish and provide producers of Kentucky grapes, grape products, and wine, as well as the general public, with information relating to Kentucky grapes, grape products, and wine; and
  - (d) Design and implement or contract with others to design and implement activities relating to Kentucky grapes, grape products, and wine, including but not limited to:
    - 1. Market surveys and analyses;
    - 2. Industry promotion programs;
    - 3. Market maintenance and expansion plans;
    - 4. Education programs;
    - 5. Public relations programs;

6. Economic impact analyses; and
  7. Other analysis or research relating to the promotion and sale of Kentucky grapes, grape products, and wine.
- (2) The Kentucky Grape and Wine Council, to the extent that funds are available, shall:
- (a) Promote the sale of grapes, grape products, and wine for the purpose of maintaining and expanding present markets and creating new markets for Kentucky grapes, grape products, and wine for the maximum economic impact on the agricultural economy of Kentucky;
  - (b) Inform the public, producers, and vendors about Kentucky grapes, grape products, and wine, including uses and benefits of these products;
  - (c) Advise the Commissioner to:
    1. Expend moneys from the Kentucky Grape and Wine Council fund created in KRS 260.168 to carry out the duties and recommendations of the council; and
    2. Hire staff to carry out the duties and recommendations of the council; and
    3. Promulgate administrative regulations to carry out the duties and recommendations of the council;
  - (d) Coordinate with the Kentucky Department of Agriculture and other state agencies in carrying out these duties;~~and~~
  - (e) Report annually to the Governor and the General Assembly on the activities of the Kentucky Grape and Wine Council; *and*
  - (f) *Report by November 1 of each year to the Interim Joint Committee on Licensing and Occupations of the Kentucky General Assembly and the Agricultural Development Board on the coordination between Kentucky wineries and Kentucky wholesalers to promote the availability of Kentucky wine to retailers.*

SECTION 4. A NEW SECTION OF KRS CHAPTER 260 IS CREATED TO READ AS FOLLOWS:

- (1) *The Kentucky small farm wineries support fund is created as a separate revolving fund. The support fund shall consist of amounts transferred to the fund pursuant to the provisions of subsection (2) of this section and any other proceeds from grants, contributions, appropriations, or other moneys made available for the purposes of the fund. Fund amounts not expended at the close of the fiscal year shall not lapse but shall be carried forward into the next fiscal year. Any interest earnings of the fund shall become a part of the fund and shall not lapse.*
- (2) *A total of four hundred thousand dollars (\$400,000) shall be deposited in the Kentucky small farm wineries support fund each fiscal year from the general fund. The funds shall be used by the Kentucky Grape and Wine Council as follows:*
  - (a) *Two hundred thousand dollars (\$200,000) of these funds shall be used for the promotion, advertising, and marketing in Kentucky of wine produced by small farm wineries located in Kentucky. The Grape and Wine Council shall collaborate with the Kentucky Department of Agriculture and the Kentucky Department of Tourism to develop a marketing plan that shall include brand development, direct mail and e-marketing, Web site development, collateral brochures and maps, advertising, familiarization trips, a retail program, and any other topics that the marketing plan developers deem appropriate or that may be established through the promulgation of administrative regulations;*
  - (b) *One hundred thousand dollars (\$100,000) of these funds shall be used by the Grape and Wine Council, in collaboration with the Kentucky Department of Agriculture and the Kentucky Department of Tourism, to establish a local marketing cost-share program. For the purposes of this section, "local marketing cost-share program" means a mechanism to provide Kentucky small farm wineries with access to matching funds reimbursements for projects that promote and market their products. Standards for the application for, and receipt of, matching funds reimbursements authorized in this section shall be established through the promulgation of administrative regulations;*

- (c) *Twenty-five thousand dollars (\$25,000) of these funds shall be used for funding the administrative costs of the Kentucky Grape and Wine Council. The costs shall include but not be limited to reimbursement for the council's appointed members' travel expenses while attending meetings of the council;*
- (d) *Seventy-five thousand dollars (\$75,000) shall be used for the payment of fees to licensed wholesalers who apply to the Kentucky Grape and Wine Council to participate in a wine distribution program established by the Kentucky Grape and Wine Council. A licensed wholesaler shall apply and shall be eligible for consideration for the program. The licensed wholesaler shall agree to distribute the wine produced by small farm wineries licensed under Section 1 of this Act and shall agree to sell the wine to retailers for the same price the wholesaler paid for the wine; and*
- (e) *The funds allocated to each purpose under paragraphs (a) to (d) of this subsection shall be used exclusively for the purpose designated. Use of the funds designated for each purpose shall be strictly adhered to, and the funds shall not be used to support any other purpose. If, at the end of any fiscal year funds designated for one (1) of the purposes are unused, the unused funds shall not lapse and shall be carried forth to the succeeding year for the original purpose designated.*
- (3) *The Kentucky Grape and Wine Council shall advise the Commissioner of the Department of Agriculture regarding promulgation of administrative regulations necessary to carry out the provisions and purposes of subsection (2) of this section. The Department of Agriculture shall collaborate with the Department of Tourism and the Kentucky Grape and Wine Council in developing any administrative regulations promulgated under the authority of this section.*

Section 5. KRS 260.165 is amended to read as follows:

- (1) The Kentucky Grape and Wine Council is hereby created within the Department of Agriculture. The purpose of the council shall be to promote and facilitate the development of a **Kentucky-based** grape industry in the Commonwealth of Kentucky.
- (2) The council shall be composed of the Commissioner of Agriculture, or his designee, and nine (9) members appointed by the Governor. Of the nine (9) gubernatorial appointments, the Governor shall appoint one (1) from a list of three (3) candidates submitted by the director of the University of Kentucky Agriculture Experiment Station, one (1) from a list of three (3) candidates submitted by the secretary of the Commerce Cabinet, three (3) winery operators *from a list of six (6) candidates submitted by the Commissioner of Agriculture,* ~~and~~ two (2) grape producers from a list of *four (4)* ~~ten (10)~~ candidates submitted by the *Commissioner of Agriculture, and two (2) citizens at large* ~~Kentucky Vineyard Society and the Kentucky Grape and Wine Council~~.
- (3) *Of the members appointed after January 1, 2007, three (3) members shall serve a term of one (1) year, two (2) shall serve a term of two (2) years, two (2) shall serve a term of three (3) years, and two (2) shall serve a term of four (4) years, as the Governor designates. Thereafter,* ~~The~~ appointed members shall serve ~~for~~ terms of four (4) years and until their successors are appointed and qualify. *A vacancy in an unexpired term shall be filled for the unexpired portion of the term in the same manner as the original appointment to that term.*
- (4) The council shall select a chairman and shall meet *at least once every three (3) months* at the times and places *the chairman* ~~that he~~ designates. *Six (6)* ~~Five (5)~~ members present at any meeting shall constitute a quorum. Upon the written request of any five (5) members, the chairman shall call a meeting of the council at the time and place requested.
- (5) *The council may enact bylaws concerning the conduct of the council's business and other administrative procedures as the council deems necessary.*
- ~~(6)(4)~~ Members shall receive no compensation but shall be reimbursed, payable from the Kentucky Grape and Wine Council fund, for any actual travel expense incurred while attending meetings of the council.

Section 6. 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) "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) "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) "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) "City administrator" means city alcoholic beverage control administrator.
- (12) "~~Commissioner~~~~[Executive director]~~" means the *commissioner of the Kentucky Department of Revenue*~~[executive director of alcoholic beverage control]~~.
- (13) "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) "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) "County administrator" means county alcoholic beverage control administrator.
- (16) ~~"Office" means the Office 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.
- (17) ~~(18)~~ "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.
- (18) ~~(19)~~ "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.
- (19) ~~(20)~~ "Distributor" means any person who distributes malt beverages for the purpose of being sold at retail.
- (20) ~~(21)~~ "Dry territory" means a county, city, district, or precinct in which a majority of voters have voted in favor of prohibition.
- (21) ~~(22)~~ ~~"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.
- (22) ***"Executive director" means the executive director of the Office of Alcoholic Beverage Control.***
- (23) ~~(24)~~ "Field representative" means any employee or agent of the office 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 office who is assigned, temporarily or permanently, by the executive director to duty outside the main office of the office at Frankfort, in connection with the administration of alcoholic beverage statutes.
- (24) ~~(25)~~ "License" means any license issued pursuant to KRS 243.020 to 243.670.
- (25) ~~(26)~~ "Licensee" means any person to whom a license has been issued, pursuant to KRS 243.020 to 243.670.
- (26) ~~(27)~~ "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).
- (27) ~~(28)~~ "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.
- (28) ~~(29)~~ "Manufacture" means distill, rectify, brew, bottle, and operate a winery.
- (29) ~~(30)~~ "Manufacturer" means a vintner, distiller, rectifier, or brewer, and any other person engaged in the production or bottling of alcoholic beverages.
- (30) ~~(31)~~ "Minor" means any person who is not twenty-one (21) years of age or older.
- (31) ***"Office" means the Office of Alcoholic Beverage Control.***
- (32) "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) "Prohibition" means the application of KRS 242.190 to 242.430 to a territory.
- (34) "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) "Repackaging" means the placing of alcoholic beverages in any retail container irrespective of the material from which the container is made.
- (36) "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) "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) "Retail outlet" means retailer, hotel, motel, restaurant, railroad dining car, club, and any facility where alcoholic beverages are sold directly to the consumers.
- (39) "Retail sale" means any sale where delivery is made in Kentucky to any consumers.
- (40) "Retailer" means any person who sells at retail any alcoholic beverage for the sale of which a license is required.
- (41) "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) ~~"Commissioner" means the commissioner of the Kentucky Department of Revenue.~~
- (43) ~~"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.~~
- (43)(44) "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.
- (44)(45) "Small *farm* 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 a ~~calendar~~ ~~one (1)~~ year.
- (45)(46) "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.
- (46)(47) "State director" means the director of the Division of Distilled Spirits or the director of the Division of Malt Beverages, or both, as the context requires.
- (47)(48) "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.
- (48)(49) "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.
- (49)(50) "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.

- (50)~~(51)~~ "Warehouse" means any place in which alcoholic beverages are housed or stored.
- (51)~~(52)~~ "Wholesale sale" means a sale to any person for the purpose of resale.
- (52)~~(53)~~ "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.
- (53)~~(54)~~ "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.
- (54)~~(55)~~ "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 7. KRS 243.030 is amended to read as follows:

The following kinds of distilled spirits and wine licenses may be issued by the director of the Division of Distilled Spirits, the fees for which shall be:

- |      |   |            |
|------|---|------------|
| (1)  | Distiller's license, per annum .....  | \$2,500.00 |
| (2)  | Rectifier's license, per annum .....  | \$2,500.00 |
| (3)  | Blender's license, per annum .....  | \$2,500.00 |
| (4)  | Vintner's license, per annum .....  | \$1,000.00 |
| (5)  | Small <i>farm</i> winery license, per annum .....   | \$100.00   |
|      | (a) Small <i>farm</i> winery off-premises retail license, per annum .....   | \$25.00    |
| (6)  | Wholesaler's license, per annum .....   | \$2,000.00 |
| (7)  | Retail package license, per annum:  |            |
|      | (a) In counties containing cities of the first class or a consolidated local government .....   | \$800.00   |
|      | (b) In counties containing cities of the second class .....   | \$700.00   |
|      | (c) In counties containing cities of the third class .....  | \$600.00   |
|      | (d) In counties containing cities of the fourth class .....   | \$500.00   |
|      | (e) In all other counties .....   | \$400.00   |
| (8)  | Retail drink license, motel drink license, restaurant drink license, or supplemental bar license, per annum:  |            |
|      | (a) In counties containing cities of the first class or a consolidated local government ....  | \$1,000.00 |
|      | (b) In counties containing cities of the second class .....   | \$700.00   |
|      | (c) In counties containing cities of the third class .....  | \$600.00   |
|      | (d) In counties containing cities of the fourth class .....   | \$500.00   |
|      | (e) The fee for each of the first five (5) supplemental bar licenses shall be the same as the fee for the drink license. There shall be no charge for each supplemental license issued in excess of five (5) to the same licensee at the same premises. |            |
| (9)  | Transporter's license, per annum .....  | \$100.00   |
| (10) | Dining car license, per annum .....   | \$100.00   |
| (11) | Special nonbeverage alcohol vendor's license, per annum .....   | \$50.00    |

- (12) Special industrial alcohol license, per annum ..... \$50.00
- (13) Special nonindustrial alcohol license, per annum ..... \$50.00
- (14) Special agent's or solicitor's license, per annum ..... \$25.00
- (15) Special storage or warehouse license and bottling house storage license,  
per annum \$500.00
- (16) Special temporary liquor license, per event ..... \$100.00
- (17) Special private club license, per annum ..... \$300.00

The fee for each special private club license shall be the fee set out in this subsection; however, there shall be no charge for each special private club license issued in excess of six (6) that is issued to the same licensee at the same premises.

- (18) Special Sunday retail drink license, per annum ..... \$500.00
- (19) Nonresident special agent or solicitor's license, per annum ..... \$100.00
- (20) Transport permit, nonresident license, per annum ..... \$100.00
- (21) Through transporter's license, per annum ..... \$100.00
- (22) Freight forwarder's license, per annum ..... \$100.00
- (23) Restaurant wine license, per annum ..... \$500.00
- ~~(24) Farm winery license, per annum ..... \$100.00~~
- ~~(a) Farm winery, off premises retail outlet license, per annum ..... \$25.00~~
- ~~(25)~~ Special temporary wine license, per event ..... \$50.00
- ~~(25)(26)~~ Caterer's license, per annum ..... \$800.00
- ~~(26)(27)~~ Souvenir retail liquor license, per annum ..... \$500.00
- ~~(27)(28)~~ Special temporary distilled spirits and wine  
auction license, per event ..... \$100.00
- ~~(28)(29)~~ Airport drink license, per annum ..... \$1,000.00
- ~~(29)(30)~~ Convention center or convention hotel complex  
license, per annum ..... \$5,000.00
- ~~(30)(31)~~ Extended hours supplemental license, per annum ..... \$2,000.00
- ~~(31)(32)~~ Horse race track license, per annum ..... \$2,000.00
- ~~(32)(33)~~ Automobile race track license, per annum ..... \$2,000.00
- ~~(33)(34)~~ Air or rail system license, per annum ..... \$2,000.00
- ~~(34)(35)~~ Riverboat license, per annum ..... \$1,000.00
- ~~(35)(36)~~ Bottling house license, per annum ..... \$1,000.00
- ~~(36)(37)~~ Hotel in-room license, per annum ..... \$200.00
- ~~(37)(38)~~ Bonded warehouse license, per annum ..... \$1,000.00
- ~~(38)(39)~~ Air transporter liquor license, per annum ..... \$500.00
- ~~(39)(40)~~ Sampling license, per annum ..... \$100.00
- ~~(40)(41)~~ Replacement or duplicate license ..... \$25.00
- ~~(41)(42)~~ Entertainment destination license, per annum ..... \$7,500.00
- ~~(42)(43)~~ (a) Limited restaurant license or limited golf course license, per annum

(includes distilled spirits, wine, and malt beverages), new applicants:

1. In counties containing cities of the first class or a consolidated local government \$1,200.00
2. In counties containing cities of the second class ..... \$900.00
3. In counties containing cities of the third class ..... \$800.00
4. In counties containing cities of the fourth, fifth, or sixth classes ..... \$700.00

(b) Renewals for limited restaurant licenses or limited golf course licenses shall be \$50.00 less than the applicable licensing fee for new applicants.

(43) ***Small farm winery wholesaler's license, per annum* ..... \$100.00**

(44) Other special licenses the board finds necessary for the proper regulation and control of the traffic in distilled spirits and wine and provides for by administrative regulation. In fixing the amount of license taxes that are required to be fixed by the board, it shall have regard for the value of the privilege granted.

A nonrefundable application fee of fifty dollars (\$50) shall be charged to process each new application under this section, except for subsections (5), (9), (11), (12), (13), (14), (16), (19), (20), (21), (22), (24), (27), (39)~~((25), (28), (40))~~, and (40)~~((41))~~. The application fee shall be applied to the licensing fee if the license is issued; otherwise it shall be retained by the office.

Section 8. KRS 243.037 is amended to read as follows:

- (1) A supplemental bar license shall authorize the licensee to sell or serve distilled spirits or wine by the drink at retail for consumption on the licensed premises from an additional location other than the main bar of an existing retail drink licensed premises. A supplemental bar license is a nonquota license and shall not be transferable to other premises.
- (2) A supplemental bar license shall not be issued unless:
  - (a) The licensee applies to the state distilled spirits director and meets all requirements for obtaining a supplemental bar license; and
  - (b) The licensee pays the applicable license fee prescribed in KRS 243.030(8), (17), (23), (28)~~((29))~~, (34)~~((35))~~, or (42)~~((43))~~.
- (3) A licensee authorized to sell and serve malt beverages may sell and serve malt beverages at any location on the licensed premises without obtaining a supplemental bar license.

Section 9. KRS 243.110 is amended to read as follows:

- (1) Except as provided in subsection (2) of this section, each kind of license listed in KRS 243.030 shall be ***incompatible***~~[inconsistent]~~ with every other kind listed in that section and no person ***or entity*** holding a license of any of those kinds shall apply for or hold a license of another kind listed in KRS 243.030.
- (2) The holder of a retail package license may also hold either a retail drink license or a special nonindustrial alcohol license. The holder of a transporter's license may also hold a special storage or warehouse license. The holder of a wholesaler's license may also hold a special nonbeverage alcohol vendor's license. The holder of a distiller's license may also hold a rectifier's license, a special industrial alcohol license or a vintner's license, and a souvenir retail liquor license.~~[The holder of a farm winery and a small winery license may exercise all functions of such license as authorized by KRS 243.155 and 243.156.]~~ A commercial airline system or charter flight system retail license, a commercial airline system or charter flight system transporter's license, and a retail drink license if held by a commercial airline or charter flight system may be held by the same person or corporation.
- (3) Any person may hold two (2) or more licenses of the same kind.
- (4) ***A person or entity***~~[An applicant]~~ shall not evade the prohibition against applying for or holding licenses of two (2) kinds by applying for a second license ***through or*** under the ***name***~~[look]~~ of a ***different person or***~~[separate corporate]~~ entity. The state director ***shall***~~[may]~~ examine~~[into]~~ the ownership and management of ***applicants***~~[corporations which apply for or hold licenses]~~, and shall deny the application for a license ***if the applicant is***~~[to any party]~~ substantially interested in ***a person or entity that holds*** an incompatible license.

Section 10. 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 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 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 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 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.
  - (e) Notwithstanding the provisions of subsection 1(a) of this section, every owner of a *small* 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 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. In order to so qualify, each wholesaler shall furnish to the Department of Revenue a certified copy of the bond required to be filed with the Office 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 in such manner as the department may require.
- (4) The department 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 and have corporate surety registered by the Office 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 of all malt beverage taxes due, with penalties and interest.

Section 11. 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 eleven percent (11%) and upon

all distributors of beer at the rate of eleven percent (11%) 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 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; *and*
  - (b) Sales made by a small *farm* winery~~[- or farm winery]~~ or wholesaler of wine produced by a small *farm* 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 12. KRS 244.050 is amended to read as follows:

- (1) No retail licensee shall give away any alcoholic beverage in any quantity, or deliver it in any quantity for less than a full monetary consideration, except as provided by KRS 243.155,~~[- 243.156,]~~ 243.157, and subsection (2) of this section.
- (2) A retailer licensed to sell distilled spirits and wine under KRS 243.030(7), (8), or ~~(26) [(27)]~~ may, after acquiring a license under KRS ~~243.030(39) [(243.030(40))]~~, allow customers to sample distilled spirits and wine under the following conditions:
  - (a) Sampling shall be permitted only on licensed premises and, for licensees licensed under KRS 243.030(7), (8), or ~~(26) [(27)]~~, during regular business hours;
  - (b) A licensee shall not charge for the samples provided to customers;
  - (c) Sample sizes shall not exceed:
    - 1. One (1) ounce for wine; and
    - 2. One-half (1/2) ounce for distilled spirits; and
  - (d) A licensee shall limit a customer to:
    - 1. Two (2) distilled spirits samples per day; and
    - 2. Six (6) wine samples per day.
- (3) Retailers licensed under KRS 243.030(7) or (8) shall:
  - (a) Notify the Office of Alcoholic Beverage Control at least seven (7) days in advance of conducting a sampling event; and
  - (b) Limit a sampling event to a period not to exceed four (4) consecutive hours between 12 noon and 8 p.m.

Section 13. KRS 100.111 is amended to read as follows:

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

- (1) "Administrative official" means any department, employee, or advisory, elected, or appointed body which is authorized to administer any provision of the zoning regulation, subdivision regulations, and, if delegated, any provision of any housing or building regulation or any other land use control regulation;
- (2) "Agricultural use" means the use of:
  - (a) A tract of at least five (5) contiguous acres for the production of agricultural or horticultural crops, including but not limited to livestock, livestock products, poultry, poultry products, grain, hay, pastures, soybeans, tobacco, timber, orchard fruits, vegetables, flowers, or ornamental plants, including provision

for dwellings for persons and their families who are engaged in the agricultural use on the tract, but not including residential building development for sale or lease to the public;

- (b) Regardless of the size of the tract of land used, small *farm* wineries licensed under KRS 243.155~~[-, and farm wineries licensed under the provisions of KRS 243.156];~~
- (c) A tract of at least five (5) contiguous acres used for the following activities involving horses:
  - 1. Riding lessons;
  - 2. Rides;
  - 3. Training;
  - 4. Projects for educational purposes;
  - 5. Boarding and related care; or
  - 6. Shows, competitions, sporting events, and similar activities that are associated with youth and amateur programs, none of which are regulated by KRS Chapter 230, involving seventy (70) or less participants. Shows, competitions, sporting events, and similar activities that are associated with youth and amateur programs, none of which are regulated by KRS Chapter 230, involving more than seventy (70) participants shall be subject to local applicable zoning regulations; or
- (d) A tract of land used for the following activities involving horses:
  - 1. Riding lessons;
  - 2. Rides;
  - 3. Training;
  - 4. Projects for educational purposes;
  - 5. Boarding and related care; or
  - 6. Shows, competitions, sporting events, and similar activities that are associated with youth and amateur programs, none of which are regulated by KRS Chapter 230, involving seventy (70) or less participants. Shows, competitions, sporting events, and similar activities that are associated with youth and amateur programs, none of which are regulated by KRS Chapter 230, involving more than seventy (70) participants shall be subject to local applicable zoning regulations.

This paragraph shall only apply to acreage that was being used for these activities before July 13, 2004;

- (3) "Board" means the board of adjustment unless the context indicates otherwise;
- (4) "Citizen member" means any member of the planning commission or board of adjustment who is not an elected or appointed official or employee of the city, county, or consolidated local government;
- (5) "Commission" means planning commission;
- (6) "Conditional use" means a use which is essential to or would promote the public health, safety, or welfare in one (1) or more zones, but which would impair the integrity and character of the zone in which it is located, or in adjoining zones, unless restrictions on location, size, extent, and character of performance are imposed in addition to those imposed in the zoning regulation;
- (7) "Conditional use permit" means legal authorization to undertake a conditional use, issued by the administrative official pursuant to authorization by the board of adjustment, consisting of two (2) parts:
  - (a) A statement of the factual determination by the board of adjustment which justifies the issuance of the permit; and
  - (b) A statement of the specific conditions which must be met in order for the use to be permitted;
- (8) "Development plan" means written and graphic material for the provision of a development, including any or all of the following: location and bulk of buildings and other structures, intensity of use, density of development, streets, ways, parking facilities, signs, drainage of surface water, access points, a plan for screening or buffering, utilities, existing manmade and natural conditions, and all other conditions agreed to by the applicant;



- (9) "Fiscal court" means the chief body of the county with legislative power, whether it is the fiscal court, county commissioners, or otherwise;
- (10) "Housing or building regulation" means the Kentucky Building Code, the Kentucky Plumbing Code, and any other building or structural code promulgated by the Commonwealth or by its political subdivisions;
- (11) "Legislative body" means the chief body of the city or consolidated local government with legislative power, whether it is the board of aldermen, the general council, the common council, the city council, the board of commissioners, or otherwise; at times it also implies the county's fiscal court;
- (12) "Mayor" means the chief elected official of the city or consolidated local government whether the official designation of his office is mayor or otherwise;
- (13) "Nonconforming use or structure" means an activity or a building, sign, structure, or a portion thereof which lawfully existed before the adoption or amendment of the zoning regulation, but which does not conform to all of the regulations contained in the zoning regulation which pertain to the zone in which it is located;
- (14) "Planning operations" means the formulating of plans for the physical development and social and economic well-being of a planning unit, and the formulating of proposals for means of implementing the plans;
- (15) "Planning unit" means any city, county, or consolidated local government, or any combination of cities, counties, or parts of counties, or parts of consolidated local governments engaged in planning operations;
- (16) "Plat" means the map of a subdivision;
- (17) "Political subdivision" means any city, county, or consolidated local government;
- (18) "Several" means two (2) or more;
- (19) "Public facility" means any use of land whether publicly or privately owned for transportation, utilities, or communications, or for the benefit of the general public, including but not limited to libraries, streets, schools, fire or police stations, county buildings, municipal buildings, recreational centers including parks, and cemeteries;
- (20) "Street" means any vehicular way;
- (21) "Structure" means anything constructed or made, the use of which requires permanent location in or on the ground or attachment to something having a permanent location in or on the ground, including buildings and signs;
- (22) "Subdivision" means the division of a parcel of land into three (3) or more lots or parcels except in a county containing a city of the first, second, or third class or in an urban-county government or consolidated local government where a subdivision means the division of a parcel of land into two (2) or more lots or parcels; for the purpose, whether immediate or future, of sale, lease, or building development, or if a new street is involved, any division of a parcel of land; provided that a division of land for agricultural use and not involving a new street shall not be deemed a subdivision. The term includes resubdivision and when appropriate to the context, shall relate to the process of subdivision or to the land subdivided; any division or redivision of land into parcels of less than one (1) acre occurring within twelve (12) months following a division of the same land shall be deemed a subdivision within the meaning of this section;
- (23) "Unit" means planning unit; and
- (24) "Variance" means a departure from dimensional terms of the zoning regulation pertaining to the height, width, length, or location of structures, and the size of yards and open spaces where such departure meets the requirements of KRS 100.241 to 100.247.

SECTION 14. A NEW SECTION OF KRS CHAPTER 244 IS CREATED TO READ AS FOLLOWS:

***No wine sold in Kentucky shall contain on its label or elsewhere on the wine's retail container or package the word "Kentucky" or any other word or phrase implying that the origin of the wine is Kentucky, except in the name and address of the winery as required by federal laws or regulations unless seventy-five percent (75%) of all grapes, grape juice, other fruits, other fruit juices, and honey used in making the wine were produced in the Commonwealth of Kentucky.***

SECTION 15. A NEW SECTION OF KRS CHAPTER 243 IS CREATED TO READ AS FOLLOWS:

- (1) *A small farm winery wholesaler's license shall authorize the licensee:*
  - (a) *To purchase, receive, store, or possess wine produced by small farm winery licensees;*
  - (b) *To sell the wine at wholesale from the licensed premises only; and*
  - (c) *To transport from the licensed premises for himself or herself only any wine produced by small farm winery licensees that the small farm winery wholesaler's license authorizes him or her to sell.*
- (2) *A small farm winery wholesaler licensed under this section shall:*
  - (a) *Transport the wine in the manner provided for manufacturers in KRS 243.120; and*
  - (b) *Transport the wine from a small farm winery's licensed premises or another wholesaler's premises to the small farm winery wholesaler's premises.*
- (3) *A small farm winery wholesaler licensed under this section shall not purchase, receive, store, possess, sell, or transport wine or distilled spirits, except as provided in this section, and shall comply with all provisions of the Kentucky Revised Statutes applicable to wholesalers licensed under KRS 243.030(6), to the extent the provisions are not inconsistent with this section.*
- (4) *A small farm winery wholesaler licensed under this section shall be allowed to have its licensed premises on or in the licensed premises of a small farm winery.*

Section 16. The following KRS section is repealed:

243.156 Business authorized by farm winery license -- Off-premise retail sales outlet in wet territory -- Use of Kentucky products -- Other permitted licenses.

Section 17. So as to prevent a gap in sale of small farm wines to retail package or retail drink license holders, if the small farm winery wholesaler's license as provided under subsection (43) of Section 7 of this Act is not available on the effective date of this Act, small farm wineries shall be authorized to sell and transport wine produced on the premises to retail package or retail drink license holders, if the wine has been offered for sale to wholesale license holders and the wine is sold at the wholesale price to the retail package or retail drink license holders. Small farm wineries shall be authorized to make sales under this provision until the small farm winery wholesaler's license becomes available.

Section 18. The provisions of this Act take effect January 1, 2007.

**Approved April 18, 2006**

## **CHAPTER 180**

**(HB 117)**

AN ACT relating to public health.

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

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

- (1) The Cabinet for Health and Family Services shall operate a newborn screening program for heritable disorders that includes, but is not limited to, procedures for conducting initial newborn screening tests on infants twenty-eight (28) days or less of age and definitive diagnostic evaluations provided by a state university-based specialty clinic for infants whose initial screening tests resulted in a positive test. The secretary of the cabinet shall, by administrative regulation promulgated pursuant to KRS Chapter 13A:
  - (a) Prescribe the times and manner of obtaining a specimen and transferring a specimen for testing;
  - (b) Prescribe the manner of testing specimens and recording and reporting the results of newborn screening tests; and
  - (c) Establish and collect fees to support the newborn screening program.
- (2) The administrative officer or other person in charge of each institution caring for infants twenty-eight (28) days or less of age and the person required in pursuance of the provisions of KRS 213.046 shall register the birth of a child and cause to have administered to every such infant or child in its or his care tests for heritable disorders including, but not limited to, phenylketonuria (PKU), sickle cell disease, congenital hypothyroidism,

galactosemia, medium-chain acyl-CoA dehydrogenase deficiency (MCAD), very long-chain acyl-CoA deficiency (VLCAD), short-chain acyl-CoA dehydrogenase deficiency (SCAD), maple syrup urine disease (MSUD), congenital adrenal hyperplasia (CAH), biotinidase disorder, and cystic fibrosis (CF), 3-methylcrotonyl-CoA carboxylase deficiency (3MCC), 3-OH 3-CH<sub>3</sub> glutaric aciduria (HMG), argininosuccinic acidemia (ASA), beta-ketothiolase deficiency (BKT), carnitine uptake defect (CUD), citrullinemia (CIT), glutaric acidemia type I (GA I), Hb S/beta-thalassemia (Hb S/Th), Hb S/C disease (Hb S/C), homocystinuria (HCY), isovaleric acidemia (IVA), long-chain L-3-OH acyl-CoA dehydrogenase deficiency (LCAD), methylmalonic acidemia (Cbl A,B), methylmalonic acidemia mutase deficiency (MUT), multiple carboxylase deficiency (MCD), propionic acidemia (PA), trifunctional protein deficiency (TFP), and tyrosinemia type I (TYR I). The listing of tests for heritable disorders *to be performed shall*~~may be revised to~~ include *all* conditions *consistent with*~~as deemed appropriate by the cabinet based on~~ the recommendations of the American College of Medical Genetics.

- (3) Each health care provider of newborn care shall provide an infant's parent or guardian with information about the newborn screening tests required under subsection (2) of this section. The institution or health care provider shall arrange for appropriate and timely follow-ups to the newborn screening tests, including but not limited to additional diagnoses, evaluation, and treatment when indicated.
- (4) Nothing in this section shall be construed to require the testing of any child whose parents are members of a nationally recognized and established church or religious denomination, the teachings of which are opposed to medical tests, and who object in writing to the testing of his or her child on that ground.
- (5) The cabinet shall make available the names and addresses of health care providers including, but not limited to, physicians, nurses, and nutritionists, who may provide postpartum home visits to any family whose infant or child has tested positive for a newborn screening test.
- (6) A parent or guardian shall be provided information by the institution or health care provider of newborn care about the availability and costs of screening tests not specified in subsection (2) of this section. The parent or guardian shall be responsible for costs relating to additional screening tests performed under this subsection, and these costs shall not be included in the fees established for the cabinet's newborn screening program under subsection (1) of this section. All positive results of additional screening of these tests shall be reported to the cabinet by the institution or health care provider.
- (7)
  - (a) For the purposes of this subsection, a qualified laboratory means a clinical laboratory not operated by the cabinet that is accredited pursuant to 42 U.S.C. sec. 263a, licensed to perform newborn screening testing in any state, and reports its screening results using normal pediatric reference ranges.
  - (b) The cabinet shall enter into agreements with public or private qualified laboratories to perform newborn screening tests if the laboratory operated by the cabinet is unable to screen for a condition specified in subsection (2) of this section.
  - (c) The cabinet may enter into agreements with public or private qualified laboratories to perform testing for conditions not specified in subsection (2) of this section. Any agreement entered into under this paragraph shall not preclude an institution or health care provider from conducting newborn screening tests for conditions not specified in subsection (2) of this section by utilizing other public or private qualified laboratories.
- (8) The secretary for health and family services or his or her designee shall apply for any federal funds or grants available through the Public Health Service Act and may solicit and accept private funds to expand, improve, or evaluate programs to provide screening, counseling, testing, or specialty services for newborns or children at risk for heritable disorders.
- (9) This section shall be cited as the James William Lazzaro and Madison Leigh Heflin Newborn Screening Act.

Section 2. KRS 211.900 is amended to read as follows:

As used in KRS 211.900 to 211.905 and KRS 211.994, unless the context otherwise requires:

- (1) "Cabinet" shall mean the Cabinet for Health and Family Services;
- (2) "Secretary" shall mean the secretary for health and family services or his authorized representative;

- (3) "Lead-based ~~hazard~~~~[substance]~~" shall mean *levels contained in the federal Residential Lead-based Paint Hazard Reduction Act of 1992*~~[any substance containing more than six one hundredths of one percent (0.06%) lead by weight of nonvolatile content as provided in KRS 217.801];~~
- (4) "Dwelling" shall mean any structure *or child-occupied facility*, all or a part of which is designed for human habitation;
- (5) "Dwelling unit" shall mean any room or group of rooms or other interior areas of a dwelling *or child-occupied facility* designed or used for human habitation;
- (6) "Owner" shall mean any person who, alone, jointly, or severally with others, has legal title to, charge, care, or control of any dwelling or dwelling unit as owner, agent of the owner, or as executor, administrator, trustee, conservator, or guardian of the estate of the owner;
- (7) "At-risk persons" shall mean *all children seventy-two (72) months of age and younger and pregnant women*~~[those persons]~~ who reside in dwellings or dwelling units which were constructed and~~[originally]~~ painted prior to *1978, or reside*~~[1945 or other dwellings]~~ in geographic areas *defined by the cabinet as high risk, or possess one (1) or more risk factors identified in a lead poisoning verbal risk assessment approved by the cabinet*~~[in which a high content of lead in paint was used and a high incidence of lead poisoning may be reasonably expected or has been reported]; [and]~~
- (8) "Outreach programs" shall mean those efforts to locate, screen, and diagnose for elevated lead blood levels, those at-risk persons who are not utilizing existing screening and diagnostic programs or those programs which may be established after June 21, 1974;
- (9) *"Elevated blood lead level" means any blood lead level greater than or equal to ten (10) micrograms per deciliter of whole blood or a level consistent with recommendations by the Centers for Disease Control and Prevention and the American Academy of Pediatrics; and*
- (10) *"Confirmed elevated blood lead level" means a first venous blood lead test or a second capillary blood lead test taken within the time frames specified by the cabinet where the blood lead test result is greater than or equal to fifteen (15) micrograms per deciliter of whole blood.*

Section 3. KRS 211.901 is amended to read as follows:

- (1) The secretary shall establish a statewide program for the prevention, screening, diagnosis, and treatment of lead poisoning, including identification of the sources of such poisoning through such research, educational, epidemiological, and clinical activities as may be necessary.
- (2) The secretary shall also initiate activities which:
  - (a) Will either provide for or support the monitoring of all medical laboratories, private and public hospitals which perform lead determination tests on human blood or other tissues, so as to insure the accuracy of such tests;
  - (b)~~[Will provide laboratory testing of blood specimens for lead content, to any physician, hospital, clinic, free clinic, municipality, or private organizations which cannot secure or provide such services through other sources. The cabinet shall not assume responsibility for blood lead analysis required for programs in operation on June 21, 1974;~~
  - ~~(c)~~ Will develop or encourage the development of appropriate programs and studies to identify sources of lead intoxication and assist other entities in the identification of lead in children's blood and the sources of that intoxication; and
  - ~~(c)~~~~(d)~~ Will provide for or support the development of outreach programs to identify, screen, and diagnose for elevated lead blood levels, at risk persons not otherwise utilizing existing screening and diagnostic programs.
- (3) The secretary may contract with any agencies, individuals, or groups for the provision of services necessary to administer KRS 211.900 to 211.905 and KRS 211.994.
- (4) The secretary may provide financial and technical assistance and consultation to local, county, or district governmental or private agencies for the promotion, establishment and maintenance of lead poisoning prevention, screening, diagnostic, and treatment programs.

- (5) The secretary shall have the power to adopt, amend, or rescind such rules and regulations as deemed necessary or suitable for the proper administration of KRS 211.900 to 211.905 and KRS 211.994. The regulation shall include, but not be limited to, those which govern permissible limits of lead-based ~~hazards~~~~[substances]~~ in and about dwellings and dwelling units.
- (6) Local boards of health may, by the adoption of local regulations, establish programs for the prevention, screening, diagnosis, and treatment of lead poisoning; provided that such regulations are the same as the provisions of KRS 211.900 to 211.905 and KRS 211.994 and the regulations promulgated by the secretary pursuant to subsection (5) of this section.

Section 4. KRS 211.902 is amended to read as follows:

- (1) Every physician,~~[who diagnoses, or a]~~ nurse, hospital administrator, director of a clinical laboratory, or public health officer~~[,]~~ who **receives**~~[has verified]~~ information of the existence of any person found or suspected to have a ***two and three-tenths (2.3) micrograms per deciliter of whole blood*** level of lead in ***his or her blood*** ***shall report*** ~~the blood in excess of the permissible limits set out in regulations promulgated by the secretary, shall, within forty eight (48) hours of receipt of verification thereof, report such~~ information to the cabinet ***and***~~[or]~~ to the local or district health officer ***in approved electronic format as prescribed by administrative regulations promulgated by the cabinet in accordance with KRS Chapter 13A*** ~~[who shall in turn report such information to the cabinet]~~. The contents of the report shall include, but not be limited to, the following information:
  - (a) The ***full*** name and address of the person ~~tested~~~~[found or suspected to have lead poisoning]~~;
  - (b) The date of birth of such person;
  - (c) The ***type of specimen and the*** results of the appropriate laboratory tests made on such person;
  - (d) Any other information about such person deemed necessary by the ***cabinet to carry out the provisions of this section***~~[secretary]~~.

Any physician, nurse, hospital administrator, director of clinical laboratory, public health officer, or allied health professional making such a report in good faith shall be immune from any civil or criminal liability that otherwise might be incurred from the making of such report.

- (2) ***Every director of a clinical or research laboratory who has any blood lead test result shall, within seven (7) calendar days of receipt thereof, report the information to the cabinet in approved electronic format. The cabinet shall promulgate administrative regulations in accordance with KRS Chapter 13A to prescribe the format and content of the electronic report.***
- (3) ***Notwithstanding the requirements of subsections (1) and (2) of this section, a clinical or research laboratory shall not be fined or otherwise disciplined for failure to report required information to the cabinet if the information was not provided by the medical professional obtaining the blood sample.***
- (4) The secretary shall maintain comprehensive records of all reports submitted pursuant to KRS 211.900 to 211.905 and 211.994. ***Records shall be analyzed and***~~[Such records shall be]~~ geographically indexed ***by county annually*** in order to determine the location of areas with a high incidence of ***elevated blood lead levels reported. The records and analysis shall be public record and provided annually by October 1 to the Governor, the General Assembly, the Legislative Research Commission, and the Lead Poisoning Prevention Advisory Committee***~~[reported lead poisoning. Such records shall be public records]~~; provided, however, that the name of any individual shall not be made public unless the secretary determines that such inclusion is necessary to protect the health and well-being of the affected individual.
- (5)~~[(3)]~~ When ***an elevated blood lead level is reported to the cabinet, it***~~[a case of lead poisoning is reported to the secretary, he]~~ shall inform such local boards of health, local health department, and other persons and health organizations as ***deemed***~~[he deems]~~ necessary.

Section 5. KRS 211.903 is amended to read as follows:

- (1) Testing for lead poisoning shall be an eligible benefit for recipients of the Commonwealth's Medical Assistance Program. ***In addition***, testing for lead poisoning shall be made available as part of the regular immunization program offered by the cabinet and shall be provided without charge by the cabinet and by local health departments.

- (2) The secretary shall establish programs throughout the Commonwealth, with priority given to high risk areas, for the voluntary screening and diagnosis of at risk persons. Such programs shall systematically test for elevated lead blood levels in all at risk persons *seventy-two (72) months*~~[under six (6) years]~~ of age *and younger* and shall include an outreach program if necessary. Priority shall be given to at risk persons who are one (1) year of age through three (3) years of age. Such programs shall not apply to those persons having religious objections to such testing. Such testing shall be made by such means and at such intervals as the secretary shall by regulation determine may be medically necessary and proper.
- (3) The secretary shall be responsible for providing follow-up screening and diagnostic programs for those persons who were previously diagnosed and treated for lead poisoning or were previously diagnosed as having an elevated lead blood level. The frequency with which follow-up shall be performed shall be determined by the secretary.

Section 6. KRS 211.905 is amended to read as follows:

- (1) When notified that an occupant of a dwelling or dwelling unit is *a child seventy-two (72) months of age or younger* found to have *a confirmed*~~[an]~~ elevated blood level, an authorized representative of the cabinet shall inspect the dwelling and dwelling unit *or other places the child routinely spends more than six (6) hours per week*, at reasonable times, for the purpose of ascertaining the existence of lead-based *hazards*~~[substance]~~. The representative of the cabinet shall present proper credentials to the owner or occupant of the dwelling or dwelling unit prior to inspection of the premises. Such representative may remove samples necessary for laboratory analysis, in the determination of the presence of lead-based *hazards*~~[substances]~~ in the designated dwelling or dwelling unit.
- (2) Upon determination by the cabinet that there are lead-based substances in or upon any dwelling or dwelling unit which may be hazardous to children, or upon receipt of confirmation that an occupant has *an elevated blood lead level as*~~[a level of lead in his blood in excess of permissible limits]~~ set out in regulations promulgated by the secretary, the cabinet shall:
  - (a) In the event that ~~[small]~~ children *seventy-two (72) months of age or younger* reside in the premises, notify the owner and occupant that lead-based *hazards*~~[substances]~~ are present on the surfaces of the dwelling or dwelling unit and may constitute a hazard to the health of children;
  - (b) Inform the local health officers of the results of such determination and provide suitable recommendations for elimination of the problem areas;
  - (c) Notify the owner of the dwelling or dwelling unit, in writing, advising of the existence of *these lead-based hazards*~~[such substances]~~ with instructions that these *lead-based hazards*~~[substances]~~, if accessible to children under the age of *seventy-two (72) months*~~[six (6)]~~, shall be removed, replaced, or securely and permanently covered within a time period not to exceed *sixty (60)*~~[thirty (30)]~~ days and in a manner prescribed by the cabinet.
- (3) The removal of the lead-based *hazards*~~[substances]~~ from the dwelling or dwelling unit shall be accomplished by the owner in a manner which will not endanger the health or well-being of its occupants, and result in the safe removal from the premises, and the safe disposition, of flakes, chips, debris, and other potentially harmful materials.
- (4) In the event that the owner of the dwelling or dwelling unit does not remove, replace, or securely and permanently cover the lead-based substances designated as hazardous within *sixty (60)*~~[thirty (30)]~~ days, the cabinet shall cause to be posted upon the dwelling or dwelling unit identified as containing lead-based *hazards*~~[substances]~~, a notice of the existence of such *hazards*~~[substances]~~ and the declaration that the dwelling or dwelling unit is unfit for human habitation for those persons under *seventy-two (72) months*~~[six (6) years]~~ of age. The dwelling or dwelling unit shall remain posted until the owner has complied with the orders of the cabinet.
- (5) Determination by the cabinet that a child under *seventy-two (72) months*~~[six (6) years]~~ of age is in immediate danger from the presence of lead-based *hazards*~~[substances]~~ in or upon a dwelling or dwelling unit shall be cause for release from a rental agreement without prejudice to the occupant.

Section 7. KRS 200.658 is amended to read as follows:

- (1) There is hereby created the Kentucky Early Intervention System Interagency Coordinating Council to be comprised of twenty-five (25) members to be appointed by the Governor to serve a term of three (3) years. The

members of the council shall be geographically and culturally representative of the population of the Commonwealth and conform to the requirements of federal law and regulations. For administrative purposes, the council shall be attached to the Early Childhood Development Authority. Pursuant to federal law and regulations, the membership shall be as follows:

- (a) At least five (5) members shall be the parents, including minority parents, of a child with a disability who is twelve (12) years of age or less, with at least one (1) being the parent of a child six (6) years of age or less. Each parent shall have knowledge of or experience with programs for infants and toddlers with disabilities;
  - (b) At least five (5) members shall be public or private providers of early intervention services to infants and toddlers with disabilities;
  - (c) At least one (1) member shall be a member of the Kentucky General Assembly;
  - (d) At least one (1) member shall be representative of an entity responsible for personnel preparation and may include personnel from an institution of higher education or preservice training organization;
  - (e) At least one (1) member shall be the commissioner or individual serving in a position of equivalent authority, or the designee, from the Department for Public Health;
  - (f) At least one (1) member shall be the commissioner or individual serving in a position of equivalent authority, or the designee, from the Department for Medicaid Services;
  - (g) At least one (1) member shall be the commissioner or individual serving in a position of equivalent authority, or the designee, from the Department for Mental Health and Mental Retardation Services;
  - (h) At least one (1) member shall be the commissioner or individual serving in a position of equivalent authority, or the designee, from the Department for Community Based Services;
  - (i) At least one (1) member shall be the commissioner or designee of the Department of Education;
  - (j) At least one (1) member shall be the executive director or designee of the Office of Insurance; and
  - (k) At least one (1) member shall be a representative of the Commission for Children with Special Health Care Needs;
  - (l) At least one (1) member shall be a representative for the Head Start program; and***
  - (m) At least one (1) member shall be a representative of the Education of Homeless Children and Youth program.***
- (2) In matters concerning the Kentucky Early Intervention System, the council shall advise and assist the cabinet in areas including, but not limited to, the following:
- (a) Development and implementation of the statewide system and the administrative regulations promulgated pursuant to KRS 200.650 to 200.676;
  - (b) Achieving the full participation, coordination, and cooperation of all appropriate entities in the state, including, but not limited to, individuals, departments, and agencies, through the promotion of interagency agreements;
  - (c) Establishing a process to seek information from service providers, service coordinators, parents, and others concerning the identification of service delivery problems and the resolution of those problems;
  - (d) Resolution of disputes, to the extent deemed appropriate by the cabinet;
  - (e) Provision of appropriate services for children from birth to three (3) years of age;
  - (f) Identifying sources of fiscal and other support services for early intervention programs;
  - (g) Preparing applications to Part C of the Federal Individuals with Disabilities Education Act (IDEA) and any amendments to the applications;
  - (h) Transitioning of infants and toddlers with disabilities and their families from the early intervention system to appropriate services provided under Part B of the Federal Individuals with Disabilities Education Act (IDEA) operated by the state Department of Education; and

- (i) Developing performance measures to assess the outcomes for children receiving services.
- (3) The council shall prepare no later than December 30 of each year an annual report on the progress toward and any barriers to full implementation of the Kentucky Early Intervention System for infants and toddlers with disabilities and their families. The report shall include recommendations concerning the Kentucky Early Intervention System, including recommendations of ways to improve quality and cost effectiveness, and shall be submitted to the Governor, Legislative Research Commission, and the Secretary of the United States Department of Education.
- (4) No member of the council shall cast a vote on any matter which would provide direct financial benefit to that member or otherwise give the appearance of the existence of a conflict of interest.

Section 8. KRS 189.515 is amended to read as follows:

- (1) Except for vehicles authorized to operate on a public highway as of July 15, 1998, and except as provided in subsection (6) of this section, a person shall not operate an all-terrain vehicle upon any public highway or roadway or upon the right-of-way of any public highway or roadway.
- (2) A person shall not operate an all-terrain vehicle on private property without the consent of the landowner, tenant, or individual responsible for the property.
- (3) A person shall not operate an all-terrain vehicle on public property unless the governmental agency responsible for the property has approved the use of all-terrain vehicles.
- (4) Except for vehicles authorized to operate on a public highway, a person *sixteen (16) years of age or older* operating an all-terrain vehicle on public property shall wear approved protective headgear, in the manner prescribed by the secretary of the Transportation Cabinet, at all times that the vehicle is in motion. The approved headgear requirement shall not apply when the operator of any all-terrain vehicle is engaged in:
  - (a) Farm or agriculture related activities;
  - (b) Mining or mining exploration activities;
  - (c) Logging activities;
  - (d) Any other business, commercial, or industrial activity; or
  - (e) Use of that vehicle on private property.
- (5)
  - (a) A person under the age of sixteen (16) years shall not operate an all-terrain vehicle with an engine size exceeding ninety (90) cubic centimeters displacement, and a person under the age of sixteen (16) years shall not operate an all-terrain vehicle except under direct parental supervision.
  - (b) A person under the age of twelve (12) years shall not operate an all-terrain vehicle with an engine size exceeding seventy (70) cubic centimeters displacement.
  - (c) *A person under the age of sixteen (16) years, when operating or riding as a passenger on an all-terrain vehicle, shall wear approved protective headgear, in the manner prescribed by the secretary of the Transportation Cabinet, at all times that the vehicle is in motion.*
- (6)
  - (a) A person may operate an all-terrain vehicle on any two (2) lane public highway in order to cross the highway. In crossing the highway under this paragraph, the operator shall cross the highway at as close to a ninety (90) degree angle as is practical and safe, and shall not travel on the highway for more than two-tenths (2/10) of a mile.
  - (b) A person may operate an all-terrain vehicle on any two (2) lane public highway, if the operator is engaged in farm or agricultural related activities, construction, road maintenance, or snow removal.
  - (c) The Transportation Cabinet may designate, and a city or county government may designate, those public highways, segments of public highways, and adjoining rights-of-way of public highways under its jurisdiction where all-terrain vehicles that are prohibited may be operated.
  - (d) A person operating an all-terrain vehicle on a public highway under this subsection shall possess a valid operator's license.
  - (e) A person operating an all-terrain vehicle on a public highway under this subsection shall comply with all applicable traffic regulations.



- (f) A person shall not operate an all-terrain vehicle under this subsection unless the all-terrain vehicle has at least one (1) headlight and two (2) taillights, which shall be illuminated at all times the vehicle is in operation.
- (g) A person operating an all-terrain vehicle under this subsection shall restrict the operation to daylight hours, except when engaged in snow removal or emergency road maintenance.

Section 9. KRS 189.125 is amended to read as follows:

- (1) Except as otherwise provided in this section, "motor vehicle" as used in this section means every vehicle designed to carry ten (10) or fewer passengers and used for the transportation of persons, but the term does not include:
  - (a) Motorcycles;
  - (b) Motor driven cycles; or
  - (c) Farm trucks registered for agricultural use only and having a gross weight of one (1) ton or more.
- (2) ~~A [No] person shall~~ **not** sell any new ~~motor [passenger]~~ vehicle in this state nor shall any person make application for registering a new ~~motor [passenger]~~ vehicle in this state unless the front or forward seat or seats have adequate anchors or attachments secured to the floor and/or sides to the rear of the seat or seats to which seat belts may be secured.
- (3) Any driver of a motor vehicle, when transporting a child of forty (40) inches in height or less in a motor vehicle operated on the roadways, streets, and highways of this state, shall have the child properly secured in a child restraint system of a type meeting federal motor vehicle safety standards.
- (4) As used in this section, "child restraint system" means any device manufactured to transport children in a motor vehicle which conforms to all applicable federal motor vehicle safety standards.
- (5) Failure to wear a child passenger restraint shall not be considered as contributory negligence, nor shall such failure to wear said passenger restraint system be admissible as evidence in the trial of any civil action. Failure of any person to wear a seat belt shall not constitute negligence per se.
- (6) ~~A [No] person shall~~ **not** operate a motor vehicle manufactured after ~~1981 [1965]~~ on the public roadways of this state unless the driver and all passengers are wearing a properly adjusted and fastened seat belt, unless the passenger is a child who is secured as required in subsection (3) of this section. The provisions of this subsection shall not apply to:
  - (a) A person who has in his possession at the time of the conduct in question a written statement from a physician or licensed chiropractor that he is unable, for medical or physical reasons, to wear a seat belt; or
  - (b) A letter carrier of the United States postal service while engaged in the performance of his duties.
- (7) ***A conviction for a violation of subsection (6) of this section shall not be transmitted by the court to the Transportation Cabinet. The Transportation Cabinet shall not include a conviction for a violation of subsection (6) of this section as part of any person's driving history record***~~[peace officer shall not stop or seize a person nor issue a uniform citation for a violation of subsection (6) of this section if the officer has no other cause to stop or seize the person other than a violation of subsection (6) of this section].~~
- (8) The provisions of ~~subsection [subsections] (6) [and (7)]~~ of this section shall supersede any existing local ordinance involving the use of seat belts. No ordinance contrary to ~~subsection [subsections] (6) [and (7)]~~ of this section may be enacted by any unit of local government.

Section 10. KRS 189.990 is amended to read as follows:

- (1) Any person who violates any of the provisions of KRS 189.020 to 189.040, subsections (1), (2), and (5) of KRS 189.050, KRS 189.060 to 189.080, subsections (1) to (3) of KRS 189.090, KRS 189.100, 189.110, 189.130 to 189.160, subsections (2) to (4) of KRS 189.190, KRS 189.200, 189.285, 189.290, 189.300 to 189.360, KRS 189.380, KRS 189.400 to 189.430, KRS 189.450 to 189.458, KRS 189.4595 to 189.480, subsection (1) of KRS 189.520, KRS 189.540, KRS 189.570 to 189.630, except subsection (1) of KRS 189.580, KRS 189.345, subsection (4) of KRS 189.456, and 189.960 shall be fined not less than twenty dollars (\$20) nor more than one hundred dollars (\$100) for each offense. Any person who violates subsection (1) of

KRS 189.580 shall be fined not less than twenty dollars (\$20) nor more than two thousand dollars (\$2,000) or imprisoned in the county jail for not more than one (1) year, or both. Any person who violates paragraph (c) of subsection (5) of KRS 189.390 shall be fined not less than eleven dollars (\$11) nor more than thirty dollars (\$30). Neither court costs nor fees shall be taxed against any person violating paragraph (c) of subsection (5) of KRS 189.390.

- (2)
  - (a) Any person who violates the weight provisions of KRS 189.212, 189.221, 189.222, 189.226, 189.230, or 189.270 shall be fined two cents (\$0.02) per pound for each pound of excess load when the excess is five thousand (5,000) pounds or less. When the excess exceeds five thousand (5,000) pounds the fine shall be two cents (\$0.02) per pound for each pound of excess load, but the fine levied shall not be less than one hundred dollars (\$100) and shall not be more than five hundred dollars (\$500).
  - (b) Any person who violates the provisions of KRS 189.271 and is operating on a route designated on the permit shall be fined one hundred dollars (\$100); otherwise, the penalties in paragraph (a) of this subsection shall apply.
  - (c) Any person who violates any provision of subsections (3) and (4) of KRS 189.050, subsection (4) of KRS 189.090, KRS 189.221 to 189.230, 189.270, 189.280, 189.490, or the dimension provisions of KRS 189.212, for which another penalty is not specifically provided shall be fined not less than ten dollars (\$10) nor more than five hundred dollars (\$500).
  - (d) Nothing in this subsection or in KRS 189.221 to 189.228 shall be deemed to prejudice or affect the authority of the Department of Vehicle Regulation to suspend or revoke certificates of common carriers, permits of contract carriers, or drivers' or chauffeurs' licenses, for any violation of KRS 189.221 to 189.228 or any other act applicable to motor vehicles, as provided by law.
- (3)
  - (a) Any person who violates subsection (1) of KRS 189.190 shall be fined not more than fifteen dollars (\$15).
  - (b) Any person who violates subsection (5) of KRS 189.190 shall be fined not less than thirty-five dollars (\$35) nor more than two hundred dollars (\$200).
- (4)
  - (a) Any person who violates subsection (1) of KRS 189.210 shall be fined not less than twenty-five dollars (\$25) nor more than one hundred dollars (\$100).
  - (b) Any peace officer who fails, when properly informed, to enforce KRS 189.210 shall be fined not less than twenty-five dollars (\$25) nor more than one hundred dollars (\$100).
  - (c) All fines collected under this subsection, after payment of commissions to officers entitled thereto, shall go to the county road fund if the offense is committed in the county, or to the city street fund if committed in the city.
- (5) Any person who violates KRS 189.370 shall for the first offense be fined not less than one hundred dollars (\$100) nor more than two hundred dollars (\$200) or imprisoned not less than thirty (30) days nor more than sixty (60) days, or both. For each subsequent offense occurring within three (3) years, the person shall be fined not less than three hundred dollars (\$300) nor more than five hundred dollars (\$500) or imprisoned not less than sixty (60) days nor more than six (6) months, or both. The minimum fine for this violation shall not be subject to suspension. A minimum of six (6) points shall be assessed against the driving record of any person convicted.
- (6) Any person who violates KRS 189.500 shall be fined not more than fifteen dollars (\$15) in excess of the cost of the repair of the road.
- (7) Any person who violates KRS 189.510 or KRS 189.515 shall be fined not less than twenty dollars (\$20) nor more than fifty dollars (\$50).
- (8) Any peace officer who violates subsection (2) of KRS 189.520 shall be fined not less than thirty-five dollars (\$35) nor more than one hundred dollars (\$100).
- (9)
  - (a) Any person who violates KRS 189.530(1) shall be fined not less than thirty-five dollars (\$35) nor more than one hundred dollars (\$100), or imprisoned not less than thirty (30) days nor more than twelve (12) months, or both.
  - (b) Any person who violates KRS 189.530(2) shall be fined not less than thirty-five dollars (\$35) nor more than one hundred dollars (\$100).

- (10) Any person who violates any of the provisions of KRS 189.550 shall be guilty of a Class B misdemeanor.
- (11) Any person who violates subsection (2) of KRS 189.560 shall be fined not less than thirty dollars (\$30) nor more than one hundred dollars (\$100) for each offense.
- (12) The fines imposed by paragraph (a) of subsection (3) and subsections (6) and (7) of this section shall, in the case of a public highway, be paid into the county road fund, and, in the case of a privately owned road or bridge, be paid to the owner. These fines shall not bar an action for damages for breach of contract.
- (13) Any person who violates any of the provisions of KRS 189.120 shall be fined not less than twenty dollars (\$20) nor more than one hundred dollars (\$100) for each offense.
- (14) Any person who violates any provision of KRS 189.575 shall be fined not less than twenty dollars (\$20) nor more than twenty-five dollars (\$25).
- (15) Any person who violates subsection (2) of KRS 189.231 shall be fined not less than twenty dollars (\$20) nor more than one hundred dollars (\$100) for each offense.
- (16) Any person who violates restrictions or regulations established by the secretary of transportation pursuant to subsection (3) of KRS 189.231 shall, upon first offense, be fined one hundred dollars (\$100) and, upon subsequent convictions, be fined not less than one hundred dollars (\$100) nor more than five hundred dollars (\$500) or imprisoned for thirty (30) days, or both.
- (17)
  - (a) Any person who violates any of the provisions of KRS 189.565 shall be guilty of a Class B misdemeanor.
  - (b) In addition to the penalties prescribed in paragraph (a) of this subsection, in case of violation by any person in whose name the vehicle used in the transportation of inflammable liquids or explosives is licensed, the person shall be fined not less than one hundred dollars (\$100) nor more than five hundred dollars (\$500). Each violation shall constitute a separate offense.
- (18) Any person who abandons a vehicle upon the right-of-way of a state highway for three (3) consecutive days shall be fined not less than thirty-five dollars (\$35) nor more than one hundred dollars (\$100), or imprisoned for not less than ten (10) days nor more than thirty (30) days.
- (19) Every person violating KRS 189.393 shall be guilty of a Class B misdemeanor, unless the offense is being committed by a defendant fleeing the commission of a felony offense which the defendant was also charged with violating and was subsequently convicted of that felony, in which case it is a Class A misdemeanor.
- (20) Any law enforcement agency which fails or refuses to forward the reports required by KRS 189.635 shall be subject to the penalties prescribed in KRS 17.157.
- (21) A person who elects to operate a bicycle in accordance with any regulations adopted pursuant to KRS 189.287 and who willfully violates a provision of a regulation shall be fined not less than ten dollars (\$10) nor more than one hundred dollars (\$100). A person who operates a bicycle without complying with any regulations adopted pursuant to KRS 189.287 or vehicle safety statutes shall be prosecuted for violation of the latter.
- (22) Any person who violates KRS 189.860 shall be fined not more than five hundred dollars (\$500) or imprisoned for not more than six (6) months, or both.
- (23) Any person who violates KRS 189.754 shall be fined not less than twenty-five dollars (\$25) nor more than three hundred dollars (\$300).
- (24) Any person who violates the provisions of KRS 189.125(3) shall be fined fifty dollars (\$50).
- (25) Any person who violates the provisions of KRS 189.125(6) shall be fined an amount not to exceed twenty-five dollars (\$25). ***This fine shall be subject to prepayment. A fine imposed under this subsection shall not be subject to court costs.***
- (26) Fines levied pursuant to this chapter shall be assessed in the manner required by KRS 534.020, in amounts consistent with this chapter. Nonpayment of fines shall be governed by KRS 534.060.
- (27) A licensed driver under the age of eighteen (18) charged with a moving violation pursuant to this chapter as the driver of a motor vehicle may be referred, prior to trial, by the court to a diversionary program. The diversionary program under this subsection shall consist of one (1) or both of the following:

- (a) Execution of a diversion agreement which prohibits the driver from operating a vehicle for a period not to exceed forty-five (45) days and which allows the court to retain the driver's operator's license during this period; and
  - (b) Attendance at a driver improvement clinic established pursuant to KRS 186.574. If the person completes the terms of this diversionary program satisfactorily the violation shall be dismissed.
- (28) A person who violates the provisions of subsection (2) or (3) of KRS 189.459 shall be fined two hundred fifty dollars (\$250). The fines and costs for a violation of subsection (2) or (3) of KRS 189.459 shall be collected and disposed of in accordance with KRS 24A.180. Once deposited into the State Treasury, ninety percent (90%) of the fine collected under this subsection shall immediately be forwarded to the personal care assistance program under KRS 205.900 to 205.920. Ten percent (10%) of the fine collected under this subsection shall annually be returned to the county where the violation occurred and distributed equally to all law enforcement agencies within the county.

Section 11. KRS 431.452 is amended to read as follows:

- (1) An offense which is designated as subject to prepayment by specific statutory designation may be prepaid by the violator subject to the terms and conditions of the statute involved.
- (2) When an offense that is not designated as subject to prepayment by specific statutory designation is cited on the same citation with another offense that is subject to prepayment, the officer shall cite the violator to court for all cited offenses. However, if the offense for which prepayment is not allowed is dismissed by the judge prior to the court date listed on the citation, the offense subject to prepayment by specific statutory designation may be prepaid by the violator, and the violator shall not be required to appear in court.
- (3) An offense which is designated as subject to prepayment is subject to the following conditions:
  - (a) Designation as subject to prepayment does not preclude a physical arrest by a peace officer for that offense;
  - (b) Designation as subject to prepayment shall preclude a requirement that the defendant make a court appearance on a uniform citation;
  - (c) ***Except as provided for in subsection (25) of Section 10 of this Act,*** for any offense designated as subject to prepayment the defendant may elect to pay the minimum fine for the offense plus court costs to the circuit clerk before the date of his trial or be tried in the normal manner, unless the citation is marked for mandatory court appearance pursuant to KRS 431.015 or subsection (2) of this section, except that the fine for violations of KRS 189.221, 189.222, 189.226, 189.270, or 189.271 shall be in accordance with KRS 189.990(2)(a) and the defendant shall not be allowed to pay the minimum fine as otherwise allowed by this paragraph;
  - (d) Prepayment of the fine and costs shown on the citation or accompanying schedule shall be considered as a plea of guilty for all purposes.
- (4) When a peace officer issues a uniform citation and no physical arrest is made he shall, where the citation is designated as subject to prepayment, mark the citation as "PAYABLE", except as provided in KRS 431.015 or subsection (2) of this section.
- (5) The Administrative Office of the Courts, after consultation with the Kentucky State Police, the Transportation Cabinet, the Division of Forestry, the Division of Fish and Wildlife, and a representative of law enforcement shall develop a prepayable fine and cost schedule and a uniform statewide instruction sheet for the Commonwealth.

SECTION 12. A NEW SECTION OF KRS CHAPTER 189 IS CREATED TO READ AS FOLLOWS:

***All law enforcement agencies in this state shall be prohibited from erecting roadblocks for the sole purpose of checking for violations of KRS 189.125.***

Section 13. The Transportation Cabinet shall erect signs notifying the traveling public that seat belt use is a requirement in Kentucky at every border crossing on the interstate system between Kentucky and neighboring states, at every rest area within the Commonwealth on the interstate system, and every fifty (50) miles on the interstate system, or at another reasonable distance as determined by the Transportation Cabinet. The signs required by this section may be the current signs that depict a person with a seat belt across the body.

Section 14. Between the effective date of this Act and January 1, 2007, all law enforcement agencies in this state shall be required to issue a courtesy warning rather than a citation to persons who violate subsection (6) of Section 9 of this Act. The courtesy warning shall not include a fine or any other penalty but shall inform the violator of the amount of the fine that will be assessed for a violation of subsection (6) of Section 9 of this Act and the date the courtesy warnings will end. The courtesy warning shall also include educational materials on the benefits of complying with subsection (6) of Section 9 of this Act.

**Approved April 18, 2006**

## **CHAPTER 181**

**(SB 61)**

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 Educational Television.
  - (d) Kentucky Commission on the Deaf and Hard of Hearing.
  - (e) Operations and Development Office.
  - (f) Board of Directors for the Center for School Safety.
3. Environmental and Public Protection Cabinet:
- (a) Office of the Secretary.
    - 1. Office of Legislative and Intergovernmental Affairs.
    - 2. Office of Communications and Public Outreach.
    - 3. Office of Regulatory Affairs.
    - 4. Office of Legal Services.
    - 5. Office of Administrative and Information Services.
    - 6. Office of Administrative Hearings.
    - 7. Office of Inspector General.
    - 8. Mine Safety Review Commission.
    - 9. Workers' Compensation Board.
    - 10. Kentucky State Nature Preserves Commission.
    - 11. Kentucky Environmental Quality Commission.
    - 12. Kentucky Occupational Safety and Health Review Commission.
  - (b) Department for Environmental Protection.
    - 1. Office of the Commissioner.
    - 2. Division of Air Quality.
    - 3. Division of Water.
    - 4. Division of Environmental Services.
    - 5. Division of Waste Management.
    - 6. Division of Enforcement.
    - 7. Division of Compliance Assistance.

- (c) Department for Natural Resources.
  - 1. Office of the Commissioner.
  - 2. Office of Technical and Administrative Support.
  - 3. Division of Mine Permits.
  - 4. Division of Mine Reclamation and Enforcement.
  - 5. Division of Abandoned Mine Lands.
  - 6. Division of Oil and Gas Conservation.
  - 7. Office of Mine Safety and Licensing.
  - 8. Division of Forestry.
  - 9. Division of Conservation.
- (d) Department of Public Protection.
  - 1. Office of the Commissioner.
  - 2. Division of Administrative Services.
  - 3. Crime Victims Compensation Board.
  - 4. Board of Claims.
  - 5. Board of Tax Appeals.
  - 6. Kentucky Boxing and Wrestling Authority.
  - 7. Kentucky Horse Racing Authority.
  - 8. Kentucky Public Service Commission.
  - 9. Office of Alcoholic Beverage Control.
  - 10. Office of Charitable Gaming.
  - 11. Office of Financial Institutions.
  - 12. Office of Housing, Buildings and Construction.
  - 13. Office of Insurance.
- (e) Department of Labor.
  - 1. Office of the Commissioner.
  - 2. Office of Occupational Safety and Health.
  - 3. Office of Labor Management Relations and Mediation.
  - 4. Office of Workplace Standards.
  - 5. Office of Workers' Claims.
  - 6. Workers' Compensation Funding Commission.
  - 7. Kentucky Labor Management Advisory Council.
  - 8. Occupational Safety and Health Standards Board.
  - 9. Prevailing Wage Review Board.
  - 10. Kentucky Employees Insurance Association.
  - 11. Apprenticeship and Training Council.
  - 12. State Labor Relations Board.
  - 13. Workers' Compensation Advisory Council.

14. Workers' Compensation Nominating Commission.
  15. Employers' Mutual Insurance Authority.
  16. Division of Administrative Services.
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 Aviation.
  - (e) Department of Intergovernmental Programs.
    1. Office of Transportation Enhancement Programs.
    2. Office of Rural and Secondary Roads.
  - (f) Office of the Secretary.
    1. Office of Legislative and Intergovernmental Affairs.
    2. Office of Public Affairs.
    3. Office of Transportation Delivery.
    4. Office for Business and Occupational Development.
    5. Office of Budget and Fiscal Management.
    6. Office of Legal Services.
    7. Office of Inspector General.
    8. Office of the Transportation Operations Center.
    9. Office of Personnel Management.
5. Cabinet for Economic Development:
- (a) Office of Administration and Support.
  - (b) Department for New Business Development.
  - (c) Department of Financial Incentives.
  - (d) Department for Existing Business 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.
  - (k) Commission on Small Business Advocacy.



6. Cabinet for Health and Family Services:
  - (a) Department for Public Health.
  - (b) Department for Medicaid Services.
  - (c) Department for Mental Health and Mental Retardation Services.
  - (d) Kentucky Commission for Children with Special Health Care Needs.
  - (e) Office of **Health Policy**~~[Certificate of Need]~~.
  - (f) Office of the Secretary.
  - (g) Office of Legal Services.
  - (h) Office of Inspector General.
  - (i) Office of Legislative and Public Affairs.
  - (j) Department for Community Based Services.
  - (k) Department for Disability Determination Services.
  - (l) Office of the Ombudsman.
  - (m) Department for Human Support Services.
  - (n) Kentucky Commission on Community Volunteerism and Service.
  - (o) Office of Fiscal Services.
  - (p) Office of Human Resource Management.
  - (q) Office of Technology.
  - (r) Office of Contract Oversight.
7. Finance and Administration Cabinet:
  - (a) Office of General Counsel.
  - (b) Office of the Controller.
  - (c) Office of Administrative Services.
  - (d) Office of Public Information.
  - (e) Department for Facilities and Support Services.
  - (f) Department of Revenue.
  - (g) Commonwealth Office of Technology.
  - (h) State Property and Buildings Commission.
  - (i) Kentucky Savings Bond Authority.
  - (j) Office of Equal Employment Opportunity and Contract Compliance.
  - (k) County Officials Compensation Board.
  - (l) Kentucky Employees Retirement Systems.
  - (m) Commonwealth Credit Union.
  - (n) State Investment Commission.
  - (o) Kentucky Housing Corporation.
  - (p) Kentucky Local Correctional Facilities Construction Authority.
  - (q) Kentucky Turnpike Authority.
  - (r) Historic Properties Advisory Commission.

- (s) Kentucky Tobacco Settlement Trust Corporation.
  - (t) Eastern Kentucky Exposition Center Corporation.
  - (u) State Board for Proprietary Education.
  - (v) Kentucky Higher Education Assistance Authority.
  - (w) Kentucky River Authority.
  - (x) Kentucky Teachers' Retirement System Board of Trustees.
8. Commerce Cabinet:
- (a) Department of Tourism.
    - (1) Division of Tourism Services.
    - (2) Division of Marketing and Advertising.
    - (3) Division of Parks Marketing.
  - (b) Kentucky Department of Parks.
    - (1) Division of Information Technology.
    - (2) Division of Personnel and Payroll.
    - (3) Division of Financial Operations.
    - (4) Division of Facilities Management.
    - (5) Division of Project Administration.
    - (6) Division of Customer Services.
    - (7) Division of Recreation.
    - (8) Division of Golf Courses.
    - (9) Division of Food Services.
    - (10) Division of Rangers.
    - (11) Division of Eastern Parks.
    - (12) Division of Southern Parks.
    - (13) Division of Western Parks.
  - (c) Department of Fish and Wildlife Resources.
    - (1) Division of Law Enforcement.
    - (2) Division of Administrative Services.
    - (3) Division of Engineering.
    - (4) Division of Fisheries.
    - (5) Division of Information and Education.
    - (6) Division of Wildlife.
    - (7) Division of Public Affairs.
  - (d) Kentucky Horse Park.
    - (1) Division of Support Services.
    - (2) Division of Buildings and Grounds.
    - (3) Division of Operational Services.
  - (e) Kentucky State Fair Board.

- (1) Division of Expositions and Admission.
- (2) Division of Kentucky Fair and Exposition Center Operations.
- (3) Division of Commonwealth Convention Center.
- (4) Division of Public Relations and Media.
- (5) Division of Administrative Services.
- (6) Division of Personnel Management and Staff Development.
- (7) Division of Sales.
- (8) Division of Security and Traffic Control.
- (f) Office of the Secretary.
- (g) Office of Finance and Administration.
- (h) Office of Legal Affairs.
- (i) Office of Intergovernmental Affairs.
- (j) Office of Human Resources.
- (k) Office of Public Affairs and Constituent Services.
- (l) Office of Information Technology.
- (m) Office of Purchase and Procurement.
- (n) Office of Creative Services.
- (o) Office of Capital Plaza Operations.
- (p) Office of Energy Policy.
- (q) Coal Marketing and Export.
- (r) Kentucky Coal Council.
- (s) Kentucky Foundation for the Arts.
- (t) Kentucky Humanities Council.
- (u) Kentucky Heritage Council.
- (v) Kentucky Arts Council.
- (w) Kentucky Historical Society.
  - (1) Division of Museums.
  - (2) Division of Oral History and Educational Outreach.
  - (3) Division of Research and Publications.
  - (4) Division of Administration.
- (x) Kentucky Center for the Arts.
  - (1) Division of Governor's School for the Arts.
- (y) Kentucky Artisans Center at Berea.
- 9. 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.
10. Personnel Cabinet:
- (a) Office of the Secretary.
  - (b) Department for Personnel Administration.
  - (c) Office for Employee Relations.
  - (d) Kentucky Public Employees Deferred Compensation Authority.
  - (e) Office of Administrative Services.
  - (f) Office of Legal Services.
  - (g) Office of Government Training.
  - (h) Department for Employee 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. Education Professional Standards Board.
- 9. Office of Minority Empowerment.

Section 2. KRS 13B.020 is amended to read as follows:

- (1) The provisions of this chapter shall apply to all administrative hearings conducted by an agency, with the exception of those specifically exempted under this section. The provisions of this chapter shall supersede any other provisions of the Kentucky Revised Statutes and administrative regulations, unless exempted under this section, to the extent these other provisions are duplicative or in conflict. This chapter creates only procedural rights and shall not be construed to confer upon any person a right to hearing not expressly provided by law.
- (2) The provisions of this chapter shall not apply to:
  - (a) Investigations, hearings to determine probable cause, or any other type of information gathering or fact finding activities;

- (b) Public hearings required in KRS Chapter 13A for the promulgation of administrative regulations;
  - (c) Any other public hearing conducted by an administrative agency which is nonadjudicatory in nature and the primary purpose of which is to seek public input on public policy making;
  - (d) Military adjudicatory proceedings conducted in accordance with KRS Chapter 35;
  - (e) Administrative hearings conducted by the legislative and judicial branches of state government;
  - (f) Administrative hearings conducted by any city, county, urban-county, charter county, or special district contained in KRS Chapters 65 to 109, or any other unit of local government operating strictly in a local jurisdictional capacity;
  - (g) Informal hearings which are part of a multilevel hearing process that affords an administrative hearing at some point in the hearing process if the procedures for informal hearings are approved and promulgated in accordance with subsections (4) and (5) of this section;
  - (h) Limited exemptions granted for specific hearing provisions and denoted by reference in the text of the applicable statutes or administrative regulations;
  - (i) Administrative hearings exempted pursuant to subsection (3) of this section;
  - (j) Administrative hearings exempted, in whole or in part, pursuant to subsections (4) and (5) of this section; and
  - (k) Any administrative hearing which was commenced but not completed prior to July 15, 1996.
- (3) The following administrative hearings are exempt from application of this chapter in compliance with 1994 Ky. Acts ch. 382, sec. 19:
- (a) Finance and Administration Cabinet
    - 1. Higher Education Assistance Authority
      - a. Wage garnishment hearings conducted under authority of 20 U.S.C. sec. 1095a and 34 C.F.R. sec. 682.410
      - b. Offset hearings conducted under authority of 31 U.S.C. sec. 3720A and sec. 3716, and 34 C.F.R. sec. 30.33
  - (b) Cabinet for Health and Family Services
    - 1. Office of **Health Policy**~~[Certificate of Need]~~
      - a. Certificate-of-need hearings and licensure conducted under authority of KRS Chapter 216B
      - b. Licensure revocation hearings conducted under authority of KRS Chapter 216B
    - 2. Department for Community Based Services
      - a. Supervised placement revocation hearings conducted under authority of KRS Chapter 630
    - 3. Department for Disability Determination Services
      - a. Disability determination hearings conducted under authority of 20 C.F.R. sec. 404
  - (c) Justice Cabinet
    - 1. Department of State Police
      - a. State Police Trial Board disciplinary hearings conducted under authority of KRS Chapter 16
    - 2. Department of Corrections
      - a. Parole Board hearings conducted under authority of KRS Chapter 439
      - b. Prison adjustment committee hearings conducted under authority of KRS Chapter 197

- c. Prison grievance committee hearings conducted under authority of KRS Chapters 196 and 197
    - 3. Department of Juvenile Justice
      - a. Supervised placement revocation hearings conducted under KRS Chapter 635
  - (d) Environmental and Public Protection Cabinet
    - 1. Department for Natural Resources
      - a. Surface mining hearings conducted under authority of KRS Chapter 350
    - 2. Department for Environmental Protection
      - a. Wild River hearings conducted under authority of KRS Chapter 146
      - b. Water resources hearings conducted under authority of KRS Chapter 151
      - c. Water plant operator and water well driller hearings conducted under authority of KRS Chapter 223
      - d. Environmental protection hearings conducted under authority of KRS Chapter 224
      - e. Petroleum Storage Tank Environmental Assurance Fund hearings under authority of KRS Chapter 224
    - 3. Office of Workers' Claims
      - a. Workers' compensation hearings conducted under authority of KRS Chapter 342
    - 4. Kentucky Occupational Safety and Health Review Commission
      - a. Occupational safety and health hearings conducted under authority of KRS Chapter 338
    - 5. Department of Public Protection
      - a. Board of Claims
        - i. Liability hearings conducted under authority of KRS Chapter 44
      - b. Public Service Commission
        - i. Utility hearings conducted under authority of KRS Chapters 74, 278, and 279
  - (e) Cabinet for Workforce Development
    - 1. Department for Employment Services
      - a. Unemployment Insurance hearings conducted under authority of KRS Chapter 341
  - (f) Secretary of State
    - 1. Registry of Election Finance
      - a. Campaign finance hearings conducted under authority of KRS Chapter 121
  - (g) State universities and colleges
    - 1. Student suspension and expulsion hearings conducted under authority of KRS Chapter 164
    - 2. University presidents and faculty removal hearings conducted under authority of KRS Chapter 164
    - 3. Campus residency hearings conducted under authority of KRS Chapter 164
    - 4. Family Education Rights to Privacy Act hearings conducted under authority of 20 U.S.C. sec. 1232 and 34 C.F.R. sec. 99
    - 5. Federal Health Care Quality Improvement Act of 1986 hearings conducted under authority of 42 U.S.C. sec. 11101 to 11115 and KRS Chapter 311.
- (4) Any administrative hearing, or portion thereof, may be certified as exempt by the Attorney General based on the following criteria:

- (a) The provisions of this chapter conflict with any provision of federal law or regulation with which the agency must comply, or with any federal law or regulation with which the agency must comply to permit the agency or persons within the Commonwealth to receive federal tax benefits or federal funds or other benefits;
  - (b) Conformity with the requirement of this chapter from which exemption is sought would be so unreasonable or so impractical as to deny due process because of undue delay in the conduct of administrative hearings; or
  - (c) The hearing procedures represent informal proceedings which are the preliminary stages or the review stages of a multilevel hearing process, if the provisions of this chapter or the provisions of a substantially equivalent hearing procedure exempted under subsection (3) of this section are applied at some level within the multilevel process.
- (5) The Attorney General shall not exempt an agency from any requirement of this chapter until the agency establishes alternative procedures by administrative regulation which, insofar as practical, shall be consistent with the intent and purpose of this chapter. When regulations for alternative procedures are submitted to the Administrative Regulation Review Subcommittee, they shall be accompanied by the request for exemption and the approval of exemption from the Attorney General. The decision of the Attorney General, whether affirmative or negative, shall be subject to judicial review in the Franklin Circuit Court within thirty (30) days of the date of issuance. The court shall not overturn a decision of the Attorney General unless the decision was arbitrary or capricious or contrary to law.
- (6) Except to the extent precluded by another provision of law, a person may waive any procedural right conferred upon that person by this chapter.

Section 3. KRS 194A.030 is amended to read as follows:

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

- (1) Office of the Secretary. Within the Office of the Secretary, there shall be an Office of Legislative and Public Affairs, an Office of Legal Services, and an Office of Inspector General.
  - (a) The Office of Legislative and Public Affairs shall be responsible for the development and implementation of the major legislative and policy initiatives of the cabinet, and shall include oversight of administrative hearings, legislative affairs, and communications with internal and external audiences of the cabinet. The Office of Legislative and Public Affairs shall be headed by an executive director who shall be appointed by the secretary with the approval of the Governor under KRS 12.050.
  - (b) The Office of Legal Services shall provide legal advice and assistance to all units of the cabinet in any legal action in which it may be involved. The Office of Legal Services shall employ all attorneys of the cabinet who serve the cabinet in the capacity of attorney, giving legal advice and opinions concerning the operation of all programs in the cabinet. The Office of Legal Services shall be headed by a general counsel who shall be appointed by the secretary with the approval of the Governor under KRS 12.050 and 12.210. The general counsel shall be the chief legal advisor to the secretary and shall be directly responsible to the secretary. The Attorney General, on the request of the secretary, may designate the general counsel as an assistant attorney general under the provisions of KRS 15.105.
  - (c) The Office of Inspector General shall be responsible for:
    - 1. The conduct of audits and investigations for detecting the perpetration of fraud or abuse of any program by any client, or by any vendor of services with whom the cabinet has contracted; and the conduct of special investigations requested by the secretary, commissioners, or office heads of the cabinet into matters related to the cabinet or its programs;
    - 2. Licensing and regulatory functions as the secretary may delegate;
    - 3. Review of health facilities participating in transplant programs, as determined by the secretary, for the purpose of determining any violations of KRS 311.165 to 311.235, 311.241, 311.243, 311.245, and 311.247; and
    - 4. The notification and forwarding of any information relevant to possible criminal violations to the appropriate prosecuting authority.

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

- (2) Department for Medicaid Services. The Department for Medicaid Services shall serve as the single state agency in the Commonwealth to administer Title XIX of the Federal Social Security Act. The Department for Medicaid Services shall be headed by a commissioner for Medicaid services, who shall be appointed by the secretary with the approval of the Governor under with KRS 12.050. The commissioner for Medicaid services shall be a person who by experience and training in administration and management is qualified to perform the duties of this office. The commissioner for Medicaid services shall exercise authority over the Department for Medicaid Services under the direction of the secretary and shall only fulfill those responsibilities as delegated by the secretary;
- (3) Department for Public Health. The Department for Public Health shall develop and operate all programs of the cabinet that provide health services and all programs for assessing the health status of the population for the promotion of health and the prevention of disease, injury, disability, and premature death. The Department for Public Health shall be headed by a commissioner for public health who shall be appointed by the secretary with the approval of the Governor under KRS 12.050. The commissioner for public health shall be a duly licensed physician who by experience and training in administration and management is qualified to perform the duties of this office. The commissioner shall advise the head of each major organizational unit enumerated in this section on policies, plans, and programs relating to all matters of public health, including any actions necessary to safeguard the health of the citizens of the Commonwealth. The commissioner shall serve as chief medical officer of the Commonwealth. The commissioner for public health shall exercise authority over the Department for Public Health under the direction of the secretary and shall only fulfill those responsibilities as delegated by the secretary;
- (4) Department for Mental Health and Mental Retardation Services. The Department for Mental Health and Mental Retardation Services shall develop and administer programs for the prevention of mental illness, mental retardation, brain injury, developmental disabilities, and substance abuse disorders and shall develop and administer an array of services and support for the treatment, habilitation, and rehabilitation of persons who have a mental illness or emotional disability, or who have mental retardation, brain injury, developmental disability, or a substance abuse disorder. The Department for Mental Health and Mental Retardation Services shall be headed by a commissioner for mental health and mental retardation who shall be appointed by the secretary with the approval of the Governor under KRS 12.050. The commissioner for mental health and mental retardation shall be by training and experience in administration and management qualified to perform the duties of the office. The commissioner for mental health and mental retardation shall exercise authority over the department under the direction of the secretary and shall only fulfill those responsibilities as delegated by the secretary;
- (5) Commission for Children with Special Health Care Needs. The duties, responsibilities, and authority set out in KRS 200.460 to 200.490 shall be performed by the commission. The commission shall advocate the rights of children with disabilities and, to the extent that funds are available, shall provide the services and facilities for children with disabilities as are deemed appropriate by the commission. The commission shall be composed of seven (7) members appointed by the Governor to serve a term of office of four (4) years. The commission may promulgate administrative regulations under KRS Chapter 13A as may be necessary to implement and administer its responsibilities. The duties, responsibilities, and authority of the Commission for Children with Special Health Care Needs shall be performed through the office of the executive director of the commission. The executive director shall be appointed by the Governor under KRS 12.040, and the commission may at any time recommend the removal of the executive director upon filing with the Governor a full written statement of its reasons for removal. The executive director shall report directly to the Commission for Children with Special Health Care Needs and serve as the commission's secretary;
- (6) Office of ~~Health Policy~~~~Certificate of Need~~. ***The Office of Health Policy shall lead efforts to coordinate health care policy, including Medicaid, mental health and mental retardation services, public health, certificate of need, health insurance, and the state employee health insurance program.*** The duties, responsibilities, and authority pertaining to the certificate of need functions and the licensure appeal functions, as set out in KRS Chapter 216B, shall be performed by this office. ***The Office of Health Policy shall be headed by an executive director who shall be appointed by the secretary with the approval of the Governor pursuant to KRS 12.050;***



- (7) Department for Human Support Services. The Department for Human Support Services shall streamline the various responsibilities associated with the human services programs for which the cabinet is responsible. This shall include, but not be limited to, oversight of the Division of Aging Services, the Division of Child Abuse and Domestic Violence Services, the Division of Women's Physical and Mental Health, the Division of Family Resource and Youth Services Centers, and the Kentucky Commission on Community Volunteerism and Services. The Department for Human Support Services shall be headed by a commissioner for human support services who shall be appointed by the secretary with the approval of the Governor under KRS 12.050. The commissioner for human support services shall be by training and experience in administration and management qualified to perform the duties of the office. The commissioner for human support services shall exercise authority over the department under the direction of the secretary and shall only fulfill those responsibilities as delegated by the secretary;
- (8) Office of the Ombudsman. The Office of the Ombudsman shall provide professional support in the evaluation of programs, including but not limited to quality improvement and information analysis and reporting, including contract monitoring, program monitoring, and the development of quality service delivery, and a review and resolution of citizen complaints about programs or services of the cabinet when those complaints are unable to be resolved through normal administrative remedies. The Office of the Ombudsman shall place an emphasis on research and best practice and program accountability and shall monitor federal compliance. The Office of the Ombudsman shall be headed by an executive director who shall be appointed by the secretary with the approval of the Governor under KRS 12.050;
- (9) Office of Technology. The Office of Technology shall develop and maintain technology, technology infrastructure, and information management systems in support of all units of the cabinet. The Office of Technology shall be headed by a chief information officer who shall be appointed by the secretary with the approval of the Governor under KRS 12.050. The chief information officer shall exercise authority over the Office of Technology under the direction of the secretary and shall only fulfill those responsibilities as delegated by the secretary;
- (10) Office of Human Resource Management. The Office of Human Resource Management shall coordinate, oversee, and execute all personnel, training, and management functions of the cabinet. The office shall focus on the oversight, development, and implementation of quality personnel services; curriculum development and delivery of instruction to staff; the administration, management, and oversight of training operations; health, safety, and compliance training; and equal employment opportunity compliance functions. The office shall be headed by an executive director appointed by the secretary with the approval of the Governor in accordance with KRS 12.050;
- (11) Office of Fiscal Services. The Office of Fiscal Services shall coordinate, oversee, and execute the accounting, treasury, and financial reporting functions of the cabinet. The office shall be headed by a chief financial officer appointed by the secretary with the approval of the Governor in accordance with KRS 12.050;
- (12) Office of Contract Oversight. The Office of Contract Oversight shall coordinate, oversee, and execute the contracting and procurement processes of the cabinet and shall maintain these processes in compliance with all applicable laws, rules, regulations, and procedures. The office shall ensure that the cabinet executes its contracting and procurement processes within the highest ethical standards and with the utmost integrity. The office shall oversee existing contracts to assure that the cabinet receives those services for which it has contracted or receives funds in payment for services that it has provided by contract, and shall have responsibility for determining that the cabinet maximizes the value of dollars spent by the cabinet for commodities and services. The office shall be headed by an executive director appointed by the secretary with the approval of the Governor in accordance with KRS 12.050;
- (13) Department for Community Based Services. The Department for Community Based Services shall administer and be responsible for child and adult protection, foster care and adoption, permanency, and services to enhance family self-sufficiency, including child care, social services, public assistance, and family and child support. The department shall be headed by a commissioner appointed by the secretary with the approval of the Governor in accordance with KRS 12.050; and
- (14) Department for Disability Determination Services. The Department for Disability Determination Services shall serve as the state unit as required by Title II and Title XVI of the Social Security Act, and shall have responsibility for determining eligibility for disability for those citizens of the Commonwealth who file applications for disability with the Social Security Administration. The department shall also make

determinations for citizens of the Commonwealth who make application for the Kentucky Transitional Assistance Program and determine medical exemptions for participants in the Kentucky Works Program. The department shall be headed by a commissioner appointed by the secretary with the approval of the Governor in accordance with KRS 12.050.

Section 4. 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 5. The General Assembly hereby confirms Executive Order 2005-779, dated August 1, 2005, by which the Office of Certificate of Need is abolished, the Office of Health Policy is created, and the Divisions of Health Policy Development and Certificate of Need are created and established within the Office of Health Policy, to the extent it is not otherwise confirmed by this Act. All personnel records, files, equipment, and funds heretofore assigned to the Office of Certificate of Need are hereby transferred to the Office of Health Policy.

**Approved April 18, 2006**

## **CHAPTER 182**

### **(HB 3)**

AN ACT relating to sex offenses and the punishment thereof.

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

Section 1. KRS 17.165 is amended to read as follows:

- (1) As used in this section, "sex crime" means a conviction or a plea of guilty ***to a sex crime specified in Section 5 of this Act***~~for a violation or attempted violation of KRS 510.040 to 510.140, 529.020 to 529.050, 530.020, 530.065, 531.310, 531.320, and 531.340 to 531.370. Conviction for a violation or attempted violation of an offense committed outside the Commonwealth of Kentucky is a sex crime if such offense would have been a crime in Kentucky under one (1) of the above sections if committed in Kentucky}.~~
- (2) As used in this section, "violent offender" means any person who has been convicted of or pled guilty to the commission of a capital offense, Class A felony, or Class B felony involving the death of the victim, or rape in the first degree or sodomy in the first degree of the victim or serious physical injury to a victim.
- (3) As used in this section, "violent crime" shall mean a conviction of or a plea of guilty to the commission of a capital offense, Class A felony, or Class B felony involving the death of the victim, or rape in the first degree or sodomy in the first degree of the victim or serious physical injury to a victim.
- (4) No child-care center as defined in KRS 199.894 shall employ, in a position which involves supervisory or disciplinary power over a minor, or direct contact with a minor, any person who is a violent offender or has been convicted of a sex crime. Each child-care center shall request all conviction information for any applicant for employment from the Justice Cabinet or the Administrative Office of the Courts prior to employing the applicant.
- (5) No child-care provider that is required to be certified under KRS 199.8982 or that receives a public child-care subsidy administered by the cabinet or an adult who resides on the premises of the child-care provider and has direct contact with a minor shall have been convicted of a violent crime, or a sex crime, or have been found by the Cabinet for Health and Family Services or a court to have abused or neglected a child.
- (6) Each application form, provided by the employer to the applicant, shall conspicuously state the following: "FOR THIS TYPE OF EMPLOYMENT, STATE LAW REQUIRES A CRIMINAL RECORD CHECK AS A CONDITION OF EMPLOYMENT."
- (7) Any request for records under subsection (4) of this section shall be on a form approved by the Justice Cabinet or the Administrative Office of the Courts, and the cabinet may charge a fee to be paid by the applicant in an amount no greater than the actual cost of processing the request.
- (8) The provisions of this section shall apply to all applicants for initial employment in a position which involves supervisory or disciplinary power over a minor after July 15, 1988.

Section 2. KRS 17.170 is amended to read as follows:

- (1) Any person, ***including a youthful offender as defined in KRS 600.020, detained in the custody of the Department of Juvenile Justice who is*** convicted~~[on or after July 14, 1992,]~~ of a felony offense under KRS Chapter 510 or KRS 530.020, shall, or who is in the custody of the Department of Corrections on July 14, 1992, under KRS Chapter 510 or KRS 530.020 may, have a sample of blood, an oral swab, or sample obtained through a noninvasive procedure taken by the Department of Corrections ***or the Department of Juvenile Justice, when appropriate,*** for DNA (deoxyribonucleic acid) law enforcement identification purposes and inclusion in law enforcement identification databases.
- (2) The samples shall be obtained in a medically approved manner by a physician, registered nurse, phlebotomist, medical technician, or medical technologist, and packaged and submitted in containers provided by the Department of State Police forensic laboratory in accordance with administrative regulations promulgated by the Department of State Police forensic laboratory. No civil liability shall attach to any person authorized to obtain the DNA sample as provided by this section as a result of the act of obtaining the DNA sample from any person, provided the procedure was done according to generally accepted medical procedures.
- (3) The cost of testing shall be paid by the agency or individual making the request for testing.
- (4) Any person who tampers or attempts to tamper with any DNA sample collected under this section or its container without lawful authority shall be guilty of a Class D felony.

Section 3. KRS 17.495 is repealed, reenacted as a new section of KRS 17.500 to 17.580, and amended to read as follows:

- (1) No registrant, as defined in KRS 17.500,~~[who is placed on probation, parole, or any form of supervised release,]~~ shall reside within one thousand (1,000) feet of a high school, middle school, elementary school, preschool, ***publicly owned playground,*** or licensed day care facility. The measurement shall be taken in a straight line from the nearest ***property line***~~[wall]~~ of the school to the nearest ***property line***~~[wall]~~ of the registrant's place of residence.
- (2) ***For purposes of this section:***
  - (a) ***The registrant shall have the duty to ascertain whether any property listed in subsection (1) of this section is within one thousand (1,000) feet of the registrant's residence; and***
  - (b) ***If a new facility opens, the registrant shall be presumed to know and, within ninety (90) days, shall comply with this section.***
- (3) ***Any person who violates subsection (1) of this section shall be guilty of:***
  - (a) ***A Class A misdemeanor for a first offense; and***
  - (b) ***A Class D felony for the second and each subsequent offense.***
- (4) ***Any registrant residing within one thousand (1,000) feet of a high school, middle school, elementary school, preschool, publicly owned playground, or licensed day care facility on the effective date of this Act shall move and comply with this section within ninety (90) days of the effective date of this Act, and thereafter, shall be subject to the penalties set forth under subsection (3) of this section.***
- (5) This section shall not apply to a youthful offender probated or paroled during his or her minority or while enrolled in ***an elementary or***~~[a]~~ secondary education program.

Section 4. KRS 17.497 is repealed, reenacted as a new section of KRS 17.500 to 17.580, and amended to read as follows:

The following shall be immune from suit for good faith conduct under KRS 17.500 to ***17.580 and***~~[17.540 and KRS 17.550 to]~~ 17.991:

- (1) Law enforcement agencies including the Justice Cabinet;
- (2) Independent contractors acting under the direction of law enforcement agencies;
- (3) State and county officials;
- (4) Approved providers, as defined ***in Section 5 of this Act***~~[under KRS 17.550];~~ and

- (5) Employees of any of the agencies, entities, and persons identified in subsections (1), (2), (3), and (4) of this section.

Section 5. KRS 17.500 is amended to read as follows:

As used in KRS 17.500 to **17.580**~~[17.540]~~:

- (1) **"Approved provider" means a mental health professional licensed or certified in Kentucky whose scope of practice includes providing mental health treatment services and who is approved by the Sex Offender Risk Assessment Advisory Board, under administrative regulations promulgated by the board, to provide comprehensive sex offender presentence evaluations or treatment to adults and youthful offenders, as defined in KRS 600.020;**
- (2) "Cabinet" means the Justice Cabinet;~~[-]~~
- (3)~~[(2)]~~ (a) Except as provided in paragraph (b) of this subsection, "criminal offense against a victim who is a minor" means any of the following offenses if the victim is under the age of eighteen (18) at the time of the commission of the offense:
  1. Kidnapping, as set forth in KRS 509.040, except by a parent;
  2. Unlawful ~~imprisonment~~~~[confinement]~~, as set forth in KRS 509.020, except by a parent;
  3. Sex crime;
  4. Promoting a sexual performance of a minor, as set forth in KRS 531.320;
  5. Promoting prostitution, as set forth in KRS 529.030, 529.040, and 529.050, when the defendant advances or profits from the prostitution of a person under the age of eighteen (18);
  6. Use of a minor in a sexual performance, as set forth in KRS 531.310;
  7. Sexual abuse, as set forth in KRS 510.120 and 510.130;
  8. **Unlawful transaction with a minor in the first degree as set forth in subsection (1)(a) of Section 38 of this Act;**
  9. **Any offense involving a minor or depictions of a minor as set forth in KRS Chapter 531;**
  10. Any attempt to commit any of the offenses described in subparagraphs 1. to ~~9.[-]~~ of this paragraph; and
  - 11.~~[-]~~ Solicitation to commit any of the offenses described in subparagraphs 1. to ~~9.[-]~~ of this paragraph.
- (b) Conduct which is criminal only because of the age of the victim shall not be considered a criminal offense against a victim who is a minor if the perpetrator was under the age of eighteen (18) at the time of the commission of the offense;~~[-]~~
- (4)~~[(3)]~~ "Law enforcement agency" means any lawfully organized investigative agency, **sheriff's office**, police unit, or police force of federal, state, county, **urban county government**, **charter county**, city, **consolidated local**~~[metropolitan]~~ government, or a combination of these, responsible for the detection of crime and the enforcement of the general criminal federal or state laws;~~[-]~~
- (5)~~[(4)]~~ "Registrant" means:
  - (a) Any person eighteen (18) years of age or older at the time of the offense or any youthful offender, as defined in KRS 600.020, who has committed:
    1. A sex crime; or
    2. A criminal offense against a victim who is a minor; or
  - (b) Any person required to register under KRS 17.510~~[(6) or (7)]~~; or
  - (c) Any sexually violent predator; **or**
  - (d) **Any person whose sexual offense has been diverted pursuant to KRS 533.250, until the diversionary period is successfully completed.**

- (6)~~(5)~~ "Registrant information" means the name, *including any lawful name change together with the previous name*, Social Security number, age, race, sex, date of birth, height, weight, hair and eye color, fingerprints, a photograph, aliases used, residence, a brief description of the crime or crimes committed, and other information the cabinet determines, by administrative regulation, may be useful in the identification of registrants;~~[-]~~
- (7) *"Residence" means any place where a person sleeps. For the purposes of this statute, a registrant may have more than one (1) residence. A registrant is required to register each residence address;*
- (8)~~(6)~~ "Sex crime" means:
- (a) A felony offense defined in KRS Chapter 510, *or* KRS 530.020, 530.064~~(1)~~(a), 531.310, or 531.320;
  - (b) A felony attempt to commit a felony offense specified in paragraph (a) of this subsection; or
  - (c) A federal felony offense, a felony offense subject to a court-martial of the United States Armed Forces, or a felony offense from another state or a territory where the felony offense is similar to a felony offense specified in paragraph (a) of this subsection;
- (9) *"Sexual offender" means any person convicted of, pleading guilty to, or entering an Alford plea to a sex crime as defined in this section, as of the date the verdict is entered by the court;*~~[-]~~
- (10)~~(7)~~ "Sexually violent predator" means any person who has been subjected to involuntary civil commitment as a sexually violent predator, or a similar designation, under a state, territory, or federal statutory scheme;
- (11) *"The board" means the Sex Offender Risk Assessment Advisory Board created under KRS 17.554; and*
- (12) *"Victim" has the same meaning as in KRS 421.500.*

Section 6. KRS 17.510 is amended to read as follows:

- (1) The cabinet shall develop and implement a registration system for registrants which includes creating a new computerized information file to be accessed through the Law Information Network of Kentucky.
- (2) A registrant shall, on or before the date of his or her release by the court, the parole board, the cabinet, or any detention facility, register with the appropriate local probation and parole office in the county in which he or she intends to reside. The person in charge of the release shall facilitate the registration process.
- (3) Any person required to register pursuant to subsection (2) of this section shall be informed of the duty to register by the court at the time of sentencing *if the court grants probation or conditional discharge or does not impose a penalty of incarceration, or if incarcerated,*~~and~~ by the official in charge of the place of confinement upon release. The court and the official shall require the person to read and sign any form that may be required by the cabinet, stating that the duty of the person to register has been explained to the person. The court and the official in charge of the place of confinement shall require the releasee to complete the acknowledgment form and the court or the official shall retain the original completed form. The official shall then send the form to the Information Services Center, Kentucky State Police, Frankfort, Kentucky 40601.
- (4) The court or the official shall order the person *to register*~~to -~~
  - (a) ~~Register~~ with the appropriate local probation and parole *office which*~~office; and~~
  - (b) ~~Report to a local detention facility within forty-eight (48) hours. The facility~~ shall obtain the person's fingerprints ~~under KRS 441.046~~ and the person's photograph. *Thereafter, the registrant shall return to the appropriate local probation and parole office not less than one (1) time every two (2) years in order for a new photograph to be obtained, and the registrant shall pay the cost of updating the photo for registration purposes. Failure to comply with this requirement shall be punished as set forth in subsection (11) of this section*~~The local detention facility shall send the fingerprints and the photograph to the Information Services Center, Kentucky State Police, Frankfort, Kentucky 40601.~~
- (5) (a) The appropriate probation and parole office shall send the registration form containing the registrant information, *fingerprint card, and photograph, and* ~~as well as~~ any special conditions imposed by the court or the Parole Board, to the Information Services Center, Kentucky State Police, Frankfort, Kentucky 40601.

- (b) The Information Services Center, upon request by a state or local law enforcement agency, shall make available to that agency registrant information, including a person's fingerprints and photograph, where available, as well as any special conditions imposed by the court or the Parole Board.
  - (c) Any employee of the Justice Cabinet who disseminates, or does not disseminate, registrant information in good faith compliance with the requirements of this subsection shall be immune from criminal and civil liability for the dissemination or lack thereof.
- (6) Any person who has been convicted in a court of ~~any [another]~~ state or territory, a court of the United States, **or a similar conviction from a court of competent jurisdiction in any other country**, or a court martial of the United States Armed Forces of a sex crime or criminal offense against a victim who is a minor **and who has been notified of the duty to register by that state, territory, or court**, or who has been committed as a sexually violent predator under the laws of another state, laws of a territory, or federal laws, **or has a similar conviction from a court of competent jurisdiction in any other country**, shall **comply with the registration requirement of this section, including**~~be informed at the time of his or her relocation to Kentucky of the duty to register under this section, and to comply with~~ the requirements of subsection (4)~~(b)~~ of this section, **and shall register with the appropriate local probation and parole office in the county of residence within five (5) working days of relocation. No additional notice of the duty to register shall be required of any official charged with a duty of enforcing the laws of this Commonwealth**~~, by the interstate compact officer of the Department of Corrections or the Department of Juvenile Justice. The officer shall require the person to read and sign any form that may be required by the cabinet, stating that the duty of the person to register under this section has been explained. The officer shall order the person to complete the registration form, and the officer shall facilitate the registration process. The officer shall then send the form, including any special conditions imposed by the court or the Parole Board in the state of conviction to the Information Services Center, Kentucky State Police, Frankfort, Kentucky 40601, and to the appropriate local probation and parole office in the county of the registrant's residence~~.
- (7) If a person is required to register under federal law or the laws of another state or territory, or if the person has been convicted of an offense under the laws of another state or territory that would require registration if committed in this Commonwealth, that person upon changing residence from the other state or territory of the United States to the Commonwealth or upon entering the Commonwealth for employment, to carry on a vocation, or as a student shall comply with the registration requirement of this section, ~~including~~~~and~~ the requirements of subsection (4)~~(b)~~ of this section, and shall register **within five (5) working days** with the appropriate local probation and parole office in the county of **residence**, employment, vocation, or schooling. **A person required to register under federal law or the laws of another state or territory shall be presumed to know of the duty to register in the Commonwealth.** As used in this subsection, "employment" or "carry on a vocation" includes employment that is full-time or part-time for a period exceeding fourteen (14) days or for an aggregate period of time exceeding thirty (30) days during any calendar year, whether financially compensated, volunteered, or for the purpose of government or educational benefit. As used in this subsection, "student" means a person who is enrolled on a full-time or part-time basis, in any public or private educational institution, including any secondary school, trade or professional institution, or institution of higher education.
- (8) The registration form shall be a written statement signed by the person which shall include registrant information, **including an up-to-date photograph of the registrant for public dissemination.**
- (9) For purposes of ~~this section and~~ KRS 17.500 to 17.580 ~~and~~~~17.550 to~~ 17.991, a post office box number shall not be considered an address.
- (10) (a) If the residence address of any registrant changes, but the registrant remains in the same county, the person shall register, on or before the date of the change of address, with the appropriate local probation and parole office in the county in which he or she resides.
- (b) 1. If the registrant changes his or her residence to a new county, the person shall notify his or her current local probation and parole office of the new residence address on or before the date of the change of address.
  - 2. The registrant shall also register with the appropriate local probation and parole office in the county of his or her new residence no later than five (5) **working** days after the date of the change of address.

- (c) 1. As soon as a probation and parole office learns of the person's new address under paragraph (b)1. of this subsection, that probation and parole office shall notify the appropriate local probation and parole office in the county of the new address of the effective date of the new address.
- 2. As soon as a probation and parole office learns of the person's new address under paragraph (b)2. of this subsection, that office shall forward this information as set forth under subsection (5) of this section.
- (11) Any person required to register under this section who **knowingly** violates any of the provisions of this section **or prior law** is guilty of a Class D felony **for the first offense and a Class C felony for each subsequent offense**.
- (12) Any person required to register under this section **or prior law** who knowingly provides false, misleading, or incomplete information is guilty of a Class D felony **for the first offense and a Class C felony for each subsequent offense**.
- (13) (a) The Justice Cabinet shall verify the addresses of individuals required to register under this section. Verification shall occur at least once every ninety (90) days for a person required to register under KRS 17.520(2) and at least once every calendar year for a person required to register under KRS 17.520(3). If the Justice Cabinet determines that a person has moved without providing his or her new address to the appropriate local probation and parole office or offices as required under subsection (10)(a) and (b) of this section, the Justice Cabinet shall notify the appropriate local probation and parole office of the new address. The office shall then forward this information as set forth under subsection (5) of this section. The Justice Cabinet shall also notify the appropriate court, Parole Board, and appropriate **Commonwealth's attorney, sheriff's office, probation and parole office, corrections agency, and law enforcement agency responsible for the investigation of the report of noncompliance**.
- (b) **An agency that receives notice of the noncompliance from the cabinet under paragraph (a) of this subsection**~~[When the appropriate court, Parole Board, or appropriate corrections agency receives notice from the Justice Cabinet, or any other source, that a person has failed to comply with any of the registration requirements under this section, then the court, Parole Board, or corrections agency]:~~
  - 1. Shall consider revocation of the parole, probation, or conditional discharge of any person released under its authority; and
  - 2. Shall notify the appropriate county **or Commonwealth's** Attorney for prosecution.

Section 7. KRS 17.520 is amended to read as follows:

- (1) A registrant, upon his or her release by the court, the Parole Board, the cabinet, or any detention facility, shall be required to register for a period of time **required** under this section.
- (2) (a) Lifetime registration is required for:
  - 1. Any person who has been convicted of kidnapping, as set forth in KRS 509.040, when the victim is under the age of eighteen (18) at the time of the commission of the offense, except when the offense is committed by a parent;
  - 2. Any person who has been convicted of unlawful confinement, as set forth in KRS 509.020, when the victim is under the age of eighteen (18) at the time of the commission of the offense, except when the offense is committed by a parent;
  - 3. Any person convicted of a sex crime:
    - a. Who has one (1) or more prior convictions of a **felony** criminal offense against a victim who is a minor; or
    - b. Who has one (1) or more prior sex crime convictions;
  - 4. Any person who has been convicted of two (2) or more **felony** criminal offenses against a victim who is a minor;
  - 5. Any person who has been convicted of:
    - a. Rape in the first degree under KRS 510.040; or

- b. Sodomy in the first degree under KRS 510.070; and
- 6. Any sexually violent predator.
- (3) All other registrants are required to register for **twenty (20)**~~ten (10)~~ years following discharge from confinement or **twenty (20)**~~ten (10)~~ years following the maximum discharge date on probation, shock probation, conditional discharge, parole, or other form of early release, whichever period is greater.
- (4) If a person required to register under this section is reincarcerated for another offense or as the result of having violated the terms of probation, parole, or conditional discharge, the registration requirements **and the remaining period of time for which the registrant shall register** are tolled during the reincarceration.
- (5) ~~A person~~~~[An offender]~~ who has pled guilty, **entered an Alford plea**, or been convicted in a court of another state or territory, in a court of the United States, or in a court-martial of the United States Armed Forces who is required to register in Kentucky shall be subject to registration in Kentucky based on the conviction in the foreign jurisdiction. The Justice Cabinet shall promulgate administrative regulations to carry out the provisions of this subsection.
- (6) The court shall designate the registration period as mandated by this section in its judgment and shall cause a copy of its judgment to be mailed to the Information Services Center, Kentucky State Police, Frankfort, Kentucky 40601.

Section 8. KRS 17.530 is amended to read as follows:

The cabinet may share information gathered pursuant to KRS 17.510 with law enforcement agencies ~~offin~~ this state,~~and~~ other states, **and the federal government** in the course of their official duties.

Section 9. KRS 17.564 is amended to read as follows:

- (1) The board may promulgate all reasonable administrative regulations not inconsistent with this chapter that are necessary to carry into effect the purposes of KRS ~~17.500~~~~[17.550]~~ to **17.580 and** 17.991.
- (2) The board may promulgate administrative regulations requiring mandatory continuing education for approved providers as a condition for obtaining their renewal approvals.

Section 10. KRS 17.566 is amended to read as follows:

Only persons approved under KRS ~~17.500~~~~[17.550]~~ to **17.580 and** 17.991 may be known as approved providers in the Commonwealth of Kentucky, or use any words or letters or assume any titles or description tending to convey the impression that they are approved providers.

Section 11. KRS 17.568 is amended to read as follows:

Whenever in the judgment of the board any person has engaged or is about to engage in any acts or practices that constitute or will constitute a violation of KRS ~~17.500~~~~[17.550]~~ to **17.580 and** 17.991, the board may apply to the Franklin Circuit Court for an order enjoining these acts or practices.

- (1) Upon a showing by the board that a person has engaged or is about to engage in any of these acts or practices, an injunction, restraining order, or other order as may be appropriate shall be granted by the court.
- (2) Any order of the Franklin Circuit Court shall be enforceable and shall be valid anywhere in this state, and the order of the court shall be reviewable as provided in the Rules of Civil Procedure in the case of other injunctions and restraining orders.

Section 12. KRS 17.574 is amended to read as follows:

- (1) Any statutes to the contrary notwithstanding, all state or local detention or correctional facilities, hospitals, or institutions shall forward all relevant information pertaining to a ~~sexual~~~~[sex]~~ offender to be discharged, paroled, or released to the approved provider for review prior to the release or discharge for consideration in making recommendations to the sentencing court. The relevant information shall include but is not limited to:
  - (a) The institutional record;
  - (b) The medical record including all psychological records; and
  - (c) The treatment record.



- (2) All confidential records provided pursuant to this section shall remain confidential, unless otherwise ordered by a court or by another person duly authorized to release the information.

Section 13. KRS 17.580 is amended to read as follows:

- (1) The Kentucky State Police shall establish a web site available to the public. The web site shall display:
- (a) The registrant information, except for information that identifies a victim, fingerprints, and Social Security numbers, obtained by the Information Services Center, Kentucky State Police, under KRS 17.510;~~and~~
  - (b) The sex offender information, except for information that identifies a victim, Social Security numbers, and vehicle registration data, obtained by the Information Services Center, Kentucky State Police, under KRS 17.510 prior to April 11, 2000; *and*
  - (c) ***The registrant's conviction, the elements of the offense for which the registrant was convicted, whether the registrant is currently on probation or parole, and whether the registrant is compliant or noncompliant.***

The web site shall be updated every day except for Saturdays, Sundays, and state holidays.

- (2) The information pertaining to an individual shall be maintained on the web site so long as that individual is registered in accordance with KRS 17.500 to ***17.580***~~17.540~~.
- (3) The following language shall be prominently displayed on the web site: "UNDER KRS 525.070 AND 525.080, USE OF INFORMATION OBTAINED FROM THIS WEB SITE TO HARASS A PERSON IDENTIFIED ON THIS WEB SITE IS A CRIMINAL OFFENSE PUNISHABLE BY UP TO NINETY (90) DAYS IN THE COUNTY JAIL. MORE SEVERE CRIMINAL PENALTIES APPLY FOR MORE SEVERE CRIMES COMMITTED AGAINST A PERSON IDENTIFIED ON THIS WEB SITE."
- (4) (a) Any Kentucky State Police employee who disseminates, or does not disseminate, registrant information or sex offender information in good faith compliance with the requirements of this section shall be immune from criminal and civil liability for the dissemination or lack thereof.
- (b) Any person, including an employee of a sheriff's office, acting in good faith in disseminating, or not disseminating, information previously disseminated by the Kentucky State Police shall be immune from criminal and civil liability for the dissemination or lack thereof.
- (5) The Justice Cabinet shall establish a toll-free telephone number for a person to call to learn the identity of the web site created in this section and the location of public access to the web site in the county where the person resides.
- (6) ***In addition to the Web site, a local law enforcement agency may provide personal notification regarding the registrants located in its jurisdiction. Any notification shall contain the warning specified in subsection (3) of this section.***

SECTION 14. A NEW SECTION OF KRS 17.500 TO 17.580 IS CREATED TO READ AS FOLLOWS:

- (1) ***A person shall be guilty of making a false statement to a law enforcement official when he or she intentionally misleads any law enforcement official regarding a noncompliant registrant.***
- (2) ***A person shall be guilty of harboring when he or she intentionally allows a registrant to reside at his or her residence to avoid registration if the address is not the address the registrant listed as his or her residence address.***
- (3) ***For the purposes of this section, law enforcement officials include the Attorney General, elected sheriffs, deputy sheriffs, city police officers, county police officers, state police officers, probation and parole officers, state and federal prosecutors, and investigators employed by any of these officers.***
- (4) ***A person who violates this section shall be guilty of a Class A misdemeanor for a first offense and a Class D felony for each subsequent offense.***

SECTION 15. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

- (1) ***Each local law enforcement agency and the Department of State Police shall each have the responsibility for enforcing the provisions of sex offender registration laws.***

- (2) *Law enforcement agencies may enter into written agreements for joint investigation and enforcement of violations of sex offender registration laws. These agreements may include other local law enforcement agencies and may include the Department of State Police.*

SECTION 16. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

- (1) *It is the intent of the General Assembly to occupy the entire field of legislation relating to:*
- (a) *Any person who has committed or is charged with the commission of a violent offense as specified in KRS 439.3401; and*
  - (b) *Any person who has committed or is charged with commission of a sex crime as specified in Section 5 of this Act.*
- (2) *No city, county, urban-county, charter county, consolidated local government, or other unit or instrumentality of local government shall enact an ordinance or other rule or regulation relating to the control, management, registration, monitoring, or housing of, or other matter relating to, a person specified in subsection (1) of this section.*
- (3) *The fact that the General Assembly has not regulated a particular subject relating to a person specified in subsection (1) of this section does not grant a city, county, urban-county, charter county, consolidated local government, or other unit or instrumentality of local government the authority to enact an ordinance, rule, or regulation relating to that subject.*
- (4) *Cities, counties, urban-counties, charter counties, consolidated local governments, and units and instrumentalities of local government shall enforce the provisions of state law with regard to persons specified in subsection (1) of this section.*
- (5) *On the effective date of this Act, any local ordinance, resolution, or rule relating to any topic specified in this section shall be null, void, and unenforceable.*

Section 17. KRS 160.151 is amended to read as follows:

- (1)
  - (a) Beginning with the 2002-2003 school year, a private, parochial, or church school that has voluntarily been certified by the Kentucky Board of Education in accordance with the provisions of KRS 156.160(3) may require a national and state criminal background check on all new certified hires in the school and student teachers assigned to the school. Certified individuals who were employed in another certified position in a Kentucky school within six (6) months of the date of the hire and who had previously submitted to a national and state criminal background check for previous employment may be excluded from further national or state criminal background checks.
  - (b) The national criminal history background check shall be conducted by the Federal Bureau of Investigation. The state criminal history background check shall be conducted by the Kentucky State Police or the Administrative Office of the Courts.
  - (c) All fingerprints requested under this section shall be on an applicant fingerprint card provided by the Kentucky State Police. The fingerprint cards shall be forwarded to the Federal Bureau of Investigation by the Kentucky State Police after a state criminal background check has been conducted. Any fee charged by the Kentucky State Police, the Administrative Office of the Courts, or the Federal Bureau of Investigation shall be an amount no greater than the actual cost of processing the request and conducting the search.
- (2) If a school requires a criminal background check for a new hire, the school shall conspicuously include the following disclosure statement on each application or renewal form provided by the employer to an applicant for a certified position: "STATE LAW AUTHORIZES THIS SCHOOL TO REQUIRE A CRIMINAL HISTORY BACKGROUND CHECK AS A CONDITION OF EMPLOYMENT FOR THIS TYPE OF POSITION."
  - (a) *For purposes of this subsection, "contractor" means an adult who is permitted access to school grounds pursuant to a current or prospective contractual agreement with the school, school board, school district, or school-affiliated entity, at times when students are present. The term "contractor" includes an employee of a contractor.*
  - (b) *The school or school board may require a contractor, volunteer, or visitor to submit to a national criminal history check by the Federal Bureau of Investigation and state criminal history background*

*check by the Kentucky State Police or Administrative Office of the Courts. Any request for records under this section shall be on an applicant fingerprint card provided by Kentucky State Police. The results of the state criminal background check and the results of the national criminal history background check, if requested, shall be sent to the hiring superintendent. Any fee charged by the Kentucky State Police shall be an amount no greater than the actual cost of processing the request and conducting the search.*

- (3) (a) A nonpublic school voluntarily implementing the provisions of this chapter may choose not to employ any person who is a violent offender as defined by KRS 17.165(2), has been convicted of a sex crime which is classified as a felony as defined by KRS 17.165(1), or has committed a violent crime as defined in KRS 17.165(3). A nonpublic school may employ, at its discretion, persons convicted of sex crimes classified as a misdemeanor.
- (b) If a school term has begun and a certified position remains unfilled or if a vacancy occurs during a school term, a nonpublic school implementing the provisions of this chapter may employ an individual who will have supervisory or disciplinary authority over minors on probationary status pending receipt of a criminal history background check.
- (c) Employment at a nonpublic school implementing the provisions of this chapter may be contingent on the receipt of a criminal history background check documenting a record as a violent offender, of a sex crime, or of a violent crime as defined in KRS 17.165.
- (d) Nonpublic schools implementing the provisions of this chapter may terminate probationary employment under this section upon receipt of a criminal history background check documenting a record as a violent offender, of a sex crime, or of a violent crime as defined in KRS 17.165.

Section 18. KRS 160.380 is amended to read as follows:

- (1) As used in this section:
  - (a) *"Contractor" means an adult who is permitted access to school grounds pursuant to a current or prospective contractual agreement with the school, school board, school district, or school-affiliated entity, at times when students are present. The term "contractor" includes an employee of a contractor.*
  - (b) "Relative" ~~means~~~~[shall mean]~~ father, mother, brother, sister, husband, wife, son, daughter, aunt, uncle, son-in-law, and daughter-in-law.
  - (c) ~~(b)~~ "Vacancy" ~~means~~~~[shall mean]~~ any certified position opening created by the resignation, dismissal, nonrenewal of contract, transfer, or death of a certified staff member of a local school district, or a new position created in a local school district for which certification is required. However, if an employer-employee bargained contract contains procedures for filling certified position openings created by the resignation, dismissal, nonrenewal of contract, transfer, or death of a certified staff member, or creation of a new position for which certification is required, a vacancy shall not exist, unless certified positions remain open after compliance with those procedures.
- (2) (a) All appointments, promotions, and transfers of principals, supervisors, teachers, and other public school employees shall be made only by the superintendent of schools, who shall notify the board of the action taken. All employees of the local district shall have the qualifications prescribed by law and by the administrative regulations of the Kentucky Board of Education and of the employing board. Supervisors, principals, teachers, and other employees may be appointed by the superintendent for any school year at any time after February 1 preceding the beginning of the school year. No superintendent of schools shall appoint or transfer himself to another position within the school district.
- (b) When a vacancy occurs in a local school district, the superintendent shall notify the chief state school officer thirty (30) days before the position shall be filled. The chief state school officer shall keep a registry of local district vacancies which shall be made available to the public. The local school district shall post position openings in the local board office for public viewing.
- (c) When a vacancy needs to be filled in less than thirty (30) days' time to prevent disruption of necessary instructional or support services of the school district, the superintendent may seek a waiver from the chief state school officer. If the waiver is approved, the appointment shall not be made until the person recommended for the position has been approved by the chief state school officer. The chief state school

officer shall respond to a district's request for waiver or for approval of an appointment within two (2) working days.

- (d) When a vacancy occurs in a local district, the superintendent shall conduct a search to locate minority teachers to be considered for the position. The superintendent shall, pursuant to administrative regulations of the Kentucky Board of Education, report annually the district's recruitment process and the activities used to increase the percentage of minority teachers in the district.
- (e) No relative of a superintendent of schools shall be an employee of the school district. However, this shall not apply to a relative who is a classified or certified employee of the school district for at least thirty-six (36) months prior to the superintendent assuming office, or prior to marrying a relative of the superintendent, and who is qualified for the position the employee holds. A superintendent's spouse who has at least twenty (20) years of service in school systems may be an employee of the school district. A superintendent's spouse who is employed under this provision shall not hold a position in which the spouse supervises certified or classified employees. A superintendent's spouse may supervise teacher aides and student teachers. However, the superintendent shall not promote a relative who continues employment under an exception of this subsection.
- (f) No superintendent shall employ a relative of a school board member of the district, unless on July 13, 1990, the board member's relative is an employee of the district, the board member is holding office, and the relative was not initially hired by the district during the tenure of the board member. A relative employed in 1989-90 and initially hired during the tenure of a board member serving on July 13, 1990, may continue to be employed during the remainder of the board member's term. However, the superintendent shall not promote any relative of a school board member who continues employment under the exception of this subsection.
- (g)
  - 1. No principal's relative shall be employed in the principal's school, except a relative who is not the principal's spouse and who was employed in the principal's school during the 1989-90 school year.
  - 2. No spouse of a principal shall be employed in the principal's school, except:
    - a. A principal's spouse who was employed in the principal's school during the 1989-90 school year for whom there is no position for which the spouse is certified to fill in another school operated in the district; or
    - b. A principal's spouse who was employed in the 1989-90 school year and is in a school district containing no more than one (1) elementary school, one (1) middle school, and one (1) high school.
  - 3. A principal's spouse who is employed in the principal's school shall be evaluated by a school administrator other than the principal.
  - 4. The provisions of KRS 161.760 shall not apply to any transfer made in order to comply with the provisions of this paragraph.
- (3) No superintendent shall employ in any position in the district any person who is a violent offender or has been convicted of a sex crime as defined by KRS 17.165 which is classified as a felony. The superintendent may employ, at his discretion, persons convicted of sex crimes classified as a misdemeanor.
- (4)
  - (a) A superintendent shall require a national and state criminal background check on all new certified hires in the school district and student teachers assigned within the district. Excluded are certified individuals who were employed in another certified position in a Kentucky school district within six (6) months of the date of hire and who had previously submitted to a national and state criminal background check for the previous employment.
  - (b) The superintendent shall require that each new certified hire and student teacher, as set forth in paragraph (a) of this subsection, submit to a national and state criminal history background check by the Kentucky State Police and the Federal Bureau of Investigation.
  - (c) All fingerprints requested under this section shall be on an applicant fingerprint card provided by Kentucky State Police. The fingerprint cards shall be forwarded to the Federal Bureau of Investigation from the Kentucky State Police after a state criminal background check is conducted. The results of the state and federal criminal background check shall be sent to the hiring superintendent. Any fee charged

by the Kentucky State Police and the Federal Bureau of Investigation shall be an amount no greater than the actual cost of processing the request and conducting the search.

- (d) The Education Professional Standards Board may promulgate administrative regulations to impose additional qualifications to meet the requirements of Public Law 92-544.
- (5) A superintendent shall require a state criminal background check on all classified initial hires.
  - (a) The superintendent shall require that each classified initial hire submit to a state criminal history background check by the Kentucky State Police. If an applicant has been a resident of Kentucky twelve (12) months or less, the superintendent may require a national criminal history background check as a condition of employment.
  - (b) Any request for records under this section shall be on an applicant fingerprint card provided by Kentucky State Police. The results of the state criminal background check and the results of the national criminal history background check, if requested under the provisions of paragraph (a) of this subsection, shall be sent to the hiring superintendent. Any fee charged by the Kentucky State Police shall be an amount no greater than the actual cost of processing the request and conducting the search.
- (6) ***The superintendent may require a contractor, volunteer, or visitor to submit to a national and state criminal history background check by the Kentucky State Police and the Federal Bureau of Investigation. Any request for records under this section shall be on an applicant fingerprint card provided by the Kentucky State Police. The results of the state criminal background check and the results of the national criminal history background check, if requested, shall be sent to the hiring superintendent. Any fee charged by the Kentucky State Police shall be an amount no greater than the actual cost of processing the request and conducting the search.***
- (7)
  - (a) If a school term has begun and a certified or classified position remains unfilled or if a vacancy occurs during a school term, a superintendent may employ an individual, who will have supervisory or disciplinary authority over minors, on probationary status pending receipt of the criminal history background check. Application for the criminal record of a probationary employee shall be made no later than the date probationary employment begins.
  - (b) Employment shall be contingent on the receipt of the criminal history background check documenting that the probationary employee has no record of a sex crime nor as a violent offender as defined in KRS 17.165.
  - (c) Notwithstanding KRS 161.720 to 161.800 or any other statute to the contrary, probationary employment under this section shall terminate on receipt by the school district of a criminal history background check documenting a record of a sex crime or as a violent offender as defined in KRS 17.165 and no further procedures shall be required.
  - (d) The provisions of KRS 161.790 shall apply to terminate employment of a certified employee on the basis of a criminal record other than a record of a sex crime or as a violent offender as defined in KRS 17.165.
- ~~(8)(77)~~
  - (a) Each application or renewal form, provided by the employer to an applicant for a classified position, shall conspicuously state the following: "FOR THIS TYPE OF EMPLOYMENT, STATE LAW REQUIRES A STATE CRIMINAL HISTORY BACKGROUND CHECK AS A CONDITION OF EMPLOYMENT. UNDER CERTAIN CIRCUMSTANCES, A NATIONAL CRIMINAL HISTORY BACKGROUND CHECK MAY BE REQUIRED AS A CONDITION OF EMPLOYMENT."
  - (b) Each application or renewal form, provided by the employer to an applicant for a certified position, shall conspicuously state the following: "FOR THIS TYPE OF EMPLOYMENT, STATE LAW REQUIRES A NATIONAL AND STATE CRIMINAL HISTORY BACKGROUND CHECK AS A CONDITION OF EMPLOYMENT."
  - (c) Each application form for a district position shall require the applicant to:
    1. Identify the states in which he or she has maintained residency, including the dates of residency; and
    2. Provide picture identification.

- (9)~~(8)~~ The provisions of subsections (4), (5), (6), ~~and~~ (7), **and** (8) of this section shall apply to a nonfaculty coach or nonfaculty assistant as defined under KRS 161.185.

SECTION 19. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

- (1) *Each public institution of postsecondary education shall require a criminal history background check on all initial hires.*
  - (a) *The background check shall consist of a state criminal history background check and a national criminal history background check.*
  - (b) *Applications shall authorize the appropriate agency to search police records for convictions and make results known to the institution, and the institution may require the applicant to bear the cost of the criminal history background check.*
- (2) *Each public institution of postsecondary education may require a criminal history background check on a contractor, employee of a contractor, volunteer for the institution or a program of the institution, or visitor, subject to the same terms and conditions as in subsection (1) of this section.*
- (3) *If, upon review of the results of the criminal history background check, a public institution of postsecondary education finds that the applicant, contractor, employee of a contractor, volunteer, or visitor has been convicted of, pled guilty to, or entered an Alford plea to a sex crime as specified in KRS 17.500 or a violent offense as specified in KRS 439.3401, the institution may:*
  - (a) *Deny employment or modify the conditions of employment to provide for appropriate supervision;*
  - (b) *Deny a contractor or a contractor's employee a permit to enter the institution or its grounds, or modify the contract to provide for appropriate supervision;*
  - (c) *Prohibit a person from volunteering or require the person to agree to appropriate supervision; or*
  - (d) *Prohibit a person from visiting the institution or its grounds, or require that person to agree to appropriate supervision.*
- (4) *Each application or renewal form, provided by the institution to an applicant for employment shall conspicuously state the following: "FOR THIS TYPE OF EMPLOYMENT, STATE LAW REQUIRES A STATE AND NATIONAL CRIMINAL HISTORY BACKGROUND CHECK AS A CONDITION OF EMPLOYMENT."*
- (5) *If the institution requires a criminal history background check for contractors, employees of contractors, volunteers, or visitors, the institution shall provide to the prospective person or organization the following statement: "FOR THIS TYPE OF CONTRACT OR FOR BEING AN EMPLOYEE OF A CONTRACTOR, A VOLUNTEER FOR THE INSTITUTION OR AN INSTITUTIONAL PROGRAM, OR A VISITOR OF THE INSTITUTION, THIS INSTITUTION REQUIRES A STATE AND NATIONAL CRIMINAL HISTORY BACKGROUND CHECK."*
- (6) *If an employee of the public institution of postsecondary education is convicted of, pleads guilty to, enters an Alford plea to, or is adjudicated guilty of an offense specified in subsection (3) of this section, the employment of that person may, at the discretion of the institution, be terminated as of the date of the conviction.*
- (7) *A private college or university located in the Commonwealth may utilize at its discretion any of the provisions of this section, providing that it does so in a written institutional document.*

Section 20. KRS 196.280 is amended to read as follows:

- (1) (a) The Department of Corrections shall provide or contract with a private entity to provide to members of the public who have made a notification request, notification of the release of an incarcerated person from a penitentiary, as defined in KRS 197.010, ~~juvenile detention~~ facility **for youthful offenders**, regional jail, or county jail. The warden, jailer, or chief administrator, or a person designated by the warden, jailer, or chief administrator, of a penitentiary, ~~juvenile detention~~ facility **for youthful offenders**, regional jail, or county jail, shall make available to the Department of Corrections, or any private entity under contract with the Department of Corrections, the information necessary to implement this section in a timely manner and before the release of any incarcerated person from the penitentiary, ~~juvenile detention~~ facility **for youthful offenders**, regional jail, or county jail. The Department of Corrections or the private entity under contract with the Department of Corrections shall

be responsible for retrieving the information and notifying the requester in accordance with administrative regulations promulgated by the Department of Corrections.

- (b) If an incarcerated person escapes from any penitentiary, ~~juvenile detention~~ facility **for youthful offenders**, regional jail, or county jail, the warden, jailer, or chief administrator, or a person designated by the warden, jailer, or chief administrator, shall immediately provide the information necessary to implement this section.
- (c) If, upon a hearing, a court releases an incarcerated person and the incarcerated person does not return to the penitentiary, ~~juvenile detention~~ facility **for youthful offenders**, regional jail, or county jail, the warden, jailer, or chief administrator, or a person designated by the warden, jailer, or chief administrator, shall provide the information necessary to implement this section as soon as practicable.
- (2) The Department of Corrections shall promulgate administrative regulations for the implementation of this section.
- ~~[(3) Notwithstanding KRS 610.320 or 610.340, this section shall require the release of information relating to juveniles who have been charged with a felony offense pursuant to KRS Chapter 507, 508, 509, 510, or 515, or KRS 530.020, 530.064, or 531.310. The release of information shall be limited to the extent necessary to comply with the provisions of this section.]~~

Section 21. KRS 197.010 is amended to read as follows:

Definitions as used in this chapter, unless the context otherwise requires:

- (1) **"Cabinet" means the Justice Cabinet**~~["State agency" means any department, board, commission, or agency of the state government];~~
- (2) **"Classification" means the systematic assignment of a prisoner to a custody level, program, and penitentiary**~~["Cabinet" means the Justice Cabinet];~~
- (3) "Department" means Department of Corrections;
- (4) **"Eligible sexual offender" means a sexual offender for whom the sentencing court, department officials, or both have determined that he or she:**
  - (a) **Has demonstrated evidence of a mental, emotional, or behavioral disorder, but not active psychosis or mental retardation; and**
  - (b) **Is likely to benefit from the program;**
- (5) "Penitentiaries" includes the state penal institutions for males at Eddyville, LaGrange, the Green River Correctional Complex, the Luther Luckett Correctional Complex, the Kentucky Correctional Institute for Women, the Northpoint Training Center, the Roederer Correctional Complex, the Eastern Kentucky Correctional Complex, the Western Kentucky Correctional Complex, Frankfort Career Development Center, Blackburn Correctional Complex, and Bell County Forestry Camp, together with the branches thereof, any private prison as provided by KRS 197.500, and any other similar institutions hereafter established;~~[-]~~
- ~~[(6) (5)]~~ **"Sexual offender" means any person convicted of, pleading guilty to, or entering an Alford plea to a sex crime as defined in Section 5 of this Act; and**
- (7) **"State agency" means any department, board, commission, or agency of the state government**~~["Classification" means the systematic assignment of a prisoner to a custody level, program, and penitentiary].~~

Section 22. KRS 197.045 is amended to read as follows:

- (1) Any person convicted and sentenced to a state penal institution may receive a credit on his sentence of not exceeding ten (10) days for each month served, except as otherwise provided in this section, to be determined by the department from the conduct of the prisoner. In addition, the department shall provide an educational good time credit of sixty (60) days to any prisoner who successfully receives a graduate equivalency diploma or a high school diploma, a two (2) or four (4) year college degree, or a two (2) year or four (4) year certification in applied sciences, or who receives a technical education diploma as provided and defined by the department; prisoners may earn additional credit for each program completed. The department may forfeit any

good time previously earned by the prisoner or deny the prisoner the right to earn good time in any amount if during the term of imprisonment, a prisoner commits any offense or violates the rules of the institution.

- (2) When two (2) or more consecutive sentences are to be served, the several sentences shall be merged and served in the aggregate for the purposes of the good time credit computation or in computing dates of expiration of sentence.
- (3) An inmate may, at the discretion of the commissioner, be allowed a deduction from a sentence not to exceed five (5) days per month for performing exceptionally meritorious service or performing duties of outstanding importance in connection with institutional operations and programs. The allowance shall be an addition to commutation of time for good conduct and under the same terms and conditions and without regard to length of sentence.
- (4) Until successful completion of the sex offender treatment program, *an eligible sexual*~~[a sex]~~ offender may earn good time. However, the good time shall not be credited to the *an eligible sexual*~~[sex]~~ offender's sentence. Upon the successful completion of the sex offender treatment program, as determined by the program director, the offender shall be eligible for all good time earned but not otherwise forfeited under administrative regulations promulgated by the Department of Corrections. After successful completion of the sex offender treatment program, *an eligible sexual*~~[a sex]~~ offender may continue to earn good time in the manner provided by administrative regulations promulgated by the Department of Corrections. Any *eligible sexual*~~[sex]~~ offender, as defined in KRS 197.410, who has not successfully completed the sex offender treatment program as determined by the program director shall not be entitled to the benefit of any credit on his sentence. A *sexual*~~[sex]~~ offender who does not complete the sex offender treatment program for any reason shall serve his entire sentence without benefit of good time, parole, or other form of early release. The provisions of this section shall not apply to any *sexual*~~[sex]~~ offender convicted before July 15, 1998, or to any mentally retarded *sexual*~~[sex]~~ offender.
- (5)
  - (a) The Department of Corrections shall, by administrative regulation, specify the length of forfeiture of good time and the ability to earn good time in the future for those inmates who have civil actions dismissed because the court found the action to be malicious, harassing, or factually frivolous.
  - (b) Penalties set by administrative regulation pursuant to this subsection shall be as uniform as practicable throughout all institutions operated by, under contract to, or under the control of the department and shall specify a specific number of days or months of good time forfeited as well as any prohibition imposed on the future earning of good time.

Section 23. KRS 197.440 is amended to read as follows:

Communications made in the application for or in the course of a sexual offender's diagnosis and treatment in the program between a sexual offender or member of the offender's family and any employee of the department who is assigned to work in the program, or approved provider, as defined in *Section 5 of this Act*~~[KRS 17.550]~~, shall be privileged from disclosure in any civil or criminal proceeding, other than proceedings to determine the sentence, unless the offender consents in writing to the disclosure or the communication is related to an ongoing criminal investigation. The privilege created by this section shall not extend to disclosures made for the purpose of determining whether the offender should continue to participate in the program. ***The provisions of KRS 620.030 shall not apply to a communication made, received, or overheard if the communication is made pursuant to this section.*** The offender shall be informed in writing of the limits of the privilege created in this section.

Section 24. KRS 431.005 is amended to read as follows:

- (1) A peace officer may make an arrest:
  - (a) In obedience to a warrant; or
  - (b) Without a warrant when a felony is committed in his presence; or
  - (c) Without a warrant when he has probable cause to believe that the person being arrested has committed a felony; or
  - (d) Without a warrant when a misdemeanor, as defined in KRS 431.060, has been committed in his presence; or
  - (e) Without a warrant when a violation of KRS 189.290, 189.393, 189.520, 189.580, 511.080, or 525.070 has been committed in his presence, except that a violation of KRS 189A.010 or KRS 281A.210 need



not be committed in his presence in order to make an arrest without a warrant if the officer has probable cause to believe that the person has violated KRS 189A.010 or KRS 281A.210.

- (2) (a) Any peace officer may arrest a person without warrant when the peace officer has probable cause to believe that the person has intentionally or wantonly caused physical injury to a family member or member of an unmarried couple.
- (b) For the purposes of this subsection, the term "family member" means a spouse, including a former spouse, a parent, a grandparent, a child, a stepchild, or any other person related by consanguinity or affinity within the second degree.
- (c) For the purpose of this subsection, the term "member of an unmarried couple" means each member of an unmarried couple which allegedly has a child in common, any children of that couple, or a member of an unmarried couple who are living together or have formerly lived together.
- (3) ***A peace officer may arrest a person without warrant when the peace officer has probable cause to believe that the person is a sexual offender who has failed to comply with the Kentucky Sex Offender Registry requirements based upon information received from the Law Information Network of Kentucky.***
- (4) For purposes of ~~subsections~~~~[subsection]~~ (2) and (3) of this section, a "peace officer" is ***an officer certified pursuant to KRS 15.380***~~[-~~
  - (a) ~~A full time sworn officer of the Kentucky State Police, a full time sworn officer of the Kentucky Horse Park, a commissioned full time state park ranger, a full time officer of the Division of Law Enforcement within the Department of Fish and Wildlife Resources who is exercising authority under KRS Chapter 235, a full time city policeman, a full time county policeman, a full time university safety and security officer appointed pursuant to KRS 164.950 to 164.970, a full time city county policeman, a duly elected sheriff, or a full time paid deputy sheriff; or~~
  - (b) ~~A part time paid law enforcement officer, or a special paid deputy, who has completed a Kentucky law enforcement council approved education and training program referred to in KRS 15.334.~~
  - (c) ~~The provisions of this section relating to training shall not apply to a deputy sheriff who is subject to the training requirements specified in KRS 70.263(3)).~~
- (5)~~(4)~~ If a law enforcement officer has probable cause to believe that a person has violated a condition of release imposed in accordance with KRS 431.064 and verifies that the alleged violator has notice of the conditions, the officer shall, without a warrant, arrest the alleged violator whether the violation was committed in or outside the presence of the officer.
- (6)~~(5)~~ A private person may make an arrest when a felony has been committed in fact and he has probable cause to believe that the person being arrested has committed it.
- (7)~~(6)~~ If a law enforcement officer has probable cause to believe that a person has violated a restraining order issued under KRS 508.155, then the officer shall, without a warrant, arrest the alleged violator whether the violation was committed in or outside the presence of the officer.

Section 25. KRS 431.520 is amended to read as follows:

Any person charged with an offense shall be ordered released by a court of competent jurisdiction pending trial on his personal recognizance or upon the execution of an unsecured bail bond in an amount set by the court or as fixed by the Supreme Court as provided by KRS 431.540, unless the court determines in the exercise of its discretion that such a release will not reasonably assure the appearance of the person as required. When such a determination is made, the court shall, either in lieu of or in addition to the above methods of release, impose any of the following conditions of release:

- (1) Place the person in the custody of a designated person or organization agreeing to supervise him;
- (2) Place restrictions on the travel, association, or place of abode of the person during the period of release;
- (3) Require the execution of a bail bond:
  - (a) With sufficient personal surety or sureties acceptable to the court; in determining the sufficiency of such surety, or sureties, the court shall consider his character, his place of residence, his relationship with the defendant, and his financial and employment circumstances; or

- (b) With the 10% deposit as provided in KRS 431.530; or
- (c) With the deposit of cash equal to the amount of the bond or in lieu thereof acceptable security as provided in KRS 431.535;
- (4) If the person's record indicates a history of controlled substance or alcohol abuse, order the person to submit to periodic testing for use of controlled substances or alcohol and pay a reasonable fee, not to exceed the actual cost of the test and analysis, as determined by the court with the fee to be collected by the circuit clerk, held in an agency account, and disbursed, on court order, solely to the agency or agencies responsible for testing and analysis as compensation for the cost of the testing and analysis performed under this subsection. If the person is declared indigent, the testing fee may be waived by the court. The Administrative Office of the Courts shall establish pilot projects to implement the provisions of this subsection;
- (5) ***If the person is charged with a sex crime as defined in Section 5 of this Act, consider requiring that he or she be monitored electronically, and shall consider requiring the person be subject to home incarceration;***
- (6) Impose any other condition deemed reasonably necessary to assure appearance as required, including a condition requiring that the person return to custody after specified hours;
- ~~(7)~~~~(6)~~ A court authorizing the release of a person pursuant to this section shall cause the issuance of an appropriate order containing a statement of the conditions imposed, if any, shall cause such person to be informed of the penalties applicable to violations of the conditions of his release, and shall cause him to be informed that a warrant for his arrest will be issued immediately upon any such violation;
- ~~(8)~~~~(7)~~ A person for whom conditions of release are imposed and who after twenty-four (24) hours from the time of the imposition of said conditions continues to be detained as a result of his inability to meet the conditions of release shall, upon written application or upon the court's own motion, be entitled to have the conditions reviewed by the court which imposed them. A person who is ordered released on a condition which requires that he return to custody after specified hours shall, upon written application or upon the court's own motion, be entitled to a review by the court which imposed the condition;
- ~~(9)~~~~(8)~~ If at any time following release of a defendant and before he is required to appear for trial, the court is advised of a material change in the defendant's circumstances or that he has not complied with all conditions imposed upon his release, the court having jurisdiction may: (a) order the arrest of the defendant; (b) enter an order requiring the defendant, his surety or sureties to appear and show cause why the bail bond should not be forfeited or the conditions of his release be changed; or (c) both. A copy of said order shall be served upon the defendant, his surety or sureties. If the defendant fails to appear before the court as ordered or if, after hearing, the court finds the conditions of release have not been complied with, the court may change the conditions imposed or forfeit the bail bond or any portion thereof and enter a judgment for the Commonwealth against the defendant and his surety or sureties for the amount of the bail bond or any portion thereof and cost of the proceedings.

SECTION 26. A NEW SECTION OF KRS CHAPTER 439 IS CREATED TO READ AS FOLLOWS:

- (1) ***Each probation and parole officer shall be trained in the requirements of the sexual offender registration laws and shall be able to:***
  - (a) ***Register or reregister a sexual offender; and***
  - (b) ***Answer questions about the sexual offender registration law and its requirements.***
- (2) ***The Justice Cabinet shall provide each probation and parole office with sufficient copies of the following documents to handle the expected numbers of registrants:***
  - (a) ***The sexual offender registration statutes and any administrative regulations, which are promulgated relating to sexual offender registration;***
  - (b) ***A brochure explaining in lay person's terms the requirements of the sex offender registration laws and administrative regulations;***
  - (c) ***Registration forms;***
  - (d) ***Fingerprint cards; and***
  - (e) ***Other documents and supplies necessary to register a sexual offender.***

Section 27. KRS 439.3401 is amended to read as follows:

- (1) As used in this section, "violent offender" means any person who has been convicted of or pled guilty to the commission of:
  - (a) A capital offense;
  - (b) *A Class A felony;*
  - (c) *A Class B felony involving the death of the victim or serious physical injury to a victim;*
  - (d) *The commission or attempted commission of a felony sexual offense in KRS Chapter 510;*
  - (e) *Use of a minor in a sexual performance as described in KRS 531.310;*
  - (f) *Promoting a sexual performance by a minor as described in KRS 531.320;*
  - (g) *Unlawful transaction with a minor in the first degree as described in subsection (1)(a) of Section 38 of this Act;*
  - (h) *Promoting prostitution in the first degree as described in KRS 529.030(1)(b);*
  - (i) *Criminal abuse in the first degree as described in KRS 508.100;*
  - (j) *Burglary in the first degree accompanied by the commission or attempted commission of an assault described in KRS 508.010, 508.020, 508.032, or 508.060;*
  - (k) *Burglary in the first degree accompanied by commission or attempted commission of kidnapping as prohibited by KRS 509.040; or*
  - (l) *Robbery in the first degree*~~[, Class A felony, or Class B felony involving the death of the victim or serious physical injury to a victim, or rape in the first degree or sodomy in the first degree of the victim, burglary in the first degree accompanied by the commission or attempted commission of a felony sexual offense in KRS Chapter 510, burglary in the first degree accompanied by the commission or attempted commission of an assault described in KRS 508.010, 508.020, 508.032, or 508.060, burglary in the first degree accompanied by commission or attempted commission of kidnapping as prohibited by KRS 509.040, or robbery in the first degree].~~ The court shall designate in its judgment if the victim suffered death or serious physical injury.
- (2) A violent offender who has been convicted of a capital offense and who has received a life sentence (and has not been sentenced to twenty-five (25) years without parole or imprisonment for life without benefit of probation or parole), or a Class A felony and receives a life sentence, or to death and his sentence is commuted to a life sentence shall not be released on probation or parole until he has served at least twenty (20) years in the penitentiary. Violent offenders may have a greater minimum parole eligibility date than other offenders who receive longer sentences, including a sentence of life imprisonment.
- (3) A violent offender who has been convicted of a capital offense or Class A felony with a sentence of a term of years or Class B felony who is a violent offender shall not be released on probation or parole until he has served at least eighty-five percent (85%) of the sentence imposed.
- (4) A violent offender may not be awarded any credit on his sentence authorized by KRS 197.045(1), except the educational credit. A violent offender may, at the discretion of the commissioner, receive credit on his sentence authorized by KRS 197.045(3). In no event shall a violent offender be given credit on his sentence if the credit reduces the term of imprisonment to less than eighty-five percent (85%) of the sentence.
- (5) This section shall not apply to a person who has been determined by a court to have been a victim of domestic violence or abuse pursuant to KRS 533.060 with regard to the offenses involving the death of the victim or serious physical injury to the victim. The provisions of this subsection shall not extend to rape in the first degree or sodomy in the first degree by the defendant.
- (6) This section shall apply only to those persons who commit offenses after July 15, 1998.
- (7) For offenses committed prior to July 15, 1998, the version of this statute in effect immediately prior to that date shall continue to apply.
- (8) The provisions of subsection (1) of this section extending the definition of "violent offender" to persons convicted of or pleading guilty to robbery in the first degree shall apply only to persons whose crime was committed after July 15, 2002.

Section 28. KRS 439.265 is amended to read as follows:

- (1) Subject to the provisions of KRS Chapter 439 and Chapters 500 to 534, any Circuit Court may, upon motion of the defendant made not earlier than thirty (30) days nor later than one hundred eighty (180) days after the defendant has been incarcerated in a county jail following his conviction and sentencing pending delivery to the institution to which he has been sentenced, or delivered to the keeper of the institution to which he has been sentenced, suspend the further execution of the sentence and place the defendant on probation upon terms the court determines. Time spent on any form of release following conviction shall not count toward time required under this section.
- (2) The court shall consider any motion filed in accordance with subsection (1) of this section within sixty (60) days of the filing date of that motion, and shall enter its ruling within ten (10) days after considering the motion. The defendant may, in the discretion of the trial court, have the right to a hearing on any motion he may file, or have filed for him, that would suspend further execution of sentence. Any court order granting or denying a motion to suspend further execution of sentence is not reviewable.
- (3)
  - (a) During the period in which the defendant may file a motion pursuant to this statute, the sentencing judge, within his or her discretion, may order that the defendant be held in a local detention facility that is not at or above maximum capacity until such time as the court rules on said motion. During this period of detention, and prior to the court's ruling on said motion, the court may require the defendant to participate in any approved community work program or other forms of work release. Persons held in the county jail pursuant to this subsection shall not be subject to transfer to a state correctional facility until the decision is made not to place the petitioner on shock probation.
  - (b) The provisions concerning community work programs or other forms of work release shall apply only to persons convicted of Class C or Class D felonies, and may be granted only after a hearing at which the Commonwealth's attorney has the opportunity to present arguments in favor or opposition thereto.
- (4) If the defendant is a violent offender as defined in KRS 439.3401, the sentence shall not be probated under this section.
- (5) If the defendant has been convicted of an offense under KRS 510.050, 510.080, 530.020, 530.064(1)(a), or 531.310, or criminal attempt to commit any of these offenses under KRS 506.010, the sentence shall not be suspended, in accordance with KRS 532.045.
- (6) When a defendant has been convicted of a sex crime, as defined in KRS 17.500, the court shall order a comprehensive sex offender presentence evaluation, unless one has been provided within the past six (6) months, in which case the court may order an update of the comprehensive sex offender presentence evaluation of the defendant conducted by the sex offender treatment program operated or approved by the Department of Corrections or the Sex Offender Risk Assessment Advisory Board. The comprehensive sex offender presentence evaluation shall provide to the court a recommendation related to the risk of a repeat offense by the defendant and the defendant's amenability to treatment, and shall be considered by the court in determining whether to suspend the sentence. If the court suspends the sentence and places the defendant on probation, the provisions of KRS 532.045(3) to (7) shall apply.
- (7) The authority granted in this section shall be exercised by the judge who imposed sentence on the defendant, unless he is unable to act and it appears that his inability to act should continue beyond the expiration of the term of the court. In such case, the judge who imposed sentence shall assign a judge to dispose of a motion filed under this section, or as prescribed by the rules and practices concerning the responsibility for disposition of criminal matters.
- (8) The provisions of this section shall not apply where a sentence of death has been imposed.

Section 29. KRS 441.046 is amended to read as follows:

- (1) All persons arrested or detained in any adult or juvenile detention facility shall be fingerprinted ***prior to the person's release from custody. A copy of these fingerprints shall be transmitted to the Kentucky State Police for review.***
- (2) The jailer ~~shall~~<sup>may</sup> fingerprint persons for other law enforcement agencies.
- (3) The jailer shall submit the fingerprints to the Kentucky State Police in the manner and at the time required by the Kentucky State Police through administrative regulation.

- (4) *The Kentucky State Police shall notify the Department of Corrections and the jailer, in writing, of the intentional failure of a jailer to comply with subsection (1), (2), or (3) of this section. Upon the first receipt of the notification of an intentional failure to comply with subsection (1), (2), or (3) of this section, the Department of Corrections shall issue a formal written warning to the jailer setting forth the consequences of continued intentional failure to comply with subsection (1), (2), or (3) of this section.*
- (5) *If the jailer intentionally failed to comply with any fingerprinting requirements of subsection (1), (2), or (3) of this section, after being warned of such intentional failure, the Department of Corrections shall have authority to withhold the state contribution under KRS 441.206 and may require the jailer to return the state contribution funds received under KRS 441.206 for any period in which he or she intentionally failed to comply after being warned.*

Section 30. KRS 510.020 is amended to read as follows:

- (1) Whether or not specifically stated, it is an element of every offense defined in this chapter that the sexual act was committed without consent of the victim.
- (2) Lack of consent results from:
  - (a) Forcible compulsion;
  - (b) Incapacity to consent; or
  - (c) If the offense charged is sexual abuse, any circumstances in addition to forcible compulsion or incapacity to consent in which the victim does not expressly or impliedly acquiesce in the actor's conduct.
- (3) A person is deemed incapable of consent when he *or she* is:
  - (a) Less than sixteen (16) years old;
  - (b) Mentally retarded or suffers from a mental illness;
  - (c) Mentally incapacitated;~~{or}~~
  - (d) Physically helpless; *or*
  - (e) *Under the care or custody of a state or local agency pursuant to court order and the actor is employed by or working on behalf of the state or local agency.*
- (4) *The provisions of paragraph (e) of subsection (3) of this section shall not apply to persons who are lawfully married to each other and no court order is in effect prohibiting contact between the parties.*

Section 31. KRS 510.060 is amended to read as follows:

- (1) A person is guilty of rape in the third degree when:
  - (a) He engages in sexual intercourse with another person who is incapable of consent because he *or she* is mentally retarded;
  - (b) Being twenty-one (21) years old or more, he *or she* engages in sexual intercourse with another person less than sixteen (16) years old; or
  - (c) Being twenty-one (21) years old or more, he *or she* engages in sexual intercourse with another person less than eighteen (18) years old and for whom he *or she* provides a foster family home as defined in KRS 600.020; *or*
  - (d) *Being a person in a position of authority or position of special trust, as defined in KRS 532.045, he or she engages in sexual intercourse with a minor under sixteen (16) years old with whom he or she comes into contact as a result of that position.*
- (2) Rape in the third degree is a Class D felony.

Section 32. KRS 510.090 is amended to read as follows:

- (1) A person is guilty of sodomy in the third degree when:
  - (a) He engages in deviate sexual intercourse with another person who is incapable of consent because he *or she* is mentally retarded;

- (b) Being twenty-one (21) years old or more, he *or she* engages in deviate sexual intercourse with another person less than sixteen (16) years old; or
  - (c) Being twenty-one (21) years old or more, he *or she* engages in deviate sexual intercourse with another person less than eighteen (18) years old and for whom he *or she* provides a foster family home as defined in KRS 600.020; *or*
  - (d) *Being a person in a position of authority or position of special trust, as defined in KRS 532.045, he or she engages in deviate sexual intercourse with a minor less than sixteen (16) years old with whom he or she comes into contact as a result of that position.*
- (2) Sodomy in the third degree is a Class D felony.

Section 33. KRS 510.110 is amended to read as follows:

- (1) A person is guilty of sexual abuse in the first degree when:
  - (a) He *or she* subjects another person to sexual contact by forcible compulsion; or
  - (b) He *or she* subjects another person to sexual contact who is incapable of consent because he *or she*:
    - 1. Is physically helpless;
    - 2. Is less than twelve (12) years old; or
    - 3. Is mentally incapacitated.
- (2) Sexual abuse in the first degree is a Class D felony, *unless the victim is less than twelve (12) years old, in which case the offense shall be a Class C felony.*

Section 34. KRS 510.120 is amended to read as follows:

- (1) A person is guilty of sexual abuse in the second degree when:
  - (a) He *or she* subjects another person to sexual contact who is incapable of consent because he *or she* is mentally retarded;
  - (b) He *or she* subjects another person who is less than fourteen (14) years old to sexual contact;
  - (c) Being an employee, contractor, vendor, or volunteer of the Department of Corrections, or a detention facility as defined in KRS 520.010, or of an entity under contract with either the department or a detention facility for the custody, supervision, evaluation, or treatment of offenders, he *or she* subjects an offender who is incarcerated, supervised, evaluated, or treated by the Department of Corrections, the detention facility, or the contracting entity, to sexual contact. In any prosecution under this paragraph, the defendant may prove in exculpation that, at the time he *or she* engaged in the conduct constituting the offense, he *or she* and the offender were married to each other; or
  - (d) Being twenty-one (21) years old or more, he *or she* subjects another person to sexual contact who is less than eighteen (18) years old and for whom he *or she* provides a foster family home as defined in KRS 600.020; *or*
  - (e) *Being a person in a position of authority or position of special trust, as defined in KRS 532.045, he subjects a minor who is under sixteen (16) years old, with whom he or she comes into contact as a result of that position, to sexual contact.*
- (2) Sexual abuse in the second degree is a Class A misdemeanor.

Section 35. KRS 510.155 is amended to read as follows:

- (1) It shall be unlawful for any person to knowingly use a communications system, including computers, computer networks, computer bulletin boards, *cellular telephones*, or any other electronic means, for the purpose of procuring or promoting the use of a minor, or a peace officer posing as a minor if the person believes that the peace officer is a minor or is wanton or reckless in that belief, for any activity in violation of KRS 510.040, 510.050, *510.060*, 510.070, 510.080, *510.090*, *529.030*, ~~for~~ 530.064(1)(a), *or Chapter 531.*
- (2) No person shall be convicted of this offense and an offense specified in KRS 506.010, 506.030, 506.040, or 506.080 for a single course of conduct intended to consummate in the commission of the same offense with the same minor or peace officer.

- (3) A violation of this section is punishable as a Class D felony.

SECTION 36. A NEW SECTION OF KRS CHAPTER 519 IS CREATED TO READ AS FOLLOWS:

- (1) ***A person is guilty of tampering with a prisoner monitoring device when he or she intentionally alters, disables, deactivates, tampers with, removes, damages, or destroys any device used to facilitate electronic monitoring or supervision of a person who is on probation or parole, or has been ordered to wear a device as a condition of pretrial release.***
- (2) ***Tampering with a prisoner monitoring device is a Class D felony.***

Section 37. KRS 530.020 is amended to read as follows:

- (1) A person is guilty of incest when he ***or she*** has sexual intercourse or deviate sexual intercourse, as defined in KRS 510.010, with a person whom he ***or she*** knows to be an ancestor, descendant, brother, or sister. The relationships referred to herein include blood relationships of either the whole or half blood without regard to legitimacy, relationship of parent and child by adoption, and relationship of stepparent and stepchild.
- (2) (a) Incest is a Class C felony ***if the act is committed by consenting adults.***
- (b) ***Incest is a Class B felony if committed:***
1. ***By forcible compulsion as defined in KRS 510.010(2); or***
  2. ***On a victim who is:***
    - a. ***Less than eighteen (18) years of age;***
    - b. ***Incapable of consent because he or she is physically helpless or mentally incapacitated.***
- (c) ***Incest is a Class A felony if:***
1. ***Committed on a victim less than twelve (12) years of age; or***
  2. ***The victim receives serious physical injury.***

Section 38. KRS 530.064 is amended to read as follows:

- (1) A person is guilty of unlawful transaction with a minor in the first degree when he ***or she*** knowingly induces, assists, or causes a minor to engage in:
- (a) Illegal sexual activity;~~[-]~~ or
- (b) ~~[-]~~Illegal controlled substances activity other than activity involving marijuana;~~[-]~~

Except those offenses involving minors in KRS Chapter 531 and KRS 529.030.

- (2) Unlawful transaction with a minor ***in the first degree*** is a:
- (a) Class C felony if the minor so used is less than eighteen (18) years old at the time the minor engages in the prohibited activity;
  - (b) Class B felony if the minor so used is less than sixteen (16) years old at the time the minor engages in the prohibited activity; and
  - (c) Class A felony if the minor so used incurs physical injury thereby.

Section 39. KRS 531.335 is amended to read as follows:

- (1) A person is guilty of possession of matter portraying a sexual performance by a minor when, having knowledge of its content, character, and that the sexual performance is by a minor, he ***or she*** knowingly has in his ***or her*** possession or control any matter which visually depicts an actual sexual performance by a minor person.
- (2) Possession of matter portraying a sexual performance by a minor is a ~~[-]~~Class A misdemeanor for the first offense and a ~~[-]~~Class D felony for the second and subsequent offenses~~[-]~~.

Section 40. KRS 531.340 is amended to read as follows:

- (1) A person is guilty of distribution of matter portraying a sexual performance by a minor when, having knowledge of its content and character, he ***or she***:

- (a) Sends or causes to be sent into this state for sale or distribution; or
- (b) Brings or causes to be brought into this state for sale or distribution; or
- (c) In this state, he *or she*:
  - 1. Exhibits for profit or gain; or
  - 2. Distributes; or
  - 3. Offers to distribute; or
  - 4. Has in his *or her* possession with intent to distribute, exhibit for profit or gain or offer to distribute, any matter portraying a sexual performance by a minor.
- (2) Any person who has in his *or her* possession more than one (1) unit of material coming within the provision of KRS 531.300(2) shall be rebuttably presumed to have such material in his *or her* possession with the intent to distribute it.
- (3) Distribution of matter portraying a sexual performance by a minor is a Class D felony *for the first offense and a Class C felony for each subsequent offense*.

Section 41. KRS 531.360 is amended to read as follows:

- (1) A person is guilty of advertising material portraying a sexual performance by a minor when, having knowledge of its content and character thereof, he *or she* writes or creates advertising or solicits anyone to publish such advertising or otherwise promotes the sale or distribution of matter portraying a sexual performance by a minor.
- (2) Advertising material portraying a sexual performance by a minor is a Class *D felony for the first offense and a Class C felony for each subsequent offense* ~~[A misdemeanor]~~.

Section 42. KRS 532.043 is amended to read as follows:

- (1) In addition to the penalties authorized by law, any person convicted of, pleading guilty to, or entering an Alford plea to a felony offense under KRS Chapter 510, KRS 529.030, 530.020, 530.064(1)(a), 531.310, or 531.320 shall be subject to a period of conditional discharge following release from:
  - (a) Incarceration upon expiration of sentence; or
  - (b) Completion of parole.
- (2) The period of conditional discharge shall be *five (5)* ~~three (3)~~ years.
- (3) During the period of conditional discharge, the defendant shall:
  - (a) Be subject to all orders specified by the Department of Corrections; and
  - (b) Comply with all education, treatment, testing, or combination thereof required by the Department of Corrections.
- (4) Persons under conditional discharge pursuant to this section shall be subject to the supervision of the Division of Probation and Parole.
- (5) If a person violates a provision specified in subsection (3) of this section, the violation shall be reported in writing to the Commonwealth's attorney in the county of conviction. The Commonwealth's attorney may petition the court to revoke the defendant's conditional discharge and reincarcerate the defendant as set forth in KRS 532.060.
- (6) The provisions of this section shall apply only to persons convicted, pleading guilty, or entering an Alford plea after July 15, 1998.

Section 43. KRS 532.045 is amended to read as follows:

- (1) As used in this section:
  - (a) "Position of authority" means, but is not limited to, the position occupied by a biological parent, adoptive parent, stepparent, foster parent, relative, household member, adult youth leader, recreational staff, or volunteer who is an adult, adult athletic manager, adult coach, teacher, classified school employee, certified school employee, counselor, staff, or volunteer for either a residential treatment



facility, a holding facility as defined in KRS 600.020, or a detention facility as defined in KRS 520.010(4), staff or volunteer with a youth services organization, religious leader, health care provider, or employer;

- (b) "Position of special trust" means a position occupied by a person in a position of authority who by reason of that position is able to exercise undue influence over the minor; and
  - (c) "Substantial sexual conduct" means penetration of the vagina or rectum by the penis of the offender or the victim, by any foreign object; oral copulation; or masturbation of either the minor or the offender.
- (2) Notwithstanding other provisions of applicable law, probation shall not be granted to, nor shall the execution or imposition of sentence be suspended for, nor shall a finding bringing the defendant within the provision of this section be stricken for a person convicted of violating KRS 510.050, 510.080, 529.030 to 529.050, 529.070, 530.020, 531.310, 531.320, 531.370, or criminal attempt to commit any of these offenses under KRS 506.010, and, who meets one (1) or more of the following criteria:
- (a) A person who commits any of the offenses enumerated in this subsection against a minor by the use of force, violence, duress, menace, or threat of bodily harm;
  - (b) A person who, in committing any of the offenses enumerated in this subsection, caused bodily injury to the minor;
  - (c) A person convicted of any of the offenses enumerated in this subsection and who was a stranger to the minor or made friends with the minor for the purpose of committing an act constituting any of the offenses enumerated in this subsection, unless the defendant honestly and reasonably believed the minor was eighteen (18) years old or older;
  - (d) A person who used a dangerous instrument or deadly weapon against a minor during the commission of any of the offenses enumerated in this subsection;
  - (e) A person convicted of any of the offenses enumerated in this subsection and who has had a prior conviction of assaulting a minor, with intent to commit an act constituting any of the offenses enumerated in this subsection;
  - (f) A person convicted of kidnapping a minor in violation of the Kentucky Penal Code and who kidnapped the minor for the purpose of committing an act constituting any of the offenses enumerated in this subsection;
  - (g) A person who is convicted of committing any of the offenses enumerated in this subsection on more than one (1) minor at the same time or in the same course of conduct;
  - (h) A person who in committing any of the offenses enumerated in this subsection has substantial sexual conduct with a minor under the age of fourteen (14) years; or
  - (i) A person who occupies a position of special trust and commits an act of substantial sexual conduct.

Nothing in this section shall be construed to prohibit the additional period of **five (5)** ~~three (3)~~ years' conditional discharge required by KRS 532.043.

- (3) If a person is not otherwise prohibited from obtaining probation or conditional discharge under subsection (2), the court may impose on the person a period of probation or conditional discharge. Probation or conditional discharge shall not be granted until the court is in receipt of the comprehensive sex offender presentence evaluation of the offender performed by an approved provider, as defined in **Section 5 of this Act** ~~KRS 47.550~~ or the Department of Corrections. The court shall use the comprehensive sex offender presentence evaluation in determining the appropriateness of probation or conditional discharge.
- (4) If the court grants probation or conditional discharge, the offender shall be required, as a condition of probation or conditional discharge, to successfully complete a community-based sexual offender treatment program operated or approved by the Department of Corrections or the Sex Offender Risk Assessment Advisory Board.
- (5) The offender shall pay for any evaluation or treatment required pursuant to this section up to the offender's ability to pay but not more than the actual cost of the comprehensive sex offender presentence evaluation or treatment.

- (6) Failure to successfully complete the sexual offender treatment program constitutes grounds for the revocation of probation or conditional discharge.
- (7) The comprehensive sex offender presentence evaluation and all communications relative to the comprehensive sex offender presentence evaluation and treatment of a sexual offender shall fall under the provisions of KRS 197.440. The comprehensive sex offender presentence evaluation shall be filed under seal and shall not be made a part of the court record subject to review in appellate proceedings and shall not be made available to the public.
- (8) Before imposing sentence, the court shall advise the defendant or his counsel of the contents and conclusions of any comprehensive sex offender presentence evaluation performed pursuant to this section and afford a fair opportunity and a reasonable period of time, if the defendant so requests, to controvert them. The court shall provide the defendant's counsel and the Commonwealth's attorney a copy of the comprehensive sex offender presentence evaluation. It shall not be necessary to disclose the sources of confidential information.
- (9) To the extent that this section conflicts with KRS 533.010, this section shall take precedence.

Section 44. KRS 532.050 is amended to read as follows:

- (1) No court shall impose sentence for conviction of a felony, other than a capital offense, without first ordering a presentence investigation after conviction and giving due consideration to a written report of the investigation. The presentence investigation report shall not be waived; however, the completion of the presentence investigation report may be delayed until after sentencing upon the written request of the defendant if the defendant is in custody and is ineligible for probation or conditional discharge.
- (2) The report shall be prepared and presented by a probation officer and shall include an analysis of the defendant's history of delinquency or criminality, physical and mental condition, family situation and background, economic status, education, occupation, personal habits, and any other matters that the court directs to be included.
- (3) Before imposing sentence for a felony conviction, the court may order the defendant to submit to psychiatric observation and examination for a period not exceeding sixty (60) days. The defendant may be remanded for this purpose to any available clinic or mental hospital or the court may appoint a qualified psychiatrist to make the examination.
- (4) If the defendant has been convicted of a sex crime, as defined in KRS 17.500, prior to determining the sentence or prior to final sentencing for youthful offenders, the court shall order a comprehensive sex offender presentence evaluation of the defendant to be conducted by an approved provider, as defined in *Section 5 of this Act* [KRS 17.550], the Department of Corrections, or the Department of Juvenile Justice if the defendant is a youthful offender. The comprehensive sex offender presentence evaluation shall provide to the court a recommendation related to the risk of a repeat offense by the defendant and the defendant's amenability to treatment and shall be considered by the court in determining the appropriate sentence. A copy of the comprehensive sex offender presentence evaluation shall be furnished to the court, the Commonwealth's attorney, and to counsel for the defendant. If the defendant is eligible and the court suspends the sentence and places the defendant on probation or conditional discharge, the provisions of KRS 532.045(3) to (8) shall apply. All communications relative to the comprehensive sex offender presentence evaluation and treatment of the sex offender shall fall under the provisions of KRS 197.440 and shall not be made a part of the court record subject to review in appellate proceedings. The defendant shall pay for any comprehensive sex offender presentence evaluation or treatment required pursuant to this section up to the defendant's ability to pay but no more than the actual cost of the comprehensive sex offender presentence evaluation or treatment.
- (5) The presentence investigation report shall identify the counseling treatment, educational, and rehabilitation needs of the defendant and identify community-based and correctional-institutional-based programs and resources available to meet those needs or shall identify the lack of programs and resources to meet those needs.
- (6) Before imposing sentence, the court shall advise the defendant or his counsel of the factual contents and conclusions of any presentence investigation or psychiatric examinations and afford a fair opportunity and a reasonable period of time, if the defendant so requests, to controvert them. The court shall provide the defendant's counsel a copy of the presentence investigation report. It shall not be necessary to disclose the sources of confidential information.

Section 45. KRS 532.080 is amended to read as follows:

- (1) When a defendant is found to be a persistent felony offender, the jury, in lieu of the sentence of imprisonment assessed under KRS 532.060 for the crime of which such person presently stands convicted, shall fix a sentence of imprisonment as authorized by subsection (5) or (6) of this section. When a defendant is charged with being a persistent felony offender, the determination of whether or not he is such an offender and the punishment to be imposed pursuant to subsection (5) or (6) of this section shall be determined in a separate proceeding from that proceeding which resulted in his last conviction. Such proceeding shall be conducted before the court sitting with the jury that found the defendant guilty of his most recent offense unless the court for good cause discharges that jury and impanels a new jury for that purpose.
- (2) A persistent felony offender in the second degree is a person who is more than twenty-one (21) years of age and who stands convicted of a felony after having been convicted of one (1) previous felony. As used in this provision, a previous felony conviction is a conviction of a felony in this state or conviction of a crime in any other jurisdiction provided:
  - (a) That a sentence to a term of imprisonment of one (1) year or more or a sentence to death was imposed therefor; and
  - (b) That the offender was over the age of eighteen (18) years at the time the offense was committed; and
  - (c) That the offender:
    1. Completed service of the sentence imposed on the previous felony conviction within five (5) years prior to the date of commission of the felony for which he now stands convicted; or
    2. Was on probation, parole, conditional discharge, conditional release, furlough, appeal bond, or any other form of legal release from any of the previous felony convictions at the time of commission of the felony for which he now stands convicted; or
    3. Was discharged from probation, parole, conditional discharge, conditional release, or any other form of legal release on any of the previous felony convictions within five (5) years prior to the date of commission of the felony for which he now stands convicted; or
    4. Was in custody from the previous felony conviction at the time of commission of the felony for which he now stands convicted; or
    5. Had escaped from custody while serving any of the previous felony convictions at the time of commission of the felony for which he now stands convicted.
- (3) A persistent felony offender in the first degree is a person who is more than twenty-one (21) years of age and who stands convicted of a felony after having been convicted of two (2) or more felonies, ***or one (1) or more felony sex crimes against a minor as defined in Section 5 of this Act, and now stands convicted of any one (1) or more felonies.*** As used in this provision, a previous felony conviction is a conviction of a felony in this state or conviction of a crime in any other jurisdiction provided:
  - (a) That a sentence to a term of imprisonment of one (1) year or more or a sentence to death was imposed therefor; and
  - (b) That the offender was over the age of eighteen (18) years at the time the offense was committed; and
  - (c) That the offender:
    1. Completed service of the sentence imposed on any of the previous felony convictions within five (5) years prior to the date of the commission of the felony for which he now stands convicted; or
    2. Was on probation, parole, conditional discharge, conditional release, furlough, appeal bond, or any other form of legal release from any of the previous felony convictions at the time of commission of the felony for which he now stands convicted; or
    3. Was discharged from probation, parole, conditional discharge, conditional release, or any other form of legal release on any of the previous felony convictions within five (5) years prior to the date of commission of the felony for which he now stands convicted; or
    4. Was in custody from the previous felony conviction at the time of commission of the felony for which he now stands convicted; or

5. Had escaped from custody while serving any of the previous felony convictions at the time of commission of the felony for which he now stands convicted.
  - (4) For the purpose of determining whether a person has two (2) or more previous felony convictions, two (2) or more convictions of crime for which that person served concurrent or uninterrupted consecutive terms of imprisonment shall be deemed to be only one (1) conviction, unless one (1) of the convictions was for an offense committed while that person was imprisoned.
  - (5) A person who is found to be a persistent felony offender in the second degree shall be sentenced to an indeterminate term of imprisonment pursuant to the sentencing provisions of KRS 532.060(2) for the next highest degree than the offense for which convicted. A person who is found to be a persistent felony offender in the second degree shall not be eligible for probation, shock probation, or conditional discharge, unless all offenses for which the person stands convicted are Class D felony offenses which do not involve a violent act against a person, in which case probation, shock probation, or conditional discharge may be granted. A violent offender who is found to be a persistent felony offender in the second degree shall not be eligible for parole except as provided in KRS 439.3401.
  - (6) A person who is found to be a persistent felony offender in the first degree shall be sentenced to imprisonment as follows:
    - (a) If the offense for which he presently stands convicted is a Class A or Class B felony, *or if the person was previously convicted of one (1) or more sex crimes committed against a minor as defined in Section 5 of this Act and presently stands convicted of a subsequent sex crime*, a persistent felony offender in the first degree shall be sentenced to an indeterminate term of imprisonment, the maximum of which shall not be less than twenty (20) years nor more than fifty (50) years, or life imprisonment, *or life imprisonment without parole for twenty-five (25) years for a sex crime committed against a minor*; ~~or~~
    - (b) If the offense for which he presently stands convicted is a Class C or Class D felony, a persistent felony offender in the first degree shall be sentenced to an indeterminate term of imprisonment, the maximum of which shall not be less than ten (10) years nor more than twenty (20) years.
  - (7) A person who is found to be a persistent felony offender in the first degree shall not be eligible for probation, shock probation, or conditional discharge, unless all offenses for which the person stands convicted are Class D felony offenses which do not involve a violent act against a person *or a sex crime as that term is defined in Section 5 of this Act*, in which case probation, shock probation, or conditional discharge may be granted. If the offense the person presently stands convicted of is a Class A, B, or C felony, the person shall not be eligible for parole until the person has served a minimum term of incarceration of not less than ten (10) years, *unless another sentencing scheme applies*. A violent offender who is found to be a persistent felony offender in the first degree shall not be eligible for parole except as provided in KRS 439.3401.
  - (8) No conviction, plea of guilty, or Alford plea to a violation of KRS 218A.500 shall bring a defendant within the purview of or be used as a conviction eligible for making a person a persistent felony offender under this section.
  - (9) The provisions of this section amended by 1994 Ky. Acts ch. 396, sec. 11, shall be retroactive.
- Section 46. KRS 532.100 is amended to read as follows:
- (1) When an indeterminate term of imprisonment is imposed, the court shall commit the defendant to the custody of the Department of Corrections for the term of his sentence and until released in accordance with the law.
  - (2) When a definite term of imprisonment is imposed, the court shall commit the defendant to the county or city correctional institution or to a regional correctional institution for the term of his sentence and until released in accordance with the law.
  - (3) When a sentence of death is imposed, the court shall commit the defendant to the custody of the Department of Corrections with directions that the sentence be carried out according to law.
  - (4) (a) The provisions of KRS 500.080(5) notwithstanding, if a Class D felon is sentenced to an indeterminate term of imprisonment of five (5) years or less, he shall serve that term in a county jail in a county in which the fiscal court has agreed to house state prisoners; except that, when an indeterminate sentence of two (2) years or more is imposed on a Class D felon convicted of a sexual offense enumerated in KRS 197.410(1), or a crime under KRS 17.510(11) or (12), the sentence shall be served in a state

institution. Counties choosing not to comply with the provisions of this paragraph shall be granted a waiver by the commissioner of the Department of Corrections.

- (b) 1. The provisions of KRS 500.080(5) notwithstanding, and except as provided in subparagraph 2. of this paragraph, a Class C or D felon with a sentence of more than five (5) years who is classified by the Department of Corrections as community custody shall serve that term in a county jail in a county in which the fiscal court has agreed to house state prisoners if:
  - a. Beds are available in the county jail;
  - b. State facilities are at capacity; and
  - c. Halfway house beds are being utilized at the contract level as of July 15, 2000.
- 2. When an indeterminate sentence of two (2) years or more is imposed on a felon convicted of a ***sex crime, as defined in Section 5 of this Act or any similar offense in another jurisdiction***~~sexual offense enumerated in KRS 197.410(1)~~, the sentence shall be served in a state institution.
- 3. Counties choosing not to comply with the provisions of this paragraph shall be granted a waiver by the commissioner of the Department of Corrections.
- (c) Any jail that houses state inmates under paragraph (a) or (b) of this subsection shall offer programs as recommended by the Jail Standards Commission. The Department of Corrections shall adopt the recommendations of the Jail Standards Commission and promulgate administrative regulations establishing required programs for a jail that houses state inmates under paragraph (a) or (b) of this subsection.
- (5) The jailer of a county in which a Class D felon or a Class C felon is incarcerated may request the commissioner of the Department of Corrections to incarcerate the felon in a state corrections institution if the jailer has reasons to believe that the felon is an escape risk, a danger to himself or other inmates, an extreme security risk, or needs protective custody beyond that which can be provided in a county jail. The commissioner of the Department of Corrections shall evaluate the request and transfer the inmate if he deems it necessary. If the commissioner refuses to accept the felon inmate, and the Circuit Judge of the county that has jurisdiction of the offense charged is of the opinion that the felon cannot be safely kept in a county jail, the Circuit Judge, with the consent of the Governor, may order the felon transferred to the custody of the Department of Corrections.
- (6) Class D felons and Class C felons serving their time in a local jail shall be considered state prisoners, and the Department of Corrections shall pay the jail in which the prisoner is incarcerated a per diem amount determined according to KRS 431.215(2). For other state prisoners and parole violator prisoners, the per diem payments shall also begin on the date prescribed in KRS 431.215(2).
- (7) State prisoners, excluding the Class D felons and Class C felons qualifying to serve time in county jails, shall be transferred to the state institution within forty-five (45) days of final sentencing.

Section 47. KRS 532.110 is amended to read as follows:

- (1) When multiple sentences of imprisonment are imposed on a defendant for more than one (1) crime, including a crime for which a previous sentence of probation or conditional discharge has been revoked, the multiple sentences shall run concurrently or consecutively as the court shall determine at the time of sentence, except that:
  - (a) A definite and an indeterminate term shall run concurrently and both sentences shall be satisfied by service of the indeterminate term;
  - (b) The aggregate of consecutive definite terms shall not exceed one (1) year;~~and~~
  - (c) The aggregate of consecutive indeterminate terms shall not exceed in maximum length the longest extended term which would be authorized by KRS 532.080 for the highest class of crime for which any of the sentences is imposed. In no event shall the aggregate of consecutive indeterminate terms exceed seventy (70) years; ***and***
  - (d) ***The sentences of a defendant convicted of two (2) or more felony crimes, as defined in Section 5 of this Act, involving two (2) or more victims shall run consecutively.***

- (2) If the court does not specify the manner in which a sentence imposed by it is to run, the sentence shall run concurrently with any other sentence which the defendant must serve unless the sentence is required by subsection (3) of this section or KRS 533.060 to run consecutively.
- (3) Notwithstanding any provision in this section to the contrary, if a person is convicted of an offense that is committed while he is imprisoned in a penal or reformatory institution, during an escape from imprisonment, or while he awaits imprisonment, the sentence imposed for that offense may be added to the portion of the term which remained unserved at the time of the commission of the offense. The sentence imposed upon any person convicted of an escape or attempted escape offense shall run consecutively with any other sentence which the defendant must serve.
- (4) Notwithstanding any provision in this chapter to the contrary, if a person is convicted of an offense that is committed while he is imprisoned in a penal or reformatory institution, the sentence imposed for that offense may, upon order of the trial court, be served in that institution. The person may be transferred to another institution pursuant to administrative regulations of the Department of Corrections.

Section 48. KRS 533.030 is amended to read as follows:

- (1) The conditions of probation and conditional discharge shall be such as the court, in its discretion, deems reasonably necessary to insure that the defendant will lead a law-abiding life or to assist him to do so. The court shall provide as an explicit condition of every sentence to probation or conditional discharge that the defendant not commit another offense during the period for which the sentence remains subject to revocation.
- (2) When imposing a sentence of probation or conditional discharge, the court may, in addition to any other reasonable condition, require that the defendant:
  - (a) Avoid injurious or vicious habits;
  - (b) Avoid persons or places of disreputable or harmful character;
  - (c) Work faithfully at suitable employment as far as possible;
  - (d) Undergo available medical or psychiatric treatment and remain in a specific institution as required for that purpose;
  - (e) Post a bond, without surety, conditioned on performance of any of the prescribed conditions;
  - (f) Support his dependents and meet other family responsibilities;
  - (g) Pay the cost of the proceeding as set by the court;
  - (h) Remain within a specified area;
  - (i) Report to the probation officer as directed;
  - (j) Permit the probation officer to visit him at his home or elsewhere;
  - (k) Answer all reasonable inquiries by the probation officer and promptly notify the probation officer of any change in address or employment; and
  - (l) Submit to periodic testing for the use of controlled substances or alcohol, if the defendant's record indicates a controlled substance or alcohol problem, and to pay a reasonable fee, as determined by the court, which fee shall not exceed the actual cost of the test and analysis and shall be paid directly to the agency or agencies responsible for testing and analysis as compensation for the cost of the testing and analysis, as specified by written order of the court, performed under this subsection. For good cause shown, the testing fee may be waived by the court.
- (3) When imposing a sentence of probation or conditional discharge in a case where a victim of a crime has suffered monetary damage as a result of the crime due to his property having been converted, stolen, or unlawfully obtained, or its value substantially decreased as a result of the crime, or where the victim suffered actual medical expenses, direct out-of-pocket losses, or loss of earning as a direct result of the crime, ***or where the victim incurred expenses in relocating for the purpose of the victim's safety or the safety of a member of the victim's household***, or if as a direct result of the crime the victim incurred medical expenses that were paid by the Cabinet for Health and Family Services, the Crime Victims Compensation Board, or any other governmental entity, the court shall order the defendant to make restitution in addition to any other penalty provided for the commission of the offense. Payment of restitution to the victim shall have priority over payment of restitution to any government agency. Restitution shall be ordered in the full amount of the

damages, unless the damages exceed one hundred thousand dollars (\$100,000) or twice the amount of the gain from the commission of the offense, whichever is greater, in which case the higher of these two (2) amounts shall be awarded. The court may, in lieu of ordering monetary restitution, order the defendant to make restitution by working for or on behalf of the victim. The court shall determine the number of hours of work necessary by applying the then-prevailing federal minimum wage to the total amount of monetary damage caused by or incidental to the commission of the crime. The court may, with the consent of the agency, order the defendant to work as specified in KRS 533.070. Any work ordered pursuant to this section shall not be deemed employment for any purpose, nor shall the person performing the work be deemed an employee for any purpose. Where there is more than one (1) defendant or more than one (1) victim, restitution may be apportioned. Restitution shall be subject to the following additional terms and conditions:

- (a) Where property which is unlawfully in the possession of the defendant is in substantially undamaged condition from its condition at the time of the taking, return of the property shall be ordered in lieu of monetary restitution;
  - (b) The circuit clerk shall assess an additional fee of five percent (5%) to defray the administrative costs of collection of payments or property. This fee shall be paid by the defendant and shall inure to a trust and agency account which shall not lapse and which shall be used to hire additional deputy clerks and office personnel or increase deputy clerk or office personnel salaries, or combination thereof;
  - (c) When a defendant fails to make restitution ordered to be paid through the circuit clerk or a court-authorized program run by the county attorney or the Commonwealth's attorney, the circuit clerk or court-authorized program shall notify the court; and
  - (d) An order of restitution shall not preclude the owner of property or the victim who suffered personal physical or mental injury or out-of-pocket loss of earnings or support or other damages from proceeding in a civil action to recover damages from the defendant. A civil verdict shall be reduced by the amount paid under the criminal restitution order.
- (4) When requiring fees for controlled substances or alcohol tests, or other fees and payments authorized by this section or other statute, except restitution, to be paid by the defendant, the court shall not order the payments to be paid through the circuit clerk.
  - (5) When a defendant is sentenced to probation or conditional discharge, he shall be given a written statement explicitly setting forth the conditions under which he is being released.
  - (6) When imposing a sentence of probation or conditional discharge, the court, in addition to conditions imposed under this section, may require as a condition of the sentence that the defendant submit to a period of imprisonment in the county jail or to a period of home incarceration at whatever time or intervals, consecutive or nonconsecutive, the court shall determine. The time actually spent in confinement or home incarceration pursuant to this provision shall not exceed twelve (12) months or the maximum term of imprisonment assessed pursuant to KRS Chapter 532, whichever is the shorter. Time spent in confinement or home incarceration under this subsection shall be credited against the maximum term of imprisonment assessed for the defendant pursuant to KRS Chapter 532, if probation or conditional discharge is revoked and the defendant is sentenced to imprisonment. Any prohibitions against probation, shock probation, or conditional discharge under KRS 533.060(2) or 532.045 shall not apply to persons convicted of a misdemeanor or Class D felony and sentenced to a period of confinement or home incarceration under this section.

Section 49. KRS 533.250 is amended to read as follows:

- (1) A pretrial diversion program shall be operated in each judicial circuit. The chief judge of each judicial circuit, in cooperation with the Commonwealth's Attorney, shall submit a plan for the pretrial diversion program to the Supreme Court for approval on or before December 1, 1999. The pretrial diversion program shall contain the following elements:
  - (a) The program may be utilized for a person charged with a Class D felony offense who has not, within ten (10) years immediately preceding the commission of this offense, been convicted of a felony under the laws of this state, another state, or of the United States, or has not been on probation or parole or who has not been released from the service of any felony sentence within ten (10) years immediately preceding the commission of the offense.

- (b) The program shall not be utilized for persons charged with offenses for which probation, parole, or conditional discharge is prohibited under KRS 532.045.
  - (c) No person shall be eligible for pretrial diversion more than once in a five (5) year period.
  - (d) *No person shall be eligible for pretrial diversion who has committed a sex crime as defined in Section 5 of this Act. A person who is on pretrial diversion on the effective date of this Act may remain on pretrial diversion if the person continues to meet the requirements of the pretrial diversion and the registration requirements of Section 6 of this Act.*
  - (e) Any person charged with an offense not specified as precluding a person from pretrial diversion under paragraph (b) of this subsection may apply in writing to the trial court and the Commonwealth's attorney for entry into a pretrial diversion program.
  - ~~(f)(e)~~ Any person shall be required to enter an Alford plea or a plea of guilty as a condition of pretrial diversion.
- (2) The Commonwealth's attorney shall make a recommendation upon each application for pretrial diversion to the Circuit Judge in the court in which the case would be tried. The court may approve or disapprove the diversion.
  - (3) The court shall assess a diversion supervision fee of a sufficient amount to defray all or part of the cost of participating in the diversion program. Unless the fee is waived by the court in the case of indigency, the fee shall be assessed against each person placed in the diversion program. The fee may be based upon ability to pay.

Section 50. KRS 605.090 is amended to read as follows:

- (1) Unless precluded by law, any child committed to the Department of Juvenile Justice or the cabinet may by the decision of the Department of Juvenile Justice or the cabinet or its designee, at any time during the period of his commitment, be:
  - (a) Upon fourteen (14) days' prior written notice to the court, discharged from commitment. Written notice of discharge shall be given to the committing court and to any other parties as may be required by law;
  - (b) Placed in the home of the child's parents, in the home of a relative, a suitable foster home, or boarding home, upon such conditions as the Department of Juvenile Justice or the cabinet may prescribe and subject to visitation and supervision by a social service worker or juvenile probation and parole officer.
    - 1. At the time a committed child is placed in the home of his parents by the Department of Juvenile Justice or the cabinet, the parents shall be informed in writing of the conditions of the placement and the criteria that will be used to determine whether removal is necessary.
    - 2. At the time a committed child is placed anywhere other than the home of the child's parents, the cabinet or the Department of Juvenile Justice shall inform the foster home, the relative, or the governing authority of any private facility or agency in which the child has been placed whether the minor placed is a juvenile sexual offender as defined in KRS 635.505(2) or of any inappropriate sexual acts or sexual behavior by the child specifically known to the cabinet or Department of Juvenile Justice, and any behaviors of the child specifically known to the cabinet or Department of Juvenile Justice that indicate a safety risk for the placement. Information received by any private facility or agency under this paragraph shall be disclosed immediately and directly to the individual or individuals who have physical custody of the child.
    - 3. If, after a placement is made, additional information is obtained by the cabinet or the Department of Juvenile Justice about inappropriate sexual behavior or other behavior of the committed child that may indicate a safety risk for the placement, the cabinet or the Department of Juvenile Justice shall as soon as practicable, but no later than seventy-two (72) hours after the additional information is received, inform the foster parent, relative, or private facility or agency. Additional information received by any private facility or agency shall be disclosed immediately and directly to the individual or individuals who have physical custody of the child.
    - 4. Information disclosed under this paragraph shall be limited to the acts or behaviors of the committed child and shall not constitute a violation of confidentiality under KRS Chapter 610 or 620. No foster parent, relative, or other person caring for a committed child shall divulge the information received under this paragraph to persons who do not have a legitimate interest or responsibility relating to the case. *Nothing in this subparagraph shall prohibit the disclosure or*



*sharing of information between a foster parent, custodial, private facility, or governmental entity for the protection of any child.* A violation of this subparagraph is a Class B misdemeanor;

- (c) Placed in one (1) of the facilities or programs operated by the Department of Juvenile Justice or the cabinet, except that no child committed under the provisions of KRS 610.010(1)(b), (c), or (d) shall be placed in a facility operated by the Department of Juvenile Justice for children adjudicated as a public offender unless the cabinet and the department agree, and the court consents, that the placement is in the best interest of the child and that the placement does not exceed a group home level;
  - (d) Placed in a child-caring facility operated by a local governmental unit or by a private organization willing to receive the child, upon such conditions as the cabinet may prescribe;
  - (e) ***However, under no circumstances shall a child committed under KRS Chapter 620 be placed in a home, facility, or other shelter with a child who has been committed to the Department of Juvenile Justice for commission of a sex crime, as that term is defined in Section 5 of this Act, unless the child committed for the commission of a sex crime is kept segregated from other children in the home, facility, or other shelter that have not been committed for the commission of a sex crime;***
  - (f) Treated as provided in KRS Chapter 645;
  - ~~(g)~~~~(f)~~ Following the transfer or placement of a child pursuant to paragraphs (b), (c), (d), ~~(e)~~, **or (f)** of this subsection, the Department of Juvenile Justice or the cabinet shall, within fourteen (14) days, excluding weekends and holidays, give written notice to the court of the transfer, the placement, and the reasons therefor.
- (2) No child ten (10) years of age or under shall be placed in a facility operated by the Department of Juvenile Justice for children adjudicated as public offenders, except that a child charged with the commission of a capital offense or with an offense designated as a Class A or Class B felony may be detained in a state-operated detention facility when there is no available less restrictive alternative.
  - (3) If a child committed to the cabinet as dependent, neglected, or abused is placed in the home of the child's parents, the child shall not be removed except in accordance with the following standards and procedures:
    - (a) If the social service worker believes that the committed child continues to be dependent, neglected, or abused, but immediate removal is unnecessary to protect the child from imminent death or serious physical injury, the casework situation and evidence shall be reviewed with his supervisor to determine whether to continue work with the family intact or to remove the child. There shall be documentation that the social service worker, prior to the court hearing, made an effort to contact the parents to inform them of the specific problems that could lead to removal so they have an opportunity to take corrective action. If the parents are unavailable or do not respond to attempts to communicate, the specific circumstances shall be documented;
    - (b) If it appears that the child's health or welfare or physical, mental, or emotional condition is subjected to or threatened with real and substantial harm and there is not reasonably available an alternative less drastic than removal of the child from the home, the cabinet shall petition the District Court to review the commitment pursuant to KRS 610.120 in relation to the cabinet's intention to remove the child from the parent's home. The petition shall set forth the facts which constitute the need for removal of the child. The court shall serve notice of the petition and the time and place of the hearing on the parents; however, the social service worker shall also contact the parents to ensure that they received the notice and are aware of the right to be represented by counsel. If the parents' whereabouts are unknown, notice may be mailed to the last known address of an adult who is a near relative. If the court fails to find that the child's health or welfare or physical, mental, or emotional condition is subjected to or threatened with real and substantial harm, or recommends a less drastic alternative that is reasonably available, the child shall not be removed from the parents' home;
    - (c) If a social service worker finds a committed, unattended child who is too young to take care of himself, the social service worker shall make reasonable efforts to arrange for an emergency caretaker in the child's home until the parents return or fail to return within a reasonable time. If no in-home caretaker is available for the child, the social service worker shall request any appropriate law enforcement officer to take the child into protective custody. If, after a reasonable time, it appears the child has been abandoned, the cabinet shall petition the District Court to review the case; or

- (d) If there exist reasonable grounds to believe that the child is in danger of imminent death or serious physical injury or is being sexually abused and that the parents are unable or unwilling to protect the child, the social service worker shall, with the assistance of a law enforcement officer, immediately remove the child prior to filing a petition for review. Within seventy-two (72) hours after the removal, the cabinet shall file a petition for review in District Court pursuant to KRS 610.120 with a request for an expeditious hearing. If the court fails to find that the child's health or welfare or physical, mental, or emotional condition is subjected to or threatened with real and substantial harm, or recommends a less drastic alternative that is reasonably available, the child shall be returned to the parents' home.
- (4) The cabinet or the Department of Juvenile Justice, as appropriate, shall notify the juvenile court of the county of placement with the conditions of supervised placement of each child placed in that county from one (1) of the residential treatment facilities operated by the Department of Juvenile Justice or the cabinet. Notice of the conditions of such placement may be made available by the court to any law enforcement agency.
- (5) The person in charge of any home to which a child is probated, and the governing authority of any private facility or agency to which a child is committed, shall make such reports to the court as the court may require, and such reports as the Department of Juvenile Justice or the cabinet may require in the performance of its functions under the law. The Department of Juvenile Justice or the cabinet shall have the power to make such visitations and inspections of the homes, facilities, and agencies in which children who have committed public offenses have been placed as it deems necessary to carry out its functions under the law.
- (6) The Department of Juvenile Justice or the cabinet shall provide a written transfer summary to the person in charge of any foster home or any governing authority of any private facility or agency in which the Department of Juvenile Justice or the cabinet has placed a child. The written summary shall include, at a minimum, demographic information about the child, a narrative statement detailing the child's prior placements, the length of time the child has been committed, a description of the services and assistance provided to the child or the child's family since the most current case plan, a copy of the current case plan for the child and the child's family, and a copy of the child's medical and educational passport, if available, provided that no information shall be provided that violates any statutory confidentiality requirements. The transfer summary shall state whether the child placed is a juvenile sexual offender as defined in KRS 635.505(2), and include information required under subsection (1) of this section. The transfer summary shall be provided by the Department of Juvenile Justice if it is responsible for the child, or the cabinet if it is responsible for the child, within seven (7) days of the placement of the child with the person, agency, or facility providing care to the child.
- (7) The Department of Juvenile Justice may assist the courts in placing children who have committed public offenses in boarding homes, and, under agreements with the individual courts, may assume responsibility for making such placements. Counties may pay or contribute towards the expenses of maintaining such children and, to the extent authorized by the fiscal court, the Department of Juvenile Justice may incur obligations chargeable to the county for such expenses.

Section 51. KRS 620.090 is amended to read as follows:

- (1) If, after completion of the temporary removal hearing, the court finds there are reasonable grounds to believe the child is dependent, neglected or abused, the court shall issue an order for temporary removal and shall grant temporary custody to the cabinet or other appropriate person or agency. Preference shall be given to available and qualified relatives of the child considering the wishes of the parent or other person exercising custodial control or supervision, if known. The order shall state the specific reasons for removal and show that alternative less restrictive placements and services have been considered. The court may recommend a placement for the child.
- (2) In placing a child under an order of temporary custody, the cabinet or its designee shall use the least restrictive appropriate placement available. Preference shall be given to available and qualified relatives of the child considering the wishes of the parent or other person exercising custodial control or supervision, if known. The child may also be placed in a facility or program operated or approved by the cabinet, including a foster home, or any other appropriate available placement. ***However, under no circumstance shall the child be placed in a home, facility, or other shelter with a child who has been committed to the Department of Juvenile Justice for commission of a sex crime as that term is defined in Section 5 of this Act, unless the child committed for the commission of a sex crime is kept segregated from other children in the home, facility, or other shelter that have not been committed for the commission of a sex crime.***
- (3) If the court finds there are not reasonable grounds to believe the child is dependent, neglected or abused, or if no action is taken within seventy-two (72) hours, the emergency custody order shall be dissolved automatically

and the cabinet or its designee shall return the child to the parent or other person exercising custodial control or supervision. A request for a continuance of the hearing by the parent or other person exercising custodial control or supervision shall constitute action precluding automatic dissolution of the emergency custody order.

- (4) When the court issues a temporary order for the custody of a child, the court may order that, within two (2) weeks, arrangements be made for the child to receive a thorough medical, visual, and dental examination by a professional authorized by the Kentucky Revised Statutes to conduct such examinations. The costs of the examination shall be paid by the cabinet.
- (5) The child shall remain in temporary custody with the cabinet for a period of time not to exceed forty-five (45) days from the date of the removal from his home. The court shall conduct the adjudicatory hearing and shall make a final disposition within forty-five (45) days of the removal of the child. The court may extend such time after making written findings establishing the need for the extension and after finding that the extension is in the child's best interest.

Section 52. KRS 620.230 is amended to read as follows:

- (1) For each child placed in the custody of the cabinet by an order of commitment, the cabinet shall file a case permanency plan for the child with the court and send a copy to the Administrative Office of the Courts Citizen Foster Care Review Board Program as soon as the plan is prepared but no later than thirty (30) days after the effective date of the order. Notwithstanding the provisions of KRS 620.090(5), if a child remains in the temporary custody of the cabinet for longer than forty-five (45) days and if a request is submitted by the Administrative Office of the Courts Citizen Foster Care Review Board Program, the cabinet shall provide a copy of the case permanency plan for the child.
- (2) The case permanency plan shall include, but need not be limited to:
  - (a) A concise statement of the reasons why the child is in the custody of the cabinet;
  - (b) A statement of the actions which have been taken with regard to the child to the date of the plan;
  - (c) A statement of the proposed actions which may be taken or are contemplated with regard to the child during the next six (6) months and during the entire duration of the time the child is in the custody of the cabinet;
  - (d) Contemplated placements for the child;
  - (e) If the child is placed outside the home, reasons why the child cannot be protected adequately in the home, the harms the child may suffer if left in the home, factors which may indicate when the child can be returned to the home, and efforts the cabinet or others are making to return the child to the home;
  - (f) If the child is placed outside the home, the steps that the cabinet will take to minimize the harm to the child as a result of the action, both at the time of removal and on a long-term basis;
  - (g) A description of the type of home, child-caring facility, child-placing agency or facility in which the child is to be placed or has been placed, and a statement why the placement is appropriate for the child, including but not limited to:
    - 1. Age;
    - 2. Educational needs;
    - 3. Medical needs;
    - 4. Emotional needs;
    - 5. Relationship with parents; and
    - 6. Number of children the home is authorized to care for and the number of children currently residing in the home;
  - (h) If the placement is outside the child's original county of residence, documentation that no closer placement is appropriate or available, and the reasons why the placement made was chosen;
  - (i) A description of the services for the child and his family to be provided or arranged by the cabinet to facilitate the return of the child to his own home or to another permanent placement;

- (j) A list of objectives and specific tasks, together with specific time frames for each task, for which the parents have agreed to assume responsibility, including a schedule of regular visits with the child;
  - (k) A projected schedule of time intervals by which each of the services, objectives, and tasks outlined in the case permanency plan should be accomplished and a schedule of time intervals which have already been accomplished or are in the process of accomplishment;
  - (l) If the child is to remain at home, a description of the potential harm which could befall the child and measures that are being taken to prevent or minimize such harm; and
  - (m) If the child is to remain at home, reasons why he cannot be placed in foster care or why such care is not needed.
- (3) ***Under no circumstance shall a child be placed in a home, facility, or other shelter with a child who has been committed to the Department of Juvenile Justice for commission of a sex crime as defined in Section 5 of this Act, unless the child committed for the commission of a sex crime is kept segregated from other children in the home, facility, or other shelter that have not been committed for the commission of a sex crime.***

Section 53. KRS 635.527 is amended to read as follows:

~~[Any other statute to the contrary notwithstanding,]~~ Communications made in the application for or in the course of a **child** sexual offender's diagnosis and treatment in the program, between a sexual offender or member of the sexual offender's family and any employee of the department who is assigned to work in the program, or any approved provider **as defined in Section 5 of this Act**, shall be privileged from disclosure **in any civil or criminal proceeding, other than proceedings to determine the sentence**, unless the sexual offender consents in writing to the disclosure or the communication is related to an ongoing criminal investigation. The privilege created by this section shall not extend to disclosures made for the purpose of determining whether the sexual offender should continue to participate in the program. **The provisions of KRS 620.030 shall not apply to a communication made, received, or overheard if the communication is made pursuant to this section**~~[, to any communication regarding conduct in which the sexual offender was not a participant, or to any disclosure involving a homicide].~~ The **child** sexual offender shall be informed in writing of the limits of the privilege created by this section.

Section 54. KRS 635.510 is amended to read as follows:

- (1) A child, thirteen (13) years of age or older at the time of the commission of the offense, shall be declared a juvenile sexual offender if the child has been adjudicated guilty of an offense listed in KRS 635.505(2)(a), (b), (c), (d), (e), or (f).
- (2)
  - (a) A child, less than thirteen (13) years of age, may be declared a juvenile sexual offender if the child has been adjudicated guilty of an offense listed in KRS 635.505(2).
  - (b) Any child, thirteen (13) years of age or older, may be declared a juvenile sexual offender if the child has been adjudicated guilty of an offense listed in KRS 635.505(2)(g).
- (3) Upon final adjudication by the juvenile court under subsection (2) of this section, the juvenile court judge shall order a juvenile sexual offender assessment to be conducted on the child by the **Department of Juvenile Justice treatment** program or by a qualified professional approved by the program which shall recommend whether the child be declared a sexual offender and receive sexual offender treatment. Upon receipt of the findings of the assessment, the juvenile court judge shall determine whether the child shall be declared a juvenile sexual offender, and, if so, shall initiate a referral to the **Department of Juvenile Justice treatment** program for treatment.

Section 55. KRS 635.515 is amended to read as follows:

- (1) A child declared a juvenile sexual offender shall be committed to the custody of the Department of Juvenile Justice and shall receive sexual offender treatment for not more than three (3) years, except that **this period of sexual offender treatment may be extended for one (1) additional year by the sentencing court upon motion of the Department of Juvenile Justice, and** the juvenile sexual offender shall not remain in the care of the Department of Juvenile Justice after the age of twenty-one (21) years.~~[If an individual in the care of the department as a juvenile sexual offender reaches the age of nineteen (19) years prior to the completion of the sexual offender treatment program or the expiration of three (3) years of treatment, that individual shall be returned to the sentencing court. At that time, the sentencing court may order the individual to complete the prescribed treatment subject to the contempt powers of the court.]~~

- (2) Based on the assessment and evaluation of the juvenile sexual offender and his family, the Department of Juvenile Justice shall utilize the treatment setting which provides the least restrictive alternative as defined in KRS 600.020.
- (3) The program shall develop a written treatment agreement upon the child's placement in a community setting, detailing the responsibilities of the juvenile sexual offender, his family, and the program to include but not be limited to: attendance; participation in education; participation in planning and completion of treatment goals; curfew; visit of appropriate staff to the home; participation in parenting groups and family counseling; continued contact with the program, schools, and courts; insurance of legal rights; and discharge criteria.
- (4) The written treatment agreement shall be presented to the court, and the court shall include the agreement as part of the order except for good cause shown.
- (5) The program shall be responsible for sending written reports every sixty (60) days to the juvenile court judge concerning the participation of the juvenile sexual offender and family in the treatment program. The written report shall include information about the treatment received by the juvenile sexual offender and family, an assessment of the sexual offender's current condition, and recommendations by the program staff.
- (6) The case may be called for review upon the recommendation of the program staff or by the juvenile court judge at any time during the course of treatment. The review may be called to consider documentation of noncompliance, absenteeism, or unwillingness to acknowledge responsibility for sexually-inappropriate behavior which may be remedied through the contempt powers of the court.
- (7) A court review shall be requested by the program sixty (60) days prior to the recommended program release date. The juvenile court judge shall schedule a hearing to formally consider the recommendation of release from the program.

Section 56. KRS 640.030 is amended to read as follows:

A youthful offender, who is convicted of, or pleads guilty to, a felony offense in Circuit Court, shall be subject to the same type of sentencing procedures and duration of sentence, including probation and conditional discharge, as an adult convicted of a felony offense, except that:

- (1) The presentence investigation required by KRS 532.050 shall be prepared by the Department of Juvenile Justice or by its designated representative;
- (2) Except as provided in KRS 640.070, any sentence imposed upon the youthful offender shall be served in a facility or program operated or contracted by the Department of Juvenile Justice until the expiration of the sentence, the youthful offender is paroled, the youthful offender is probated, or the youthful offender reaches the age of eighteen (18), whichever first occurs. The Department of Juvenile Justice shall take custody of a youthful offender, remanded into its custody, within sixty (60) days following sentencing. If an individual sentenced as a youthful offender attains the age of eighteen (18) prior to the expiration of his sentence, and has not been probated or released on parole, that individual shall be returned to the sentencing court. At that time, the sentencing court shall make one (1) of the following determinations:
  - (a) Whether the youthful offender shall be placed on probation or conditional discharge;
  - (b) Whether the youthful offender shall be returned to the Department of Juvenile Justice to complete a treatment program, which treatment program shall not exceed the youthful offender's attainment of the age of eighteen (18) years and five (5) months. At the conclusion of the treatment program, the individual shall be returned to the sentencing court for a determination under paragraph (a) or (c) of this subsection; or
  - (c) Whether the youthful offender shall be incarcerated in an institution operated by the Department of Corrections;
- (3) If a youthful offender has attained the age of eighteen (18) years but less than eighteen (18) years and five (5) months prior to sentencing, that individual shall be returned to the sentencing court upon attaining the age of eighteen (18) years and five (5) months if that individual has been sentenced to a period of placement or treatment with the Department of Juvenile Justice. The court shall have the same dispositional options as currently provided in subsection (2)(a) and (c) of this section;
- (4) The Department of Juvenile Justice shall inform the sentencing court of any youthful offender in their custody pursuant to this section who has attained the age of eighteen (18) years and five (5) months, and the court shall

enter a court order directing the sheriff or jailer to transport the youthful offender to the county jail to await sentencing pursuant to subsection (2)(a) or (c) of this section; and

- (5) KRS 197.420 to the contrary notwithstanding, a youthful offender who *has committed a sex crime, as defined in KRS 17.500, or any similar offense in another jurisdiction*~~is a sexual offender as defined by KRS 197.410(1)~~ shall be provided a sexual offender treatment program by the Department of Juvenile Justice pursuant to KRS 635.500 and as mandated by KRS 439.340(11) unless the youthful offender has been transferred to the Department of Corrections.

Section 57. KRS 216B.400 is amended to read as follows:

- (1) Where a person has been determined to be in need of emergency care by any person with admitting authority, no such person shall be denied admission by reason only of his inability to pay for services to be rendered by the hospital.
- (2) Every hospital of this state which offers emergency services shall provide that a physician or a sexual assault nurse examiner, who shall be a registered nurse licensed in the Commonwealth and credentialed by the Kentucky Board of Nursing as provided under KRS 314.142, is available on call twenty-four (24) hours each day for the examinations of persons reported to any law enforcement agency to be victims of sexual offenses as defined by KRS 510.010 to 510.140, 530.020, 530.064(I)(a), and 531.310.
- (3) An examination provided in accordance with this section of a victim of a sexual offense may be performed in a sexual assault examination facility as defined in KRS 216B.015. An examination under this section shall apply only to an examination of a victim.
- (4) The physician or sexual assault nurse examiner, acting under a statewide medical protocol which shall be developed by the chief medical examiner, and promulgated by the secretary of justice pursuant to KRS Chapter 13A shall, upon the request of any peace officer or prosecuting attorney, and with the consent of the reported victim, or upon the request of the reported victim, examine such person for the purpose of gathering physical evidence. This examination shall include but not be limited to:
  - (a) Basic treatment and evidence gathering services; and
  - (b) Laboratory tests, as appropriate.
- (5) Each reported victim shall be informed of available services for treatment of venereal disease, pregnancy, and other medical and psychiatric problems. Pregnancy counseling shall not include abortion counseling or referral information.
- (6) Each reported victim shall be informed of available crisis intervention or other mental health services provided by regional rape crisis centers providing services to victims of sexual assault.
- (7) Notwithstanding any other provision of law, a minor may consent to examination under this section. This consent is not subject to disaffirmance because of minority, and consent of the parents or guardians of the minor is not required for the examination.
- (8)
  - (a) The examinations provided in accordance with this section shall be paid for by the Crime Victims' Compensation Board at a rate to be determined by the administrative regulation promulgated by the board after consultation with the Sexual Assault Response Team Advisory Committee as defined in KRS 403.707.
  - (b) Upon receipt of a completed original claim form supplied by the board and itemized billing for a forensic sexual assault examination, the board shall reimburse the hospital or sexual assault examination facility, and the physician or sexual assault nurse examiner as provided in administrative regulations promulgated by the board pursuant to KRS Chapter 13A. Reimbursement shall be made to an out-of-state nurse who is credentialed in the other state to provide sexual assault examinations, an out-of-state hospital, or an out-of-state physician if the sexual assault occurred in Kentucky.
  - (c) Independent investigation by the Crime Victims' Compensation Board shall not be required for payment of claims under this section; however, the board may require additional documentation or proof that the forensic medical examination was performed.
- (9) No charge shall be made to the victim for sexual assault examinations by the hospital, the sexual assault examination facility, the physician, the sexual assault nurse examiner, the victim's insurance carrier, or the Commonwealth.

Section 58. KRS 311.595 is amended to read as follows:

If the power has not been transferred by statute to some other board, commission, or agency of this state, the board may deny an application or reregistration for a license; place a licensee on probation for a period not to exceed five (5) years; suspend a license for a period not to exceed five (5) years; limit or restrict a license for an indefinite period; or revoke any license heretofore or hereafter issued by the board, upon proof that the licensee has:

- (1) Knowingly made or presented, or caused to be made or presented, any false, fraudulent, or forged statement, writing, certificate, diploma, or other thing, in connection with an application for a license or permit;
- (2) Practiced, or aided or abetted in the practice of fraud, forgery, deception, collusion, or conspiracy in connection with an examination for a license;
- (3) Committed, procured, or aided in the procurement of an unlawful abortion, including a partial-birth abortion;
- (4) Entered a guilty or nolo contendere plea, or been convicted, by any court within or without the Commonwealth of Kentucky, of committing an act which is, or would be a felony under the laws of the Commonwealth of Kentucky, or of the United States, or of any crime involving moral turpitude which is a misdemeanor under the laws;
- (5) Been convicted of a misdemeanor offense under KRS Chapter 510 involving a patient, or a felony offense under KRS Chapter 510, 530.064(1)(a), or 531.310, or been found by the board to have had sexual contact as defined in KRS 510.010(7) with a patient while the patient was under the care of the physician;
- (6) Become addicted to a controlled substance;
- (7) Become a chronic or persistent alcoholic;
- (8) Been unable or is unable to practice medicine according to acceptable and prevailing standards of care by reason of mental or physical illness or other condition including but not limited to physical deterioration that adversely affects cognitive, motor, or perceptive skills, or by reason of an extended absence from the active practice of medicine;
- (9) Engaged in dishonorable, unethical, or unprofessional conduct of a character likely to deceive, defraud, or harm the public or any member thereof;
- (10) Knowingly made, or caused to be made, or aided or abetted in the making of, a false statement in any document executed in connection with the practice of his profession;
- (11) Employed, as a practitioner of medicine or osteopathy in the practice of his profession in this state, any person not duly licensed or otherwise aided, assisted, or abetted the unlawful practice of medicine or osteopathy or any other healing art;
- (12) Violated or attempted to violate, directly or indirectly, or assisted in or abetted the violation of, or conspired to violate any provision or term of any medical practice act, including but not limited to the code of conduct promulgated by the board under KRS 311.601 or any other valid regulation of the board;
- (13) Violated any agreed order, letter of agreement, final order, or emergency order issued by the board;
- (14) Engaged in or attempted to engage in the practice of medicine or osteopathy under a false or assumed name, or impersonated another practitioner of a like, similar, or different name;
- (15) Obtained a fee or other thing of value on the fraudulent representation that a manifestly incurable condition could be cured;
- (16) Willfully violated a confidential communication;
- (17) Had his license to practice medicine or osteopathy in any other state, territory, or foreign nation revoked, suspended, restricted, or limited or has been subjected to other disciplinary action by the licensing authority thereof. This subsection shall not require relitigation of the disciplinary action;
- (18) Failed or refused, without legal justification, to practice medicine in a rural area of this state in violation of a valid medical scholarship loan contract with the trustees of the rural Kentucky medical scholarship fund;
- (19) Given or received, directly or indirectly, from any person, firm, or corporation, any fee, commission, rebate, or other form of compensation for sending, referring, or otherwise inducing a person to communicate with a

person licensed under KRS 311.530 to 311.620 in his professional capacity or for any professional services not actually and personally rendered; provided, however, that nothing contained in this subsection shall prohibit persons holding valid and current licenses under KRS 311.530 to 311.620 from practicing medicine in partnership or association or in a professional service corporation authorized by KRS Chapter 274, as now or hereinafter amended, or from pooling, sharing, dividing, or apportioning the fees and moneys received by them or by the partnership, corporation, or association in accordance with the partnership agreement or the policies of the board of directors of the corporation or association. Nothing contained in this subsection shall abrogate the right of two (2) or more persons holding valid and current licenses under KRS 311.530 to 311.620 to receive adequate compensation for concurrently rendering professional care to a single patient and divide a fee, if the patient has full knowledge of this division and if the division is made in proportion to the services performed and responsibility assumed by each;

- (20) Been removed, suspended, expelled, or disciplined by any professional medical association or society when the action was based upon what the association or society found to be unprofessional conduct, professional incompetence, malpractice, or a violation of any provision of KRS Chapter 311. This subsection shall not require relitigation of the disciplinary action; or
- (21) Been disciplined by a licensed hospital or medical staff of the hospital, including removal, suspension, limitation of hospital privileges, failing to renew privileges for cause, resignation of privileges under pressure or investigation, or other disciplinary action if the action was based upon what the hospital or medical staff found to be unprofessional conduct, professional incompetence, malpractice, or a violation of any provisions of KRS Chapter 311. This subsection shall not require relitigation of the disciplinary action.

Section 59. KRS 312.150 is amended to read as follows:

- (1) Charges may be preferred by the board against the holder of a license to practice chiropractic in this state on any of the following grounds:
  - (a) That fraud, misrepresentation, concealment of material facts, or deceit was used in obtaining or retaining the license;
  - (b) That the licensee no longer possesses a good moral character;
  - (c) That the licensee has been convicted of a felony or violation of any law involving moral turpitude;
  - (d) That the licensee solicits or advises patients utilizing false, deceptive, or misleading statements or information;
  - (e) That the licensee is impaired by drugs or alcohol to the extent that it may affect the health, welfare, or safety of patients;
  - (f) That the licensee is in any way guilty of any deception, misrepresentation, fraud, or unethical conduct in the practice of chiropractic;
  - (g) That the licensee has violated any of the provisions of this chapter, or any of the administrative regulations of the board;
  - (h) That the licensee failed to attend and complete annual continuing chiropractic education courses as provided in KRS 312.175;
  - (i) That the licensee failed to provide a complete copy of the patient's medical records or an itemized statement to the patient upon request, pursuant to KRS 422.317, within ten (10) business days; or
  - (j) That the chiropractor failed to provide notice of a change in address or change in the name and address of the facility where the chiropractor practices as required by KRS 312.145(4).
- (2) Unprofessional conduct shall include any departure or the failure to conform to the minimal standards of acceptable chiropractic practice or the willful or careless disregard for the health, welfare, or safety of patients, in any of which cases proof of actual injury need not be established. Unprofessional conduct shall include, but not be limited to, the following acts of a chiropractor:
  - (a) Gross ignorance of, or incompetence in, the practice of chiropractic;
  - (b) Performing unnecessary services;
  - (c) Charging a patient an unconscionable fee or charging for services not rendered;



- (d) Directly or indirectly engaging in threatening, dishonest, or misleading fee collection techniques, including having patients enter into a contract for a course of treatment;
  - (e) Perpetrating fraud upon patients, third-party payors, or others, relating to the practice of chiropractic, including violations of the federal Medicaid and Medicare laws;
  - (f) Advertising that the licensee shall accept for services rendered assigned payments from any third-party payor as payment in full, if the effect is to give the impression of eliminating the need for payment by the patient of any required deductible or copayment applicable in the patient's health benefit plan; or advertising a fee or charge for a service or treatment different from the fee or charge the licensee submits to a third-party payor for that service of treatment. The licensee shall attach to any claim form submitted to any third-party payor a copy of any coupon or a summary of the terms of any discount given;
  - (g) Accepting for services rendered assigned payments from any third-party payor as payment in full, if the effect is to eliminate the need for payment by the patient of any required deductible or copayment applicable in the patient's health benefit plan, or collecting a fee or charge the licensee submits to a third-party payor for that service or treatment. However, in instances where the intent is not to collect excessive remuneration from a third-party payor but rather to provide services at a reduced rate to a patient unable to afford the deductible or copayment, the services may be performed for a lesser charge or fee. The third-party payor shall be informed by the licensee of the reduced charge; or
  - (h) Conviction of a misdemeanor offense under KRS Chapter 510 involving a patient while the patient was under the care of the chiropractor, or a felony offense under KRS Chapter 510, 530.064(1)(a), or 531.310, or the chiropractor having been found by the board to have had sexual contact as defined in KRS 510.010 with a patient while the patient was under the care of the chiropractor.
- (3) Upon receipt and due consideration of any charges, the board upon an affirmative vote shall determine whether the nature and quality of the charges are such that further investigation or initiation of disciplinary proceedings against the charged licensee is indicated. If disciplinary proceedings are not warranted, the charges shall be dismissed with or without prejudice. If the board determines that disciplinary proceedings are appropriate, the case may be resolved informally by agreed order or set for hearing to be conducted in accordance with KRS Chapter 13B.
  - (4) Except for revocation for nonrenewal, no license shall be revoked or suspended without an opportunity for a hearing. The board may at any time proceed against a licensee on its own initiative either on the basis of information contained in its own records or on the basis of information obtained through its informal investigation.
  - (5) If the board substantiates that sexual contact occurred between the chiropractor and a patient while the patient was under the care of or in a professional relationship with the chiropractor, the chiropractor's license may be revoked or suspended with mandatory treatment of the chiropractor as prescribed by the board. The board may require the chiropractor to pay a specified amount for mental health services for the patient which are needed as a result of the sexual contact.

Section 60. KRS 314.091 is amended to read as follows:

- (1) The board shall have power to reprimand, deny, limit, revoke, probate, or suspend any license or credential to practice nursing issued by the board or applied for in accordance with this chapter, or to otherwise discipline a licensee, credential holder, or applicant, or to deny admission to the licensure examination, or to require evidence of evaluation and therapy upon proof that the person:
  - (a) Is guilty of fraud or deceit in procuring or attempting to procure a license to practice nursing;
  - (b) Has been convicted of any felony, or a misdemeanor involving drugs, alcohol, fraud, deceit, falsification of records, a breach of trust, physical harm or endangerment to others, or dishonesty, under the laws of any state or of the United States. The record of conviction or a copy thereof, certified by the clerk of the court or by the judge who presided over the conviction, shall be conclusive evidence. For the purposes of this section, "conviction" means but is not limited to pleading no contest, entering an Alford plea, or entry of a court order suspending the imposition of a criminal penalty to a crime;
  - (c) Has been convicted of a misdemeanor offense under KRS Chapter 510 involving a patient, or a felony offense under KRS Chapter 510, 530.064(1)(a), or 531.310, or has been found by the board to have had

sexual contact as defined in KRS 510.010(7) with a patient while the patient was under the care of the nurse;

- (d) Has negligently or willfully acted in a manner inconsistent with the practice of nursing;
  - (e) Is unfit or incompetent to practice nursing by reason of negligence or other causes, including but not limited to, being unable to practice nursing with reasonable skill or safety;
  - (f) Abuses use of controlled substances, prescription medications, or alcohol;
  - (g) Has misused or misappropriated any drugs placed in the custody of the nurse for administration, or for use of others;
  - (h) Has falsified or in a negligent manner made incorrect entries or failed to make essential entries on essential records;
  - (i) Has a license or credential to practice as a nurse denied, limited, suspended, probated, revoked, or otherwise disciplined in another jurisdiction on grounds sufficient to cause a license to be denied, limited, suspended, probated, revoked, or otherwise disciplined in this Commonwealth, including action by another jurisdiction for failure to repay a student loan;
  - (j) Has violated any of the provisions of this chapter;
  - (k) Has violated any lawful order or directive previously entered by the board;
  - (l) Has violated any administrative regulation promulgated by the board; or
  - (m) Has been listed on the nurse aide abuse registry with a substantiated finding of abuse, neglect, or misappropriation of property.
- (2) All hearings shall be conducted in accordance with KRS Chapter 13B. A suspended or revoked license or credential may be reinstated at the discretion of the board, and in accordance with regulations promulgated by the board.
  - (3) The executive director may issue subpoenas to compel the attendance of witnesses and the production of documents in the conduct of an investigation. The subpoenas may be enforced by the Circuit Court as for contempt. Any order or subpoena of the court requiring the attendance and testimony of witnesses and the production of documentary evidence may be enforced and shall be valid anywhere in this state.
  - (4) At all hearings on request of the board the Attorney General of this state or one (1) of the assistant attorneys general designated by the Attorney General shall appear and represent the board.
  - (5) A final order of the board shall be by majority vote thereof.
  - (6) Any person adversely affected by any final order of the board may obtain a review thereof by filing a written petition for review with the Circuit Court of the county in which the board's offices are located in accordance with KRS Chapter 13B.
  - (7) If the board substantiates that sexual contact occurred between a nurse and a patient while the patient was under the care of or in a professional relationship with the nurse, the nurse's license or credential may be revoked or suspended with mandatory treatment of the nurse as prescribed by the board. The board may require the nurse to pay a specified amount for mental health services for the patient which are needed as a result of the sexual contact.

Section 61. KRS 319.082 is amended to read as follows:

- (1) The board may suspend, revoke, or refuse to issue or renew a license; may accept an assurance of voluntary compliance; restrict, or place a credential holder on probation; or issue an administrative reprimand or private admonishment upon proof that the credential holder has:
  - (a) Committed any act involving moral turpitude, dishonesty, or corruption, relating to the practice of psychology, whether the act constitutes a crime or not. If the act constitutes a crime, conviction in a criminal proceeding is not a condition precedent to disciplinary action. Upon conviction of such a crime, the judgment and sentence is presumptive evidence at the ensuing disciplinary hearing of the guilt of the licensee or applicant of the crime described in the indictment or information and of the person's violation of the statute on which it is based. For the purpose of this subsection, conviction includes all

instances in which a plea of guilty or nolo contendere is the basis for the conviction and all proceedings in which the sentence has been deferred or suspended;

- (b) Misrepresented or concealed a material fact in obtaining a license, or in reinstatement thereof;
  - (c) Committed any unfair, false, misleading, or deceptive act or practice;
  - (d) Been incompetent or negligent in the practice of psychology;
  - (e) Practiced psychology while under the suspension, revocation, or restriction of the individual's license to practice by competent authority in any state, federal, or foreign jurisdiction;
  - (f) Violated any state statute or administrative regulation governing the practice of psychology;
  - (g) Unlawfully failed to cooperate with the board by:
    - 1. Not furnishing any papers or documents requested by the board;
    - 2. Not furnishing in writing a complete explanation covering the matter contained in the complaint filed with the board;
    - 3. Not appearing before the board at the time and place designated; or
    - 4. Not properly responding to subpoenas issued by the board;
  - (h) Failed to comply with an order issued by the board or an assurance of voluntary compliance;
  - (i) Aided or abetted an unlicensed person to practice when a license or certificate is required;
  - (j) Grossly overcharged for professional services;
  - (k) Practiced beyond the scope demonstrated by an appropriate combination of knowledge, skill, experience, training, and education;
  - (l) Failed to provide adequate supervision for certified psychologists, licensed psychological associates, applicants for licensure, or other staff;
  - (m) Been convicted of any misdemeanor or felony relating to the practice of psychology. For the purposes of this subsection, conviction includes all instances in which a plea of guilty or nolo contendere is the basis for conviction and all proceedings in which the sentence has been deferred or suspended;
  - (n) Physically abused or had sexual contact with a patient, client, student, or supervisee;
  - (o) Been convicted of a misdemeanor offense under KRS Chapter 510 involving a client, patient, or student, or a felony offense under KRS Chapter 510, 530.064(I)(a), or 531.310, or been found by the board to have had sexual contact as defined in KRS 510.010 with a client, patient, student, or supervisee;
  - (p) Improperly divulged confidential information;
  - (q) Exercised undue influence in such a manner as to exploit the client, patient, student, or supervisee for financial or other personal advantage to the practitioner or a third party;
  - (r) Showed an inability to practice psychology with reasonable skill and safety to patients or clients by reason of illness, misuse of drugs, narcotics, alcohol, chemicals, or any other substance, or as a result of any mental or physical condition; or
  - (s) Failed to comply with the requirements of the board for continuing education.
- (2) Private admonishment shall not be subject to disclosure to the public under KRS 61.878(1)(l) and shall not constitute disciplinary action, but may be used by the board for statistical purposes or in subsequent disciplinary action against the credential holder or applicant.
  - (3) No unlawful act or violation of any provision of this chapter by any credential holder employed or supervised by a licensed psychologist shall be cause for the revocation of the supervisor's license, unless the board finds that the licensed psychologist had knowledge of it.
  - (4) Three (3) years from the date of a revocation, any person whose license has been revoked may petition the board for reinstatement. The board shall investigate his or her petition and may reinstate his or her license upon finding that the former licensee has complied with the provisions of this chapter and administrative regulations

promulgated by the board and is again able to engage in the practice of psychology with reasonable skill, competency, and safety to the public.

- (5) The board may, at its own discretion, reconsider, modify, or reverse its probations, suspensions, revocations, restrictions, or refusals to issue or renew licenses at any time.

Section 62. KRS 335.150 is amended to read as follows:

- (1) The board may revoke, suspend, or refuse to issue or renew; impose probationary or supervisory conditions upon; impose an administrative fine; issue a written reprimand or admonishment; or any combination of actions regarding any applicant, license, or licensee upon proof that the applicant or licensee has:
  - (a) Committed any act of dishonesty or corruption. If the act constitutes a crime, conviction in a criminal proceeding is not a condition precedent to disciplinary action. Upon conviction of the crime, the judgment and sentence creates a rebuttable presumption at the ensuing disciplinary hearing of the guilt of the applicant or licensee. Conviction includes all instances in which a plea of no contest is the basis of the conviction;
  - (b) Misrepresented or concealed a material fact in obtaining a license, or in reinstatement thereof;
  - (c) Committed any unfair, false, misleading, or deceptive act or practice;
  - (d) Been incompetent or negligent in the practice of social work;
  - (e) Violated any state statute or administrative regulation governing the practice of social work or any activities undertaken by a social worker;
  - (f) Failed to comply with an order issued by the board or an assurance of voluntary compliance;
  - (g) Violated the code of ethical conduct as set forth by the board by promulgation of an administrative regulation;
  - (h) Been legally declared mentally incompetent;
  - (i) Aided or abetted another person in falsely procuring or attempting to procure a license;
  - (j) Aided or abetted an unlicensed person in the practice of social work; or
  - (k) Failed to comply with the requirements of KRS 214.615(1).
- (2) Five (5) years from the date of a revocation, any person whose license has been revoked may petition the board for reinstatement. The board shall investigate the petition and may reinstate the license upon a finding that the individual has complied with any terms prescribed by the board and is again able to engage competently in the practice of social work.
- (3) If an alleged violation is not of a serious nature and the evidence presented to the board, after the investigation and appropriate opportunity for the licensee to respond, provides a clear indication that the alleged violation did in fact occur, the board may issue a written admonishment to the licensee. A copy of the admonishment shall be placed in the permanent file of the licensee. The licensee shall have the right to file a response within thirty (30) days of its receipt and to have the response placed in the licensee's permanent file. Alternatively, the licensee may file a request for a hearing, within thirty (30) days of the receipt of the written admonishment. Upon receipt of this request, the board shall set aside the written admonishment and set the matter for hearing.
- (4) At any time during the investigative or hearing processes, the board may enter into an agreed order with, or accept an assurance of voluntary compliance from, the licensee that effectively satisfies the complaint.
- (5) The board may reconsider, modify, or reverse its decision regarding probation, suspension, or any other disciplinary action.
- (6) Upon proof substantiating that sexual contact occurred between a social worker licensed by the board and a client while the client was under the care of or in a professional relationship with the social worker, the social worker's license may be revoked or suspended with mandatory treatment of the social worker as prescribed by the board. The board may require the social worker to pay a specified amount for mental health services for the client which are needed as a result of the sexual contact.
- (7) The board may revoke the license of a social worker if the social worker has been convicted of a misdemeanor offense under KRS Chapter 510 involving a client or a felony offense under KRS Chapter 510, 530.064(1)(a),

or 531.310, or has been found to have had sexual contact as defined in KRS 510.010(7) with a client while the client was under the care of the social worker.

Section 63. KRS 421.350 is amended to read as follows:

- (1) This section applies only to a proceeding in the prosecution of an offense, including but not limited to an offense under KRS 510.040 to 510.150, 529.030 to 529.050, 529.070, 530.020, 530.060, 530.064(I)(a), 531.310, 531.320, 531.370, and all dependency proceedings pursuant to KRS Chapter 620, when the act is alleged to have been committed against a child twelve (12) years of age or younger, and applies to the statements or testimony of that child or another child who is twelve (12) years of age or younger who witnesses one of the offenses included in this subsection.
- (2) The court may, on the motion of the attorney for any party and upon a finding of compelling need, order that the testimony of the child be taken in a room other than the courtroom and be televised by closed circuit equipment in the courtroom to be viewed by the court and the finder of fact in the proceeding. Only the attorneys for the defendant and for the state, persons necessary to operate the equipment, and any person whose presence the court finds would contribute to the welfare and well-being of the child may be present in the room with the child during his testimony. Only the attorneys may question the child. The persons operating the equipment shall be confined to an adjacent room or behind a screen or mirror that permits them to see and hear the child during his testimony, but does not permit the child to see or hear them. The court shall permit the defendant to observe and hear the testimony of the child in person, but shall ensure that the child cannot hear or see the defendant.
- (3) The court may, on the motion of the attorney for any party and upon a finding of compelling need, order that the testimony of the child be taken outside the courtroom and be recorded for showing in the courtroom before the court and the finder of fact in the proceeding. Only those persons permitted to be present at the taking of testimony under subsection (3) of this section may be present during the taking of the child's testimony, and the persons operating the equipment shall be confined from the child's sight and hearing as provided by subsection (3) of this section. The court shall permit the defendant to observe and hear the testimony of the child in person, but shall ensure that the child cannot hear or see the defendant. The court shall also ensure that:
  - (a) The recording is both visual and oral and is recorded on film or videotape or by other electronic means;
  - (b) The recording equipment was capable of making an accurate recording, the operator was competent, and the recording is accurate and is not altered;
  - (c) Each voice on the recording is identified; and
  - (d) Each party is afforded an opportunity to view the recording before it is shown in the courtroom.
- (4) If the court orders the testimony of a child to be taken under subsection (2) or (3) of this section, the child may not be required to testify in court at the proceeding for which the testimony was taken.
- (5) For the purpose of subsections (2) and (3) of this section, "compelling need" is defined as the substantial probability that the child would be unable to reasonably communicate because of serious emotional distress produced by the defendant's presence.

Section 64. KRS 421.510 is amended to read as follows:

- (1) Where the victim is less than sixteen (16) years old and the crime is a sexual offense including violations of KRS 510.040 to 510.150, 530.020, 530.064(I)(a), 530.070, 531.310, 531.320, and 531.370, a speedy trial may be scheduled as provided in subsection (2) of this section.
- (2) The court, upon motion by the attorney for the Commonwealth for a speedy trial, shall set a hearing date on the motion within ten (10) days of the date of the motion. If the motion is granted, the trial shall be scheduled within ninety (90) days from the hearing date.
- (3) In ruling on any motion or other request for a delay or continuance of the proceedings, the court shall consider and give weight to any adverse impact the delay or continuance may have on the well-being of a child victim or witness.

Section 65. KRS 532.060 is amended to read as follows:

- (1) A sentence of imprisonment for a felony shall be an indeterminate sentence, the maximum of which shall be fixed within the limits provided by subsection (2), and subject to modification by the trial judge pursuant to KRS 532.070.
- (2) The authorized maximum terms of imprisonment for felonies are:
  - (a) For a Class A felony, not less than twenty (20) years nor more than fifty (50) years, or life imprisonment;
  - (b) For a Class B felony, not less than ten (10) years nor more than twenty (20) years;
  - (c) For a Class C felony, not less than five (5) years nor more than ten (10) years; and
  - (d) For a Class D felony, not less than one (1) year nor more than five (5) years.
- (3) For any felony specified in KRS Chapter 510, KRS 530.020, 530.064(1)(a), or 531.310, the sentence shall include an additional **five (5)**~~three (3)~~ year period of conditional discharge which shall be added to the maximum sentence rendered for the offense. During this period of conditional discharge, if a defendant violates the provisions of conditional discharge, the defendant may be reincarcerated for:
  - (a) The remaining period of his initial sentence, if any is remaining; and
  - (b) The entire period of conditional discharge, or if the initial sentence has been served, for the remaining period of conditional discharge.
- (4) The actual time of release within the maximum established by subsection (1), or as modified pursuant to KRS 532.070, shall be determined under procedures established elsewhere by law.

Section 66. KRS 635.505 is amended to read as follows:

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

- (1) The "treatment program" means a continuum of services provided in community and institutional settings designed to provide early intervention and treatment services for juvenile sexual offenders.
- (2) A "juvenile sexual offender" as used in this chapter means an individual who was at the time of the commission of the offense under the age of eighteen (18) years who is not actively psychotic or mentally retarded and who has been adjudicated guilty of or has been convicted of or pled guilty to:
  - (a) A felony under KRS Chapter 510;
  - (b) Any other felony committed in conjunction with a misdemeanor described in KRS Chapter 510;
  - (c) Any felony under KRS 506.010 when the crime attempted is a felony or misdemeanor described in KRS Chapter 510;
  - (d) An offense under KRS 530.020;
  - (e) An offense under KRS 530.064(1)(a);
  - (f) An offense under KRS 531.310; or
  - (g) A misdemeanor offense under KRS Chapter 510.
- (3) A "juvenile sexual offender assessment" means an assessment of the child's adolescent social development, medical history, educational history, legal history, family history, substance abuse history, sexual history, treatment history, and recent behaviors, which shall be prepared in order to assist the courts in determining whether the child should be declared a juvenile sexual offender, and to provide information regarding the risk for reoffending and recommendations for treatment.
- (4) "Mentally retarded" as used in this section means a juvenile with a full scale intelligent quotient of seventy (70) or below.

Section 67. KRS 635.545 is amended to read as follows:

- (1) The Department of Juvenile Justice shall maintain on file the names and identities of program participants for a period of fifteen (15) years following their participation in the program. The names and identities shall not be disclosed except for the purposes allowed in this section.

- (2) On a biennial basis, the Department of Juvenile Justice shall request from the Administrative Office of the Courts and the Kentucky State Police information concerning whether any of the individuals who participated in the program have been arrested, tried, convicted, or incarcerated for any offense under KRS Chapter 510, KRS 530.020, 530.064(1)(a), 531.310, or any other criminal offense.
- (3) Each two (2) years the Department of Juvenile Justice shall compile the information obtained and present it to the Governor, the Legislative Research Commission, and the Supreme Court. The report shall not contain the names of any of the individual participants but shall contain identifying information which may assist in the evaluation of the program and in determination of whether participants have engaged in further criminal behavior as juveniles or adults.

Section 68. KRS 610.320 is amended to read as follows:

- (1) A special record book shall be kept by the court for all cases, to be known as the "juvenile record," and the docket or calendar of such cases shall be called the "juvenile docket."
- (2) No probation officer, nor employee of a probation officer, shall, without the consent of the District Judge sitting in juvenile session, divulge or communicate to any persons other than the court, law enforcement, the Department of Juvenile Justice, an officer of the court interested in the case, a member of the advisory board of the court, or a representative of the cabinet, any information obtained pursuant to the discharge of his duties, nor shall any record of the action of the probation officer be made public except by leave of the District Judge; provided, that nothing in this subsection shall prohibit the probation officer from divulging or communicating such information to the court, to his colleagues or superiors in his own department, or to another probation officer having a direct interest in the record or social history of the child.
- (3) All law enforcement and court records regarding children who have not reached their eighteenth birthday shall not be opened to scrutiny by the public, except *that a separate public record shall be kept by the clerk of the court which shall be accessible to the public for* court records, limited to the petition, order of the adjudication, and disposition in juvenile delinquency proceedings concerning a child *who is fourteen (14) years of age or older at the time of the commission of the offense, and* who is adjudicated a juvenile delinquent for the commission of an offense that would constitute a capital offense or a Class A, B, or C felony if the juvenile were an adult, or any offense involving a deadly weapon, or an offense wherein a deadly weapon is used or displayed.
- (4) Release of the child's treatment, medical, mental, or psychological records is prohibited unless presented as evidence in Circuit Court. Release of any records resulting from the child's prior abuse and neglect under Title IV-E or Title IV-B of the Federal Social Security Act is also prohibited. Otherwise, the law enforcement records shall be made available to the child, family, guardian, or legal representative of the child involved. The records shall also be made available to the court, probation officers, prosecutors, the Department of Juvenile Justice, and law enforcement agencies or representatives of the cabinet. Records, limited to the child's adjudication of delinquency, and disposition of a criminal activity covered by KRS 610.345, shall also be made available to public or private elementary and secondary school administrative, transportation, and counseling personnel, and to any teacher to whose class the student has been assigned for instruction, subject to the provisions of KRS 610.340 and 610.345.
- ~~(5)(4)~~ Subject to the Kentucky Rules of Evidence, juvenile court records of adjudications of guilt of a child for an offense which would be a felony if committed by an adult shall be admissible in court at any time the child is tried as an adult, or after the child becomes an adult, at any subsequent criminal trial relating to that same person. Juvenile court records made available pursuant to this section may be used for impeachment purposes during a criminal trial, and may be used during the sentencing phase of a criminal trial. However, the fact that a juvenile has been adjudicated delinquent of an offense which would be a felony if the child had been an adult shall not be used in finding the child to be a persistent felony offender based upon that adjudication.
- ~~(6)(5)~~ This section shall not relieve the probation officer or peace officer from divulging such facts as a witness in a trial or hearing involving any cases falling under KRS Chapters 600 to 645 or the production of juvenile records for use in the trial or proceedings.
- ~~(7)(6)~~ This section shall not prohibit release of information regarding juvenile proceedings in the District Court which do not reveal the identity of the child or its parents or guardians, or which relate to the child's eligibility for services under Title IV-E or IV-B of the Federal Social Security Act. Release of the child's

treatment, medical, mental, or psychological records is prohibited unless presented as evidence in Circuit Court.

Section 69. KRS 610.340 is amended to read as follows:

- (1) (a) Unless a specific provision of KRS Chapters 600 to 645 specifies otherwise, all juvenile court records of any nature generated pursuant to KRS Chapters 600 to 645 by any agency or instrumentality, public or private, shall be deemed to be confidential and shall not be disclosed except to the child, parent, victims, or other persons authorized to attend a juvenile court hearing pursuant to KRS 610.070 unless ordered by the court for good cause.
- (b) Juvenile court records which contain information pertaining to arrests, petitions, adjudications, and dispositions of a child may be disclosed to victims or other persons authorized to attend a juvenile court hearing pursuant to KRS 610.070.
- (c) Release of the child's treatment, medical, mental, or psychological records is prohibited unless presented as evidence in Circuit Court. Any records resulting from the child's prior abuse and neglect under Title IV-E or Title IV-B of the Federal Social Security Act shall not be disclosed to victims or other persons authorized to attend a juvenile court hearing pursuant to KRS 610.070.
- (d) Victim access under this subsection to juvenile court records shall include access to records of adjudications that occurred prior to July 15, 1998.
- (2) The provisions of this section shall not apply to public officers or employees engaged in the investigation of and in the prosecution of cases under KRS Chapters 600 to 645 or other portions of the Kentucky Revised Statutes. ***Any record obtained pursuant to this subsection shall be used for official use only, shall not be disclosed publicly, and shall be exempt from disclosure under the Open Records Act, KRS 61.870 to 61.884.***
- (3) ***The provisions of this section shall not apply to any peace officer, as defined in KRS 446.010(24), who is engaged in the investigation or prosecution of cases under KRS Chapters 600 to 645 or other portions of the Kentucky Revised Statutes. Any record obtained pursuant to this subsection shall be used for official use only, shall not be disclosed publicly, and shall be exempt from disclosure under the Open Records Act, KRS 61.870 to 61.884.***
- (4) The provisions of this section shall not apply to employees of the Department of Juvenile Justice or cabinet or its designees responsible for any services under KRS Chapters 600 to 645 or to attorneys for parties involved in actions relating to KRS Chapters 600 to 645 or other prosecutions authorized by the Kentucky Revised Statutes.
- ~~(5)(4)~~ The provisions of this section shall not apply to records disclosed pursuant to KRS 610.320 or to public or private elementary and secondary school administrative, transportation, and counseling personnel, to any teacher or school employee with whom the student may come in contact, or to persons entitled to have juvenile records under KRS 610.345, if the possession and use of the records is in compliance with the provisions of KRS 610.345 and this section.
- ~~(6)(5)~~ No person, including school personnel, shall disclose any ***confidential*** record or any information contained therein except as permitted by this section or other specific section of KRS Chapters 600 to 645, or except as permitted by specific order of the court.
- ~~(7)(6)~~ No person, including school personnel, authorized to obtain records pursuant to KRS Chapters 600 to 645 shall obtain or attempt to obtain ***confidential*** records to which he is not entitled or for purposes for which he is not permitted to obtain them pursuant to KRS Chapters 600 to 645.
- ~~(8)(7)~~ No person, including school personnel, not authorized to obtain records pursuant to KRS Chapters 600 to 645 shall obtain or attempt to obtain records which are made confidential pursuant to KRS Chapters 600 to 645 except upon proper motion to a court of competent jurisdiction.
- ~~(9)(8)~~ No person shall destroy or attempt to destroy any record required to be kept pursuant to KRS Chapters 600 to 645 unless the destruction is permitted pursuant to KRS Chapters 600 to 645 and is authorized by the court upon proper motion and good cause for the destruction being shown.
- ~~(10)(9)~~ As used in this section the term "KRS Chapters 600 to 645" includes any administrative regulations which are lawfully promulgated pursuant to KRS Chapters 600 to 645.

Section 70. KRS 610.345 is amended to read as follows:



- (1) When a child is adjudicated guilty of an offense which classifies him or her as a youthful offender, the judge in the court in which the matter was tried shall direct the clerk to notify the superintendent of the public school district in which the child is enrolled or the principal of any private elementary or secondary school which the child attends of the adjudication and the petition and disposition of the case. The name of the complainant shall be deleted.~~[Upon written request of the authorized representative of the school district or the school,]~~ The court ***shall direct the appropriate prosecuting entity***~~[, if it deems it appropriate, may authorize the county attorney]~~ to give the school district or the school a statement of facts in the case. The superintendent shall notify the principal of the school in which the child is enrolled.
- (2) When a child is adjudicated guilty of an offense which would classify him or her as a violent offender under KRS 439.3401, or be a felony under KRS Chapter 218A, 508, 510, or 527 if committed by an adult, but which would not classify him or her as a youthful offender, the judge in the court in which the matter was tried shall direct the clerk to notify within five (5) days of the order the superintendent of the public school district in which the child is enrolled or the principal of any private elementary or secondary school which the child attends of the charge, the adjudication, and the disposition of the case. The name of the complainant shall be deleted.~~[Upon written request of the authorized representative of the school district or the school,]~~ The court ***shall***~~[, if it deems it appropriate, may]~~ authorize the county attorney to give the school district or the school a statement of facts in the case. The superintendent shall notify the principal of the school in which the child is enrolled.
- (3) When a petition is filed against a child, or a child is adjudicated guilty of an offense that would be a felony or misdemeanor if committed by an adult, and the misdemeanor involves a controlled substance or the possession, carrying, or use of a deadly weapon, or physical injury to another person, the judge in the court in which the matter is considered shall direct the clerk to notify the superintendent of the public school district in which the child is enrolled or the principal of any private elementary or secondary school that the child attends of the charge, the adjudication, and the disposition of the case. The notification shall be made within twenty-four (24) hours of the time when the petition is filed. The name of the complainant shall be deleted.~~[Upon written request of the authorized representative of the school district or the school,]~~ The court ***shall***~~[, if it deems it appropriate, may]~~ authorize the county attorney to give the school district or the school a statement of the facts in the case, not to include the complainant's name. If the petition is dismissed, all records of the incident or notification created in the school district or the school under this subsection shall be destroyed, and shall not be included in the child's school records.
- (4) Notice of adjudication to a district superintendent referenced in subsections~~[(1)]~~ (2)~~[(1)]~~ and (3) of this section shall be released by the superintendent to the principal. A principal of a public or private school receiving notice of adjudication shall release the information to employees of the school having responsibility for classroom instruction or counseling of the child and may release it to other school personnel as described in subsection (5) of this section, but the information shall otherwise be confidential and shall not be shared by school personnel with any other person or agency except as may otherwise be required by law. The notification in writing of the nature of the offense committed by the child and any probation requirements shall not become a part of the child's student record.
- (5) Records or information disclosed pursuant to this section shall be limited to records of that student's criminal petition and the disposition thereof covered by this section, shall be subject to the provisions of KRS 610.320 and 610.340, and shall not be disclosed to any other person, including school personnel, except to a district superintendent, public or private elementary and secondary school administrative, transportation, and counseling personnel, and to any teacher or school employee with whom the student may come in contact. This section shall not authorize the disclosure of any other juvenile record or information relating to the child.
- (6) The Department of Juvenile Justice shall provide a child's offense history information pursuant to this section to the superintendent of the local school district in which the child, who is committed to the department, is placed.
- (7) Records or information received by the school pursuant to this section shall be kept in a locked file, when not in use, to be opened only on permission of the administrator.

**Approved April 18, 2006**

## CHAPTER 183

(SB 45)

AN ACT relating to financial services.

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

SECTION 1. A NEW SECTION OF KRS CHAPTER 287 IS CREATED TO READ AS FOLLOWS:

- (1) *For purposes of this section, unless the context requires otherwise, "financial institution" means any person or entity operating in the Commonwealth of Kentucky, as permitted under the laws of this state, any other state, or the United States, as a bank, bank holding company, credit union, savings and loan association, or any wholly owned subsidiary thereof.*
- (2) *Except as provided in subsection (3) of this section, no person that is not a financial institution may use the trade name, trademark, service mark, logo, or symbol, or any combination thereof, of any financial institution, or any trade name, trademark, service mark, logo, or symbol, or any combination thereof, that is similar to the trade name, trademark, service mark, logo, or symbol of such a financial institution, in any marketing material, solicitation, or advertising provided or directed to another person in a manner such that a reasonable person may be confused, mistaken, or deceived that the marketing material, solicitation, or advertising originated from, is endorsed by, or has been consented to by the financial institution.*
- (3) *Subsection (2) of this section shall not apply to a person who uses the trade name, trademark, service mark, logo, or symbol of a financial institution with the written consent of the financial institution.*
- (4) *The financial institution whose trade name, trademark, service mark, logo, or symbol has been used in violation of this section, may institute an action in the Franklin Circuit Court or any court of competent jurisdiction against any person or entity in violation of subsection (2) of this section to enjoin a continuance of any activity in violation of subsection (2) of this section and, if injured thereby, for the recovery of damages at three (3) times the amount of any actual damages sustained and for civil penalties in the amount of one thousand dollars (\$1,000). It shall not be necessary that actual damages be alleged or proved in order to recover injunctive relief or civil penalties. The penalties prescribed by this subsection shall be cumulative.*

Section 2. KRS 287.010 is amended to read as follows:

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

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

- (11) "Undivided profits" means the composite of the bank's net retained earnings from current and prior years' operations;
- (12) "Capital stock" shall mean, at any particular time, the sum of:
  - (a) The par value of all shares of the corporation having a par value that have been issued;
  - (b) The amount of the consideration received by the corporation for all shares of the corporation that have been issued without par value except such part of the consideration as has been allocated to surplus in a manner permitted by law; and
  - (c) Such amounts not included in paragraphs (a) and (b) of this subsection as have been transferred to stated capital of the corporation, whether through the issuance of stock dividends, resolution of the bank's board of directors under applicable corporate law or otherwise by law;
- (13) "Surplus" means the amount of consideration received by the corporation for all shares issued without par value that has not been allocated to capital stock or the amount of consideration received by the corporation in excess of par value for all shares with a par value, or both;
- (14) "Municipality" means a county, city, or urban-county government;~~and~~
- (15) "Political subdivision" means a municipality, school district, or other municipal authority;
- (16) ***"Corporation" means either a for-profit corporation or limited liability company;***
- (17) ***"Share" means the shares of stock or the unit of equity into which the proprietary interests in a corporation are divided;***
- (18) ***"Stock" means the corporation's shares;***
- (19) ***"Stockholder" or "shareholder" means an owner of the corporation's shares;***
- (20) ***"Board of directors" means the governing body of a corporation elected or otherwise chosen by the shareholders, including the managers of a limited liability company;***
- (21) ***"Director" means a member of the board of directors;***
- (22) ***"Articles of incorporation" means the organizing documents of a corporation filed with the Secretary of State in accordance with KRS Chapter 271B or 275; and***
- (23) ***"Dividends" means a distribution of money, stock, or other property to shareholders of a corporation.***

Section 3. KRS 287.013 is amended to read as follows:

- (1) There is created a Financial Institutions Board. The board shall consist of twelve (12) members appointed by the Governor who shall serve terms of four (4) years, except the initial terms shall be established as hereafter provided. It is recommended that the board appointments made by the Governor be selected from the following:
  - (a) Three (3) members selected from the banking industry regulated by the office with appropriate recognition as to bank size and geographic diversity;
  - (b) Three (3) members selected from the broker/dealer securities industry regulated by the department;
  - (c) One (1) member selected from the credit union industry regulated by the department;
  - (d) One (1) member selected from the consumer finance or industrial loan industry regulated by the department;
  - (e) Three (3) members selected from the public at large who are knowledgeable concerning financial institutions, the legislative process and consumer interests, two (2) of whom are not employees, officers, or directors of any financial institution; and
  - (f) The executive director, who shall also serve as chairman of the board.
- (2) All members of the board from the banking industry, securities industry, credit union industry, consumer finance, or industrial loan industry shall be persons with practical experience in the industry so represented and currently serving at the executive level of that industry at the time of their appointment.

- (3) At the first meeting of the board, a drawing by lot shall be conducted to determine the length of each original member's term. Initially, there shall be four (4) four (4) year terms, five (5) three (3) year terms, and two (2) two (2) year terms. Vacancies in the membership of the board shall be filled in the same manner as original appointments. Appointments to fill vacancies occurring before the expiration of a term shall be for the remainder of the unexpired term.
- (4) No member of the board, other than the executive director, shall serve more than two (2) consecutive terms on the board.
- (5) The board shall first meet at the call of the Governor and thereafter as the ~~chairman~~~~board~~ shall determine~~but at least quarterly~~ at a time and place determined by the chairman. The board may elect other officers for the conduct of its business. A majority of board members shall constitute a quorum, and a decision shall require the majority vote of those present. Each board member shall have one (1) vote, and voting by proxy shall be prohibited.
- (6) Board members shall receive one hundred dollars (\$100) per diem for each board meeting which they attend and shall be reimbursed for other reasonable and necessary expenses incurred while engaged in carrying out the duties of the board.
- (7) The board shall:
  - (a) Prepare and submit at the Governor's request a list of candidates qualified to serve as executive director and recommend to the Governor a proposed salary for each nomination for executive director;
  - (b) Recommend to the Governor a proposed salary structure for other office staff in order to provide competitive salaries for recruitment and retention of staff;
  - (c) Receive and comment on various reports relating to the office and its activities as submitted to the board by the executive director or the Governor; and
  - (d) Review, consider and make recommendations to the executive director on any matters referred to the board by the executive director or the Governor.
- (8) In no event shall the board or its members interfere with the statutory duties of the executive director whose decisions shall be governed by law.

Section 4. KRS 287.040 is amended to read as follows:

- (1) Any five (5) or more persons may organize a banking corporation.
- (2) Any five (5) or more persons may organize a corporation for the purpose of conducting a trust business.
- (3) Any five (5) or more persons may organize a corporation for the purpose of conducting a combined banking and trust business.
- (4) The board of directors of a banking corporation, trust corporation, or combined bank and trust corporation shall be no less than the required number of **organizers**~~incorporators~~.

Section 5. KRS 287.050 is amended to read as follows:

- (1) Before filing the articles of incorporation of any financial institution mentioned in KRS 287.040, the **organizers**~~incorporators~~ shall present a copy of their proposed articles to the executive director who shall investigate the financial standing, moral character, and capability of each of the **organizers**~~incorporators~~ and proposed executive officers and directors, if known, and determine whether there is reasonable assurance of sufficient volume of business for the proposed corporation to be successful, and whether the public convenience and advantage will be promoted by the opening of the proposed corporation.
- (2) In the event that the institution for which a charter is sought is to be created solely for the purpose of effectuating a merger or consolidation to facilitate the formation of a bank holding company, the executive director may waive all or any part of the requirements of this chapter.
- (3) If the executive director determines that it is expedient and desirable to permit the proposed corporation to engage in business, he shall approve the articles of incorporation in writing, and the articles then may be filed and recorded as provided in the general corporation *or limited liability company* law.
- (4) All amendments to the articles of incorporation of any financial institution mentioned in KRS 287.040 shall be approved by the executive director before filing with the Secretary of State.

Section 6. KRS 287.065 is amended to read as follows:

~~{(1) A majority of the directors of any board must be residents of Kentucky during their term of office.}~~

~~(2) Each~~ director shall exercise such ordinary care and diligence as necessary and reasonable to administer the affairs of the bank in a safe and sound manner. In this regard, the bank shall furnish each director with a copy of an appropriate publication outlining the duties of a bank director and an updated copy of the Kentucky banking law, and maintain in the bank updated copies of federal banking laws, as determined by administrative regulations.

Section 7. KRS 287.102 is amended to read as follows:

- (1) As used in this section, a CAMEL rating means a system of rating used by examiners of financial institutions to rate the institutions in five (5) categories: capital adequacy, asset quality, management effectiveness, quantity and quality of earnings, and liquidity.
- (2) In addition to all other banking activities permitted by this chapter, a state bank receiving a CAMEL rating of 1 or 2 at its most recent state or federal bank regulatory examination may engage in any banking activity in which the bank could engage ***and is exempted from any statutes or administrative regulations which would be preempted*** if:
  - (a) It was operating as a national bank in ***Kentucky***~~[any state]~~;
  - (b) It was operating as a state bank, state thrift, or state savings bank in any state; or
  - (c) It meets the qualified thrift lender test as determined by the Office of Thrift Supervision or its successor, or was operating as a federally chartered thrift or federal savings bank in any state.
- (3) Before a state bank may engage in any of the banking activities permitted by subsection (2) of this section, the state bank shall obtain a legal opinion specifying the statutory or regulatory provisions that permit the activity in which the state bank intends to engage ***and the conditions under which such activity is allowed***. This legal opinion shall be maintained by the bank and provided to the office upon request.
- (4) ***This section shall not apply to exempt any laws which regulate Kentucky state banks pertaining to deferred deposit transactions in KRS Chapter 368, title pledge lending in KRS Chapter 368, visitorial or examination powers, and interest rates.***

Section 8. KRS 287.103 is amended to read as follows:

- (1) It is hereby declared to be the policy of the Commonwealth of Kentucky that the investment of funds, by a bank chartered under the laws of Kentucky or a national banking association having its principal office in Kentucky, in real and personal property as now or hereafter provided by this chapter, be recognized as a normal, proper, necessary, and integral part of the legitimate business of such state or national banks.
- (2) All property owned and held by a state or national bank under this section shall be deemed to be property that is proper and necessary for carrying out its legitimate business within the meaning of KRS Chapter 271B ***or 275***, or any section of the Kentucky Revised Statutes relating to escheat.

Section 9. KRS 287.280 is amended to read as follows:

- (1) ***Except as provided in subsection (2) of this section***, no bank or trust company shall permit any person to become indebted to it or to become obligated as guarantor or surety to it in an amount exceeding twenty per cent (20%) of its capital stock actually paid in and its actual amount of surplus, unless the person pledges with it good collateral security or executes to it a mortgage upon real or personal property which at the time is of more than the cash value of the indebtedness or obligation above all other encumbrances; but the indebtedness or obligation of any person shall not exceed thirty percent (30%) of the paid-in capital and actual surplus of the bank or trust company.
- (2) ***A bank organized as a limited liability company shall not be covered by subsection (1) of this section, but shall comply with the legal lending limits applicable to national banks set forth in 12 U.S.C. sec. 84 and 12 C.F.R. sec. 32.4, as may be amended.***
- (3) No bank or trust company shall permit any of its directors or executive officers to become indebted to it or become obligated as guarantor or surety to it in an amount which exceeds that which any other person is authorized by this section to become indebted or obligated.

~~(4)(3)~~ In computing the indebtedness of any person, the liability of any partnership in which the person acts as a general partner shall be included, and any obligation entered into for the benefit of a person, partnership or association shall be included in the total liabilities of the person, partnership or association.

~~(5)(4)~~ Except as otherwise provided in this section, the same security, both in kind and amount, shall be required from stockholders as from nonstockholders.

~~(6)(5)~~ The discount of bills of exchange drawn against actually existing value, and the purchase or discounting of commercial or business paper actually owned by the person negotiating the paper shall not be considered as borrowed money within the meaning of this section in fixing the limit of indebtedness or obligation of any person selling or negotiating the paper to a bank.

Section 10. KRS 287.350 is amended to read as follows:

- (1) The board of directors of any bank or trust company organized under the laws of this state may declare a dividend of so much of the net profits as they deem expedient. The net profits shall be computed by deducting all expenses, losses, and interest and taxes accrued or due from the bank.
- ~~(2) Before any dividend is declared, other than upon its preferred stock, not less than ten percent (10%) of the net profits of the bank for the period covered by the dividend applicable to its common stock shall be carried to its surplus fund until such surplus fund amounts to a sum equal to the amount of its common capital stock.~~
- ~~(3)~~ The approval of the executive director shall be required if the total of all dividends declared by such institution in any calendar year shall exceed the total of its net profits of that year combined with its retained net profits of the preceding two (2) years, less any required transfers to surplus or a fund for the retirement of preferred stock or debt.

Section 11. KRS 287.450 is amended to read as follows:

- (1) Every state bank, branch of an out-of-state state bank, or trust company doing business under the laws of this state shall be subject to inspection by the executive director or by an examiner appointed by the executive director. Examination shall be made of each institution at least once every twenty-four (24) months, unless other examinations are accepted as provided in subsections (3), (4), and (5) of this section, and not more than twice unless it appears from examination or from the reports of the institution that it has failed to comply with laws or regulations relating to banks or trust companies, or has engaged in unsafe or unsound banking practices.
- (2) The executive director, deputy director, and each examiner may compel the appearance of any person for the purpose of the examination, which shall be made in the presence of one (1) of the officers of the institution being examined.
- (3) Any bank that becomes a member of a Federal Reserve Bank shall be subject to the examination required by the Federal Reserve Act, (38 Stat. 251) as amended, and the executive director may, in his discretion, accept examinations made by the Federal Reserve authorities in lieu of examinations made under state laws. The executive director shall furnish to the Federal Reserve agent of the district in which the member bank is situated, copies of reports and examinations made of the member bank.
- (4) The executive director may, in his discretion, accept examinations made by the Federal Deposit Insurance Corporation in lieu of examinations made under state laws.
- (5) The executive director may, in his discretion, enter into cooperative, coordinating, and information-sharing agreements with any other bank supervisory agencies or any organization affiliated with or representing one (1) or more bank supervisory agencies with respect to the periodic examination or other supervision of any branch of an out-of-state state bank, or any branch of a state bank in any host state. The executive director may accept reports of examinations and reports of investigation from other bank supervisory agencies and home state regulators in lieu of examinations made under state law. The executive director may enter into joint examinations or joint enforcement actions with other bank supervisory agencies having concurrent jurisdiction over any **bank, bank holding company**, branch of an out-of-state state bank or any branch of a state bank located in any host state. Information produced or provided under this section shall be considered confidential as provided in KRS 287.470.

Section 12. KRS 287.480 is amended to read as follows:

- (1) The following fees shall be paid to the executive director by corporations engaged in a banking or trust business:

- (a) For the investigation incident to the approval of articles of incorporation, applications for branch banks and loan production offices, and applications to relocate a main or branch office, the fee shall be sufficient to cover the cost of the investigation based upon fair compensation for time and actual expense;
  - (b) For each state bank and branch of an out-of-state state bank subject to inspection and examination by the executive director, an annual assessment based on the assets of the banks and branches, other than assets held by it in a fiduciary capacity, as reported to the office by the banks and branches as of the thirty-first day of December of the previous year. The assessment schedule shall be at the rates the executive director shall determine to be necessary to carry out the duties of the office and shall be reasonably related to the costs incurred by the office in regulating banks and branches. The assessment schedule shall be set by administrative regulation;
  - (c) For the examination of the assets held by the institution in a fiduciary capacity, the fee shall be sufficient to cover the cost of the investigation based upon fair compensation for time and actual expense. The executive director may accept examinations made of the trust department in combined banks and trust companies by examiners for the Federal Reserve System, Federal Deposit Insurance Corporation, or a certified public accountant; and
  - (d) Extraordinary services performed, in addition to examinations, for any financial institution, including institutions in liquidation under the supervision of the executive director, shall be paid for by the institution upon the basis of fair compensation for time and actual expense.
- (2) The executive director, in his discretion, may enter into cooperative agreements with other bank supervisory agencies having concurrent jurisdiction over any **bank, bank holding company**, branch of an out-of-state state bank or any branch of a state bank located in any host state, or any organization affiliated with one (1) or more bank supervisory agencies for the collection, remittance, and sharing of fees authorized in subsection (1) of this section.

Section 13. KRS 287.820 is amended to read as follows:

- (1) For the purpose of this section:
  - (a) "Loan production office" means a bank office located at a place other than the principal or branch office, at which bank employees solicit and originate loans for final approval and disbursement of funds at the principal or branch office; and
  - (b) "Disbursement of funds" is the process by which a bank officer in a principal or branch office issues a negotiable instrument at the principal or branch office.
- (2) ***A bank, except for a bank that the executive director may designate by the promulgation of administrative regulations, shall apply to the executive director for permission to establish a loan production office.*** ~~No bank shall operate a loan production office without prior approval of the executive director.~~ The executive director shall approve the application unless he finds that:
  - (a) The proposed operation of the loan production office is not in accordance with this section;
  - (b) The financial standing, moral character, and capability of the bank and its management which proposes to operate a loan production office will jeopardize the financial stability of the bank;
  - (c) There is no reasonable assurance of sufficient volume of business for the proposed loan production office to be successful; and
  - (d) The public convenience and advantage will not be promoted by the opening of the proposed loan production office.
- (3) All extensions of credit originated in a loan production office shall be in accordance with disclosure provisions, usury rates, and other fees and charges authorized by law for banks.
- (4) Loan production offices shall not accept deposits or conduct any other banking functions except those enumerated in paragraph (a) of subsection (1) of this section.
- (5) The executive director may examine the operations of any loan production office for the purpose of determining that the scope of its activities does not exceed that allowed in this section. Banks operating loan

production offices shall maintain copies of records relating to extensions of credit originated in loan production offices at the principal office for examination purposes.

- (6) The application and appeal process set forth in KRS Chapter 13B and the cease and desist powers of the executive director set forth in KRS 287.690 shall apply to loan production offices.

Section 14. KRS 287.990 is amended to read as follows:

- (1) Any person who violates subsection (2) of KRS 287.030 may be fined not less than five hundred dollars (\$500) nor more than one thousand dollars (\$1,000) for each day he is engaged in the private banking business.
- (2) Any institution that fails to make the report required by KRS 287.420 to the executive director within five (5) days after the report is due or demanded, or that fails to have the report published as required by KRS 287.420, may be assessed and, if assessed, shall pay a penalty of two hundred dollars (\$200).
- (3) If any person violates subsection (3) of KRS 287.440 his office shall ipso facto become vacant. The president or cashier of any bank or trust company to which any person becomes indebted in violation of subsection (3) of KRS 287.440 shall immediately report such fact to the executive director, who may remove the person so offending.
- (4) Any receiver of an insolvent institution who fails to comply with the provisions of this chapter shall be subject to the same penalties provided for solvent institutions and officers so offending.
- (5) Any directors of a bank who knowingly violate, or knowingly permit any officer or employee of the bank to violate, any of the laws relating to banks, shall be jointly and severally liable to the creditors and stockholders for any loss or damage resulting from such violation. If the loss or damage is not made good within a reasonable time, the executive director, with the consent of the Attorney General, shall institute proceedings to revoke the corporate powers of the bank.
- (6) Any deputy director or any examiner who has knowledge of the insolvency or unsafe condition of a state bank or trust company, or that it is inexpedient to permit the bank or trust company to continue business, and who fails to immediately present a signed report of such facts to the executive director, or who violates any of the provisions of this chapter, shall forfeit his office and shall be fined not less than one hundred (\$100) nor more than two thousand dollars (\$2,000) for each offense.
- (7) Any executive director who has knowledge of the insolvency or unsafe condition of a state bank or trust company, or that it is inexpedient to permit the bank or trust company to continue business, and who willfully fails to take the action prescribed by this chapter, or who violates any of the provisions of this chapter, shall forfeit his office and shall be fined not less than five hundred (\$500) nor more than five thousand dollars (\$5,000) for each offense.
- (8) Any bank or trust company that knowingly fails to make a report required by law or by the executive director within the time designated for the making thereof, or fails to include in such report any matter required by law or by the executive director, or fails to publish a report within thirty (30) days after it should have been published, or fails to pay when due the fees for filing reports or for an examination of the bank, shall be subject to a penalty of one hundred dollars (\$100) for each day of delinquency, but the aggregate penalty for each kind of offense shall not exceed one thousand dollars (\$1,000).
- (9) Each person, bank, or trust company that willfully makes or transmits a false report or refuses to submit its books, papers, and assets for examination, or any officer of a bank who refuses to be examined under oath concerning the affairs of the bank, shall be severally fined not less than five hundred dollars (\$500) nor more than five thousand dollars (\$5,000).
- (10) Whenever any fine imposed by subsection (1), (2), (4), (6), (7), (8), (9), (15), (16), (17), or (18) of this section is not paid, the Attorney General shall institute an action, in the name of the state, in the Franklin Circuit Court or the Circuit Court of the county in which the offense was committed, for the recovery of the fine.
- (11) Any person violating any of the provisions of KRS 287.225 shall be guilty of a misdemeanor and fined not less than fifty dollars (\$50) nor more than two thousand dollars (\$2,000).
- (12) Any person who willfully makes charges in excess of those permitted by KRS 287.720 to 287.770 shall be guilty of a misdemeanor and upon conviction shall be punished by a fine not exceeding five hundred dollars (\$500) or by imprisonment for not more than six (6) months, or both.



- (13) Any bank which violates any provision of KRS 287.720 to 287.770, except as a result of an accidental or bona fide error, shall be barred from the recovery of any finance charges permitted by KRS 287.740 and 287.750, and the debtor, or his legal representatives, may recover back, in an action against the bank, any amounts paid to the bank on account of such finance charge; provided such action is commenced within two (2) years from the date such violation first occurred; but the bank may nevertheless recover from the debtor an amount equal to the principal of extensions of credit made pursuant to a revolving credit plan and any charges not prohibited by KRS 287.760.
- (14) Notwithstanding the provisions of subsections (12) and (13) of this section, any failure, other than a willful and intentional failure, to comply with any provisions of KRS 287.710 to 287.770 may be corrected during the billing cycle next succeeding the receipt by the bank of written notice thereof from the debtor, and if so corrected, the bank shall not be subject to any penalty under KRS 287.710 to 287.770.
- (15) Any bank or trust company which violates or any officer, director, employee, agent, or other person participating in the conduct of the affairs of a bank who violates the terms of any order issued under KRS 287.690 which has become final shall forfeit and pay a fine of not more than one thousand dollars (\$1,000) per day for each day such violation continues. The fine shall be assessed by the executive director by written notice. As used in this subsection, the term "violates" includes any action causing, participating in, counseling, aiding, or abetting a violation. In determining the amount of the fine the executive director shall consider the financial resources and good faith of the bank or person charged, the gravity of the violation, the history of previous violations and such other factors as justice requires.
- (16) Any bank which violates the provisions of KRS 287.065~~-(2)~~ may be fined not less than one hundred dollars (\$100) nor more than five hundred dollars (\$500). The fines may be assessed by the executive director by written notice.
- (17) Any bank which violates any provisions of KRS 287.100(10) may be fined not less than one thousand dollars (\$1,000) nor more than two thousand dollars (\$2,000) for the first violation, and may be fined not less than two thousand dollars (\$2,000) nor more than five thousand dollars (\$5,000) for any subsequent violations.
- (18) Any officer or director who violates the provisions of KRS 287.280(1) *or* (2) may be fined not less than one hundred dollars (\$100) nor more than five hundred dollars (\$500) for each violation, and any officer or director who violates the provisions of KRS 287.280(3)~~-(2)~~ may be fined not less than five hundred dollars (\$500) nor more than two thousand dollars (\$2,000) for each violation. The fine may be assessed by the executive director by written notice.

Section 15. KRS 425.501 is amended to read as follows:

- (1) Any person in whose favor a final judgment in personam has been entered in any court of record of this state may, upon the filing of an affidavit by him or his agent or attorney in the office of the clerk of the court in which the judgment was entered, and in the same cause in which said judgment was obtained showing the date of the judgment and the amount due thereon, and that one (1) or more named persons hold property belonging to, or are indebted to, the judgment debtor, obtain an order of garnishment to be served in accordance with the Rules of Civil Procedure.
- (2) The judgment plaintiff shall not be required to execute bond to obtain the order.
- (3) The order of garnishment shall be served on the persons named as garnishees, and in addition a copy thereof shall be delivered by the garnishee to the judgment debtor or mailed to him at his last known address, ***along with a processing fee in the amount of ten dollars (\$10) paid by the judgment plaintiff. The processing fee may be retained by the garnishee regardless of whether the court finds that the garnishee was or was not, at the time of service of the order upon him, possessed of any property of the judgment debtor.***
- (4) The judgment debtor may appear and claim the exemption of any property or debt that is exempt from execution, and on proof of exemption the garnishment shall be discharged as to the exempt property or debt.
- (5) If the court finds that the garnishee was, at the time of service of the order upon him, possessed of any property of the judgment debtor, or was indebted to him, and the property or debt is not exempt from execution, the court shall order the property or the proceeds of the debt applied upon the judgment.
- (6) Subsequent orders of garnishment against the same or other garnishees may be issued in the same manner until the judgment is satisfied.

- (7) The provisions of KRS Chapter 427 shall, as far as applicable, govern proceedings under the order.
- (8) The order of garnishment shall be served in accordance with the Rules of Civil Procedure. It shall summon the garnishees to answer in the action in the manner and at the time required for an answer by the Rules of Civil Procedure, and to make due return thereof.

Section 16. KRS 382.270 is amended to read as follows:

No deed or deed of trust or mortgage conveying a legal or equitable title to real property shall be ***lodged for record and, thus***, valid against a purchaser for a valuable consideration, without notice thereof, or against creditors, until such deed or mortgage is acknowledged or proved according to law ~~and lodged for record~~. ***However, if a deed or deed of trust or mortgage conveying a legal or equitable title to real property is not so acknowledged or proved according to law, but is or has been, prior to the effective date of this Act, otherwise lodged for record, such deed or deed of trust or mortgage conveying a legal or equitable title to real property or creating a mortgage lien on real property shall be deemed to be validly lodged for record for purposes of KRS Chapter 382, and all interested parties shall be on constructive notice of the contents thereof.*** As used in this section "creditors" includes all creditors irrespective of whether or not they have acquired a lien by legal or equitable proceedings or by voluntary conveyance.

Section 17. KRS 382.360 is amended to read as follows:

- (1) Liens by deed or mortgage may be discharged by an entry acknowledging their satisfaction on the margin of the record thereof, or in the alternative, at the option of the county clerk, in a marginal entry record, signed by the person entitled thereto, or his ***or her*** personal representative ***or agent***, and attested by the clerk, or may be discharged by a separate deed of release, which shall recite the date of the instrument and deed book and the page wherein it is recorded. Such release in the case of a mortgage or deed of trust shall have the effect to reinstate the title in the mortgagor or grantor or person entitled thereto. Each entry in the marginal entry record shall be linked to its respective referenced instrument in the indexing system for the referenced instruments.
- (2) If a lien or mortgage is released by a deed of release, the clerk shall immediately, at the option of the clerk, either link the release and its filing location to its respective referenced instrument in the indexing system for the referenced instrument, or endorse on the margin of the record wherein the lien is retained "Released by deed of release (stating whether in whole or in part) lodged for record (giving date, deed book and page wherein such deed of release may be found)" and the clerk shall also attest such certificate. ***The clerk shall cause the original deed of release to be delivered to the mortgagor or grantor or person entitled thereto.***
- (3) ***When a mortgage is assigned to another person, the assignee shall file the assignment for recording with the county clerk within thirty (30) days of the assignment and the county clerk shall attest the assignment and shall note the assignment in the blank space, or in a marginal entry record, beside a listing of the book and page of the document being assigned. Provided, however, that an assignee that reassigns the note prior to the thirtieth day after first acquiring the assignment may request that the subsequent assignee file the unfiled assignment with the new reassignment.***
- (4) ***Delivering an assignment to the assignee or a lien release to the mortgagor shall not substitute for filing the assignment or release with the county clerk, as required by this section.***
- (5) ***Notwithstanding the provisions of this section, nothing in this chapter shall require the legal holder of any note secured by lien in any deed or mortgage to file a release of any mortgage when the mortgage securing such paid note also secures a note or other obligation which remains unpaid.***
- (6) ***Failure of an assignee to record a mortgage assignment shall not affect the validity or perfection, or invalidity or lack of perfection, of a mortgage lien under applicable law.***

Section 18. KRS 382.365 is amended to read as follows:

- (1) A holder of a lien on real property, including a lien provided for in KRS 376.010, shall release the lien in the county clerk's office where the lien is recorded within thirty (30) days from the date of satisfaction.
- (2) ***An assignee of a lien on real property shall record the assignment in the county clerk's office as required by Section 17 of this Act. Failure of an assignee to record a mortgage assignment shall not affect the validity or perfection, or invalidity or lack of perfection, of a mortgage lien under applicable law.***
- (3) A proceeding may be filed by any owner of real property or any party acquiring an interest in the real property in District Court or Circuit Court against a lienholder that violates subsection (1) ***or (2)*** of this section. A proceeding filed under this section shall be given precedence over other matters pending before the court.

~~(4)(3)~~ Upon proof to the court of the lien being satisfied *by payment in full to the final lienholder or final assignee*, the court shall enter a judgment *noting the identity of the final lienholder or final assignee and authorizing and directing the master commissioner of the court to execute and file with the county clerk the requisite release or assignments or both, as appropriate*~~[releasing the lien]~~. The judgment shall be with costs including a reasonable attorney's fee. If the court finds that the lienholder received written notice of its failure to release and lacked good cause for not releasing the lien, the lienholder shall be liable to the owner of the real property *or to a party with an interest in the real property* in the amount of one hundred dollars (\$100) per day for each day, beginning on the fifteenth day after receipt of the written notice, of the violation for which good cause did not exist. *This written notice shall be properly addressed and sent by certified mail or delivered in person to the final lienholder or final assignee as follows:*

- (a) *For a corporation, to an officer at the lienholder's principal address or to an agent for process located in Kentucky; however, if the corporation is a foreign corporation and has not appointed an agent for process in Kentucky, then to the agent for process in the state of domicile of the corporation;*
- (b) *For an individual, to the individual at the address shown on the mortgage, at the lienholder's residence or place of business, or at an address to which the lienholder has directed that correspondence or payoff be sent;*
- (c) *For a trust or an estate, to a fiduciary at the address shown on the mortgage or at an address to which the lienholder has directed that correspondence or payoff be sent; and*
- (d) *For any other entity, including but not limited to, limited liability companies, partnerships, limited partnerships, limited liability partnerships, and associations, to an officer, partner, or member at the entity's principal place of business or to an agent for process.*

~~(5)(4)~~ A lienholder that continues to fail to release a satisfied real estate lien, without good cause, within forty-five (45) days from the date of written notice shall be liable to the owner of the real property *or to a party with an interest in the real property* for an additional four hundred dollars (\$400) per day for each day for which good cause did not exist after the forty-fifth day from the date of written notice, for a total of five hundred dollars (\$500) per day for each day for which good cause did not exist after the forty-fifth day from the date of written notice. The lienholder shall also be liable for any actual expense including a reasonable attorney's fee incurred by the owner *or a party with an interest in the real property* in securing the release of real property by such violation *and in securing an award of damages. Damages under this subsection for failure to record an assignment pursuant to subsection (3) of Section 17 of this Act shall not exceed three (3) times the actual damages, plus attorney's fees and court costs, but in no event less than five hundred dollars (\$500).*

~~(6)(5)~~ The former holder of a lien on real property shall send by regular mail a copy of the lien release to the property owner at his *or her* last known address within seven (7) days of the release. A former lienholder that violates this subsection shall be liable to the owner of the real property for fifty dollars (\$50) and any actual expense incurred by the owner in obtaining documentation of the lien release.

~~(7)(6)~~ For the purposes of this section, "date of satisfaction" means that date of receipt by a holder of a lien on real property of a sum of money in the form of a certified check, cashier's check, wired transferred funds, or other form of payment satisfactory to the lienholder that is sufficient to pay the principal, interest, and other costs owing on the obligation that is secured by the lien on the property.

~~(8)(7)~~ The provisions of this section shall not apply when a lienholder is deceased and the estate of the lienholder has not been settled.

~~(9)(8)~~ The state licensing agency, if applicable, or any holder of a lien on real property shall be notified of the disposition of any actions brought under this section against the lienholder.

~~(10)(9)~~ The provisions of this section shall be held and construed as ancillary and supplemental to any other remedy provided by law.

(11) *If more than one (1) owner or party with an interest in the real property brings an action to recover damages under this section, any statutory damages shall be allocated equally among recovering parties in the absence of agreement otherwise among said parties. The entry of a judgment awarding damages shall bar a subsequent action by any other person or entity to recover damages for the same violation.*

SECTION 19. A NEW SECTION OF KRS CHAPTER 382 IS CREATED TO READ AS FOLLOWS:

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*A recorded mortgage may be amended by an affidavit of amendment prepared by an attorney to correct clerical errors or omitted information. An amendment may not change any term, dollar amount, or interest rate in the mortgage, unless signed by the mortgagor and secured party. The attorney preparing the affidavit shall certify in the affidavit that notice of filing the amendment has been given to the mortgagor by mailing a copy of the amendment to the mortgagor at the address shown on the original mortgage. A subsequent release of the mortgage releases any amendments to the original mortgage.*

SECTION 20. A NEW SECTION OF KRS CHAPTER 382 IS CREATED TO READ AS FOLLOWS:

*Any party to a deed or the attorney who prepared the deed or other persons with personal knowledge may execute and file with the county clerk his or her affidavit to correct or supplement information regarding the marital status of any party to a deed, or to supplement or correct information contained in or absent from the acknowledgment or notary portion of a deed, and for no other purpose. Nothing in this section is intended to replace any existing statutory requirement regarding the execution and filing of deeds. The affidavit shall contain the name, address, and signature of the person who prepared the instrument as required by KRS 382.335.*

Approved April 21, 2006.

## CHAPTER 184

(HB 299)

AN ACT relating to energy independence.

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

SECTION 1. A NEW SECTION OF KRS CHAPTER 152 IS CREATED TO READ AS FOLLOWS:

*The General Assembly finds and determines that:*

- (1) The United States currently imports almost sixty percent (60%) of its petroleum needs and nearly half of these imports come from highly unstable regions and countries. It is projected that this percentage will grow to over seventy percent (70%) by 2025 unless the United States changes its policy on producing liquid fuels.*
- (2) Events in the Middle East, Africa, and South America, coupled with China's efforts to secure world oil reserves and production facilities, demonstrate that increasing reliance on foreign sources of petroleum threatens the homeland security of the United States. America's military is increasingly looking at the potential of alternate liquid fuels produced from fossil energy resources or agricultural materials as a reliable, secure source of fuel.*
- (3) Petroleum imports are the single largest cause of the nation's negative balance of trade with the rest of the world and are a major cause of inflation and economic slowdown.*
- (4) Experts project that world oil prices will remain very high because production is at or near its peak while world demand for oil is increasing rapidly. This increase in demand is due largely to economic growth in developing nations, especially China, where oil demand grew by twenty percent (20%) in 2004 and is expected to grow by a similar amount in 2005.*
- (5) The price of crude oil is the major factor driving up prices for gasoline as well as for oil used for home heating in addition to commercial and industrial purposes. Natural gas for home heating and other purposes has been driven to record-high prices as a result of supply constriction and increased demand from the industrial sector.*
- (6) Technologies have long existed for producing transportation fuels from indigenous fossil and biomass energy resources in the United States, and research has demonstrated that coal-based alternate fuel technologies are cost-effective when the world price of petroleum exceeds thirty-five dollars (\$35) per barrel.*
- (7) The United States has trillions of tons of indigenous fossil energy resources and agricultural capacity that rival total worldwide conventional oil reserves. These domestic resources are capable of producing alternate transportation fuels sufficient to make the United States independent of foreign petroleum imports. Kentucky has hundreds of years of fossil energy resources, and the Commonwealth's agriculture produces substantial biomass materials for production of premium-quality liquid transportation fuels.*

- (8) *The development of an alternate transportation fuels industry in the United States will create long-term reliable demand for Kentucky's energy and agricultural resources, stabilizing both the energy industries and the agriculture community.*
- (9) *Coal-based alternate transportation fuel technologies are capable of producing environmentally superior transportation fuels from near-zero-emission plants with removal or capture of virtually all pollutants including sulfur dioxide, nitrous oxides, mercury, and carbon dioxide, and from biomass-based technologies that are very environmentally positive. The United States can set an example for the world by implementing these technologies and Kentucky is poised to lead the way.*
- (10) *Coal-based technologies in the United States are capable of producing pipeline-quality natural gas and industrial-quality natural gas at prices which are below current annual market prices for natural gas.*
- (11) *Kentucky's universities have for several decades been among the leading entities in the United States doing research on transportation fuels from coal and oil shale. The Kentucky Department of Agriculture has provided support relating to development of transportation fuels from Kentucky agricultural materials.*
- (12) *Although developing an alternate fuels industry capable of reducing America's dependence on foreign sources of petroleum requires the large-scale financial and technical resources of the federal government and private industry, only government and industry in the states can ensure the most efficient and productive on-site joining of technologies, energy resources, industrial and transportation infrastructure.*
- (13) *The economic, national security, and environmental advantages of establishing thriving domestic alternative liquid fuels and synthetic natural gas industries vastly outweigh the development costs. In contrast, doing little or nothing subjects America to continued and repeated energy supply disruptions and to potentially severe economic consequences.*
- (14) *Embarking on a national mission to achieve energy security and move toward liquid and synthetic fuels independence will not only reduce risk and lower oil prices, natural gas prices, and oil price volatility, it will also facilitate an industrial rebirth, create jobs, foster new technology, and enhance economic growth.*
- (15) *Kentucky, through its universities, has done the research and testing of these environmentally responsible alternative liquid fuel technologies. Kentucky has the natural resources to be the leader in achieving energy security and independence for the United States.*

SECTION 2. A NEW SECTION OF KRS CHAPTER 152 IS CREATED TO READ AS FOLLOWS:

*As used in Sections 1 to 4 of this Act, unless the context requires otherwise:*

- (1) *"Alternate transportation fuels" means transportation fuels produced by processes that convert coal or biomass resources or extract oil from oil shale to produce fuels for powering vehicles, aircraft and machinery. Alternate transportation fuels may include but are not limited to petroleum, jet fuel, gasoline, diesel fuel, hydrogen derived from coal, and diesel fuel and ethanol derived from biomass;*
- (2) *"Synthetic natural gas" means pipeline quality or industrial quality natural gas produced from coal through gasification processes;*
- (3) *"Fossil energy resources" means reserves of coal, oil shale, and natural gas; and*
- (4) *"Biomass resources" means agricultural materials that may be used for production of transportation fuels such as biodiesel or ethanol or that may themselves be used as a fuel, alone or in combination with a fossil fuel, for generation of electricity.*

SECTION 3. A NEW SECTION OF KRS CHAPTER 152 IS CREATED TO READ AS FOLLOWS:

*To ensure that Kentucky will lead the states in securing the energy independence of the United States and will consequently benefit from economic growth and stabilization of the Commonwealth's coal industry and agriculture, the Kentucky Office of Energy Policy shall develop and implement a strategy for production of transportation fuels and synthetic natural gas from fossil energy resources and biomass resources. The strategy shall address:*

- (1) *Technologies available or in use for producing transportation fuels and synthetic natural gas from fossil energy resources and biomass resources and the relative advantages of these in terms of process efficiencies, environmental performance, and marketable products including chemicals, industrial feedstocks, and electricity;*

- (2) *Research, demonstration, and commercial-scale construction and operation of one or more technologies, and follow-up expansion;*
- (3) *The essential nature of efficient cooperation, coordination, and synergy between the efforts of the Office of Energy Policy and those of Kentucky's universities in order to maximize Kentucky's opportunities to tap federal funding streams and receive research grants and awards from federal and other sources funding the development of clean coal technology, coal-to-liquid-fuel conversion, synthetic natural gas, alternate transportation fuels, and biomass energy resources;*
- (4) *Federal funds for research, development, construction, and operation of alternate fuels or synthetic natural gas plants at laboratory, demonstration, and commercial scale;*
- (5) *Establishment of a major federal energy research laboratory in Kentucky;*
- (6) *Industry participation, both by single firms and by consortia, in research, development, construction, and operation of alternate transportation fuels or synthetic natural gas plants;*
- (7) *Establishment or expansion of Kentucky state government incentives for development, construction, or operation of alternate transportation fuels and synthetic natural gas production facilities, including but not limited to financial incentives, tax incentives, mandating or providing incentives for use of alternate transportation fuels and synthetic natural gas by state government, school districts, or utilities, authority to issue bonds, and acquisition and preliminary environmental assessment of industrial sites; and*
- (8) *Development of incentives to encourage energy conservation and renewable fuel and energy use and deployment including solar, wind, hydro, and other sources. State incentives should mirror those established at the federal level.*

SECTION 4. A NEW SECTION OF KRS CHAPTER 152 IS CREATED TO READ AS FOLLOWS:

*On or before December 1, 2006 and every three (3) months thereafter, the Kentucky Office of Energy Policy shall report to the Governor and the Special Subcommittee on Energy its findings and any further legislative recommendations needed to implement the strategy defined in Sections 1 to 4 of this Act.*

SECTION 5. A NEW SECTION OF KRS CHAPTER 45A IS CREATED TO READ AS FOLLOWS:

- (1) *On every bid for new construction or for upgrading existing facilities that is solicited under this chapter, the Finance and Administration Cabinet shall require, where feasible, a life-cycle cost comparison of at least two (2) types of energy-efficient heating, ventilation, and air conditioning (HVAC) equipment, including geothermal equipment when feasible.*
- (2) *The Finance and Administration Cabinet shall give particular consideration in the awarding of a contract to energy-efficient HVAC equipment, including geothermal equipment when feasible, having a lower or lowest life-cycle cost, all other factors being equal.*

Section 6. This Act shall be known as the Kentucky Energy Security National Leadership Act.

**Approved April 21, 2006.**

## CHAPTER 185

(SB 200)

AN ACT relating to mine safety.

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

SECTION 1. A NEW SECTION OF KRS CHAPTER 352 IS CREATED TO READ AS FOLLOWS:

- (1) *Effective September 1, 2006, each licensed underground facility shall provide telephone service or equivalent two-way communication facilities, approved by the executive director or his authorized representative, between the surface of each landing of main shafts and slopes, and between the surface and each working section that is more than one hundred (100) feet from a portal. Implementation of telephone or equivalent two-way communication facilities shall be subject to the following provisions:*
  - (a) *Telephones or equivalent two-way communications facilities provided at each working section shall be located not more than five hundred (500) feet outby the last open crosscut and not more than eight hundred (800) feet from the farthest point of penetration of the working faces on the section;*

- (b) *Primary telephone or two-way communications systems and lines shall be located in the intake air course or adjacent entry, but shall not be located in the beltway or return air courses unless approved by the executive director of the Office of Mine Safety and Licensing in seams with coal heights twenty-six (26) inches or less; and*
  - (c) *The incoming communication signal on the telephone or other approved two-way communications system shall activate an audible alarm that is distinguishable from the surrounding noise level and a visual alarm that can be seen by a miner regularly employed on the working section.*
- (2) *Effective September 1, 2006, each licensed underground facility shall have a telephone or equivalent two-way communications facility located on the surface within one thousand (1,000) feet of all main portals. The telephone or equivalent two-way communication system shall be installed in either a building or in a box-like structure designed to protect the communication equipment from damage by inclement weather. At least one (1) of these communications systems shall be at a location where a responsible person is available and authorized to respond to an emergency situation at all times when miners are working underground. The incoming communication signal on the telephone or other approved two-way communications system shall activate an audible alarm, distinguishable from the surrounding noise level and a visual alarm that can be seen by the responsible person stationed near the communication system.*
- (3) *Effective September 1, 2006, each licensed underground facility shall have a telephone or equivalent two-way communications system located on the surface which can be used to activate the licensed facilities emergency action plan required in Section 2 of this Act and to comply with reporting requirements contained in Section 19 of this Act. The telephone or equivalent two-way communication system shall be installed in either a building or in a box-like structure designed to protect the communication equipment from damage by inclement weather. At least one (1) of the communication systems shall be at a location where a responsible person is available and authorized to respond at all times to an emergency situation when miners are working. The incoming communication signal on the telephone or other approved two-way communications system shall activate an audible alarm, distinguishable from the surrounding noise level and a visual alarm that can be seen by the responsible person stationed near the communication facility.*

SECTION 2. A NEW SECTION OF KRS CHAPTER 352 IS CREATED TO READ AS FOLLOWS:

- (1) *An emergency action plan shall be submitted with each application for a license to operate an underground mine. The emergency action plan shall be for use during emergencies at the licensed facility. The plan shall consist of the following components:*
- (a) *A certification, submitted by the applicant, that the telephone or equivalent two-way communication system will be in place and functioning at the facility when operation begins;*
  - (b) *A listing of the telephone numbers of the facility personnel, state and federal regulatory agencies, and state, federal, and local emergency response agencies to be contacted in the event of a mine emergency;*
  - (c) *The positions and telephone numbers of the persons designated by the licensee to implement the emergency action plan during mine emergencies;*
  - (d) *The name of the ambulance service or first responder with which the licensee has made arrangements to provide twenty-four (24) hour emergency medical assistance for any person injured at the licensed facility;*
  - (e) *A copy of the licensed facility's mine emergency evacuation and fire-fighting plan, if one is required; and*
  - (f) *A training schedule for all personnel as to their responsibilities under the emergency action plan. On site, each licensed facility shall maintain a log containing training dates, the personnel trained, and their positions and shifts.*
- (2) *The licensee shall provide a revised copy of the plan to the district office and the Frankfort office of the Office of Mine Safety and Licensing within ten (10) days of a change in any of the information required in subsection (1) of this section becoming effective.*
- (3) *The licensee shall be responsible for ensuring that copies of the licensed facility's emergency action plan are submitted to the appropriate district office and to the Frankfort office of the Office of Mine Safety and*

*Licensing. Copies of the plan also shall be kept on the premises of the licensed facility where it shall be made open to inspection by the licensee's employees and their independent contractors and inspectors.*

- (4) *Each licensed facility shall post in a prominent place at the mine office a copy of all emergency contact numbers. The list of emergency contact numbers shall be made available to the licensee's employees and their independent contractors during training on the emergency action plan.*
- (5) *Each licensed facility shall train all employees of the licensee, including their independent contractors, at the beginning of their employment with the licensed facility and on an annual basis on the emergency action plan and the persons responsible for the plan's implementation.*
- (6) *Each licensed facility on which an underground mine is operated shall develop and implement a mine emergency evacuation and fire-fighting program that instructs all miners and other personnel of the licensed facility in the proper evacuation procedures they must follow if a mine emergency occurs. The program, and any revisions thereto, must be submitted to the executive director or his designee. All personnel of the licensed facility, including independent contractors, shall be trained in the performance of the plan's revisions prior to any of the revisions being implemented. The program shall include a plan to train all miners on all shifts with procedures for:*
  - (a) *Mine emergency evacuation for mine emergencies that present an imminent danger to miners due to fire, explosion, or gas, or water inundation;*
  - (b) *Evacuation of all miners not required for a mine emergency response;*
  - (c) *Rapid assembly and transportation of necessary miners, fire suppression equipment, and rescue apparatus to the scene of the mine emergency; and*
  - (d) *Operation of fire suppression equipment available in the mine.*

SECTION 3. A NEW SECTION OF KRS CHAPTER 352 IS CREATED TO READ AS FOLLOWS:

- (1) *A map shall be posted or readily accessible to all miners in each working section, and in each area where mechanized equipment is being installed or removed. The map shall show the designated escapeways from the working section to the locations where miners must travel to satisfy the escapeway drill specified in subsection (4) of this section.*
- (2) *A map showing the main escapeways shall be posted at the surface location of the licensed facility where miners congregate.*
- (3) *All maps shall be kept up to date. Any changes in routes of travel, locations of doors, or directions of airflow shall be shown on the maps by the end of the shift. Miners affected by the changes shall be informed of the changes before entering the underground areas of the mine. Miners on a shift underground when any change is made shall be immediately notified of the change.*
- (4) *At least once every ninety (90) days each miner, including those miners with working stations located between the working sections and main escapeways, shall participate in a practice escapeway drill.*
- (5) *During the drill, miners that do not have working stations located between the working sections and the main escapeways shall travel the greater distance of the two (2) following choices:*
  - (a) *A path from the primary or alternate escapeway from the miner's working section or from the area where mechanized mining equipment is being installed or removed, to the area where the split of air ventilating the working section intersects a main air course; or*
  - (b) *A path which is two thousand (2,000) feet outby the section loading point.*
- (6) *Those miners who have working stations located between the working sections and the main escapeways shall participate in the escapeway drill by traveling in the primary or alternate escapeway for a distance of two thousand (2,000) feet from their working station toward the nearest escape facility or drift opening.*
- (7) (a) *At least once every six (6) weeks and for each shift, at least two (2) miners on each coal producing working section who work on that section, accompanied by the section foreman, shall participate in a practice escapeway drill and shall travel the primary or alternate escapeway:*
  - 1. *From the location specified in paragraph (a) of subsection (5) of this section to the surface;*
  - 2. *To mechanical escape facilities; or*



3. *To an underground entrance to a shaft or slope to the surface.*
- (b) *Systematic rotation of section personnel shall be used so that all miners participate in this drill.*
- (8) (a) *At least once every six (6) weeks, at least two (2) miners on each maintenance shift and a foreman or assistant foreman, shall participate in a practice escapeway drill and shall travel the primary or alternate escapeway:*
  1. *From the location specified in paragraph (a) of subsection (5) of this section to the surface;*
  2. *To mechanical escape facilities; or*
  3. *To an underground entrance to a shaft or slope to the surface.*
- (b) *Systematic rotation of maintenance personnel and working sections shall be used so that all miners participate in the drill and so that the escapeways from all sections are traveled.*
- (9) *For all escapeway drills required by this section, an escapeway drill shall not be conducted in the same escapeway as the drill proceeding immediately thereafter.*
- (10) *Before or during practice escapeway drills, miners shall be informed of the locations of fire doors, check curtains, changes in the routes of travel, caches of self-rescuers, and plans for diverting smoke from escapeways.*

SECTION 4. A NEW SECTION OF KRS CHAPTER 351 IS CREATED TO READ AS FOLLOWS:

- (1) *There is hereby established a Mine Equipment Review Panel attached to the Department for Natural Resources in the Environmental and Public Protection Cabinet.*
- (2) *The Mine Equipment Review Panel shall be a permanent panel of recognized experts who shall review and make recommendations to the executive director of the Office of Mine Safety and Licensing regarding best available mine safety technologies, including but not limited to wireless tracking and communications devices for use by miners in underground mines. Based on the recommendations provided by the panel, the executive director shall comprise a list of commercially available mine safety equipment, including wireless tracking and communications devices that may be approved for use by coal miners.*
- (3) *The panel shall meet at the call of the chair. The chair of the panel shall be the executive director of mine safety and licensing. Members of the panel shall serve without pay, but shall be entitled to reimbursement of travel-related expenses.*
- (4) *The Mine Equipment Review Panel shall be composed of the following members, who shall be appointed by the commissioner not less than thirty (30) days after the effective date of this Act:*
  - (a) *One (1) member shall represent the National Institute of Occupational Safety and Health;*
  - (b) *One (1) member shall represent the federal Mine Safety and Health Administration;*
  - (c) *One (1) member shall represent the coal industry;*
  - (d) *One (1) member shall be appointed from the membership of the United Mine Workers of America and shall represent mine labor, preferably a member of a Kentucky mine rescue team;*
  - (e) *One (1) member shall represent the Department of Mining Engineering at the University of Kentucky; and*
  - (f) *One (1) member shall be the executive director of the Office of Mine Safety and Licensing.*
- (5) *The Mine Equipment Review Panel shall provide initial recommendations to the executive director of the Office of Mine Safety and Licensing not more than one hundred twenty (120) days after the panel members have been appointed and the panel is duly constituted to conduct business. Periodically, the panel shall review and make recommendations to the executive director on changes to or innovations in mine safety equipment that could be deployed in coal mines.*

SECTION 5. A NEW SECTION OF KRS CHAPTER 352 IS CREATED TO READ AS FOLLOWS:

*No licensee, operator, mine superintendent, mine manager, or other supervisory personnel shall terminate or otherwise discipline a miner for reporting or documenting to or cooperating with regulatory agencies in their investigation of unsafe mining practices or conditions or violations of provisions of KRS Chapter 351 or 352.*

Section 6. KRS 351.010 is amended to read as follows:

- (1) As used in this chapter, unless the context requires otherwise:
- (a) "Approved" means that a device, apparatus, equipment, or machinery, or practice employed in the mining of coal has been approved by the commissioner of the Department for Natural Resources;
  - (b) "Assistant mine foreman" means a certified person designated to assist the mine foreman in the supervision of a portion or the whole of a mine or of the persons employed therein;
  - (c) "Board" means the Mining Board created in KRS 351.105;
  - (d) "Commercial mine" means any coal mine from which coal is mined for sale, commercial use, or exchange. This term shall in no instance be construed to include a mine where coal is produced for own use;
  - (e) "Commission" means the Mine Safety Review Commission created by KRS 351.1041;
  - (f) "Commissioner" means commissioner of the Department for Natural Resources;
  - (g) "Department" means the Department for Natural Resources;
  - (h) "Drift" means an opening through strata or coal seams with opening grades sufficient to permit coal to be hauled therefrom or which is used for the purpose of ventilation, drainage, ingress, egress, and other purposes in connection with the mining of coal;
  - (i) "Excavations and workings" means the excavated portions of a mine;
  - (j) "Fire boss" (often referred to as mine examiner) means a person certified as a mine foreman or assistant mine foreman who is designated by management to examine a mine or part of a mine for explosive gas or other dangers before a shift crew enters;
  - (k) "Gassy mine." All mines shall be classified as gassy or gaseous;
  - (l) "Intake air" means air that has not passed through the last working place of the split or by the unsealed entrances to abandoned workings and by analysis contains not less than nineteen and one-half percent (19.5%) oxygen, no dangerous quantities of flammable gas, and no harmful amounts of poisonous gas or dust;
  - (m) "Licensee" means any owner, operator, lessee, corporation, partnership, or other person who procures a license from the department to operate a coal mine;
  - (n) "Mine" means any open pit or any underground workings from which coal is produced for sale, exchange, or commercial use, and all shafts, slopes, drifts, or inclines leading thereto, and includes all buildings and equipment, above or below the surface of the ground, used in connection with the workings. Workings that are adjacent to each other and under the same management, but which are administered as distinct units, shall be considered a separate mine;
  - (o) "Mine foreman" means a certified person whom the licensee or superintendent places in charge of the workings of the mine and of the persons employed therein;
  - (p) ***"Mine manager" means a certified or noncertified person whom the licensee places in charge of a mine or mines and whose duties include but are not limited to operations at the mine or mines and supervision of personnel when qualified to do so;***
  - (q) "Open-pit mine" shall include open excavations and open-cut workings, including but not limited to auger operations and highwall mining systems for the extraction of coal;
  - ~~(r)(e)}~~ "Operator" means the licensee, owner, lessee, or other person who operates or controls a coal mine;
  - ~~(s)(f)}~~ "Permissible" refers to any equipment, device, or explosive that has been approved by the United States Bureau of Mines, the Mining Enforcement and Safety Administration, or the Mine Safety and Health Administration and that meets all requirements, restrictions, exceptions, limitations, and conditions attached to the classification by the approving agency;

- ~~(t)~~~~(s)~~ "Preshift examination" means the examination of a mine or any portion thereof where miners are scheduled to work or travel, which shall be conducted not more than three (3) hours before any on-coming shift;
- ~~(u)~~~~(t)~~ "Return air" means air that has passed through the last active working place on each split, or air that has passed through abandoned, inaccessible, or pillared workings;
- ~~(v)~~ **"Serious physical injury" means an injury which has a reasonable potential to cause death;**
- ~~(w)~~~~(u)~~ "Shaft" means a vertical opening through the strata that is used in connection with the mining of coal, for the purpose of ventilation or drainage, or for hoisting men, coal, or materials;
- ~~(x)~~~~(v)~~ "Slope" means an inclined opening used for the same purpose as a shaft;
- ~~(y)~~~~(w)~~ "Superintendent" means the person who, on behalf of the licensee, has immediate supervision of one (1) or more mines;
- ~~(z)~~~~(x)~~ "Supervisory personnel" means a person certified under the provisions of this chapter to assist in the supervision of a portion or the whole of the mine or of the persons employed therein;
- ~~(aa)~~~~(y)~~ "Office" means the Office of Mine Safety and Licensing; and
- ~~(ab)~~~~(z)~~ "Executive director" means the executive director of the Office of Mine Safety and Licensing.

- (2) Except as the context otherwise requires, this chapter applies only to commercial coal mines.
- (3) The definitions in KRS 352.010 apply also to this chapter, unless the context requires otherwise.

Section 7. KRS 351.025 is amended to read as follows:

The department shall:

- (1) Promulgate administrative regulations that establish comprehensive criteria for the imposition and enforcement of sanctions against certified and noncertified personnel and owners and part-owners of licensed premises whose intentional violation of, or order to violate, mine safety laws places miners in imminent danger of serious injury or death. These criteria shall include, but not be limited to, the following:
  - (a) In the case of individuals that are certified miners, the Mine Safety Review Commission may revoke or suspend an individual's certification, or probate an individual's certification for up to ten (10) working days for first offenses, and the Mine Safety Review Commission shall establish a maximum penalty for subsequent offenses;
  - (b) In the case of individuals that are owners or part-owners of licensed premises, the Mine Safety Review Commission may impose civil monetary penalties against individuals not to exceed ten thousand dollars (\$10,000); and
  - (c) In the case of noncertified personnel, the Mine Safety Review Commission may impose civil monetary fines equivalent to the value of the wages they receive for up to ten (10) working days for first offenses and the commission shall establish maximum penalties for subsequent offenses;
- (2) **Notwithstanding subsection (15) of Section 8 of this Act,** promulgate administrative regulations that establish comprehensive criteria for the Mine Safety Review Commission's imposition of penalties against licensed premises ~~for violations of~~ ~~if an owner or part owner intentionally orders~~ mine safety laws ~~to be violated~~ that place miners in imminent danger of serious injury or death. These penalties shall include, but not be limited to, the revocation or suspension of the mine's license, the probation of a mine's license for a first offense, or the imposition of a penalty against the licensee not to exceed the gross value of the production of the licensed premise for up to ten (10) working days;
- (3) Direct that an employer shall not directly or indirectly reimburse a sanctioned miner or mine supervisor for days of work lost as a result of sanctions imposed by the Mine Safety Review Commission;
- (4) Establish procedures by which the department shall communicate with the Federal Mine Safety and Health Administration (MSHA) concerning allegations of mine safety violations against Kentucky coal operators and miners;

- (5) Jointly with the Mine Safety Review Commission establish a process for referring allegations of mine safety violations to the Mine Safety Review Commission for adjudication *and for the hearing of appeals from penalties imposed by the Office of Mine Safety and Licensing, and the underlying violation, authorized under subsection (15) of Section 8 of this Act*; and
- (6) Establish procedures to distribute quarterly reports to every licensed entity describing mine fatalities, serious mine accidents, and penalties imposed on certified and noncertified personnel and licensed premises and to require the report to be distributed to every certified working miner employed by the licensed entity, posted at work sites, and reviewed at regular mine safety meetings.

Section 8. KRS 351.070 is amended to read as follows:

- (1) The commissioner shall have full authority over the department and shall superintend and direct the activities of the mine inspectors and other personnel of the department. There is created within the Department for Natural Resources an Office of Mine Safety and Licensing.
- (2) The secretary shall appoint an executive director to the Office of Mine Safety and Licensing in accordance with KRS 224.10-020(2) and prescribe his powers and duties.
- (3) The commissioner may, whenever necessary, divide the coal fields of the state into as many inspection districts as necessary, so as to equalize as nearly as practicable the work of each inspector, and may assign to the inspectors their respective districts.
- (4) The commissioner may, whenever he or she deems it necessary in the interest of efficient supervision of the mines, temporarily employ the services of additional mine inspectors or change inspectors from one (1) district to another.
- (5) The commissioner shall superintend and direct the inspection of mines and cause to be investigated the character and quality of air in mines whenever conditions indicate the necessity of doing so.
- (6) The commissioner shall collect statistics relating to coal mining in the state and make an annual report of the statistics.
- (7) The commissioner shall see that maps, plans, projections, and proposed developments of all underground coal mines are made and filed in his office.
- (8) The commissioner shall keep a properly indexed, permanent record of all inspections made by himself and the personnel of the department.
- (9) The commissioner shall exercise general supervision over the training of officials and workmen in safety and first aid and mine rescue methods, and may conduct demonstrations in safety whenever he deems it advisable.
- (10) The commissioner shall exercise general supervision over the dissemination of information among officials and employees concerning mine ventilation, mining methods, and mine accidents and their prevention, and shall assume full charge in the event of mine fire or explosion or other serious accident at any mine in the state.
- (11) The commissioner may assist in the resumption of operations of any mine or gather data for the development of any coal seams that would be of any benefit to the state or create new employment.
- (12) The commissioner may prescribe reasonable safety standards governing the use of explosives, and electrical and mechanical equipment in the operation of open-pit or surface mines.
- (13) The secretary of the Environmental and Public Protection Cabinet shall have the power and authority to promulgate, amend, or rescind any administrative regulations he or she deems necessary and suitable for the proper administration of this chapter. Administrative regulations may be promulgated, amended, or rescinded by the secretary only after public hearing or an opportunity to be heard thereon of which proper notice by publication pursuant to KRS Chapter 424, has been given. Administrative regulations so promulgated shall carry the full force and effect of law.
- (14) The commissioner shall ascertain the cause or causes of any coal mining fatality and, within sixty (60) days of completion of the investigation, shall report his *or her* findings and recommendations to the Governor, the Mine Safety Review Commission, the Mining Board, and the Legislative Research Commission. The recommendations may include, without being limited to, the need to promulgate or amend administrative regulations to prevent the recurrence of the conditions causing the fatality.

- (15) *The commissioner shall assess civil monetary penalties against licensed facilities for violations of laws in this chapter and KRS Chapter 352 pertaining to roof control plans and mine ventilation plans that could lead to imminent danger or serious physical injury. The Environmental and Public Protection Cabinet shall promulgate administrative regulations within ninety (90) days of the effective date of this Act providing for the manner and method of the assessment of the penalties and appeals therefrom. In no event shall the civil penalty assessed pursuant to this subsection for the violation exceed five thousand dollars (\$5,000). Nothing contained in this subsection shall be construed to impair or contravene the authority granted under subsection (2) of Section 7 of this Act for imposing penalties against licensed facilities.*

Section 9. KRS 351.090 is amended to read as follows:

- (1) The Governor shall appoint an adequate number of mine inspectors to ~~ensure~~<sup>insure</sup> at least two (2) inspections annually, provided the mine is in operation the entire year or the proportionate thereof, of all mines in the Commonwealth and sufficient additional inspectors to enable the commissioner to provide adequate surveillance of coal mines where conditions or management policy dictate that more inspections are needed to insure the safety of miners. ***Except, the commissioner shall inspect all underground coal mines not less than three (3) times annually.*** One (1) or more of the appointees may be designated as electrical mine inspectors. The Governor shall also appoint an adequate number of mine safety analysts and mine safety instructors. The term of office of each mine inspector, each mine safety analyst, each electrical inspector, and each mine safety instructor shall be during the period of capable, efficient service and good behavior.
- (2) All mine inspectors, mine safety analysts, electrical inspectors, and mine safety instructors shall have a thorough knowledge of first aid and mine rescue and be able to instruct in first aid and mine rescue, and shall possess thoroughly the knowledge required of the commissioner by KRS 351.060, and shall have a thorough and practical knowledge of mining gained by at least five (5) years' experience in coal mines in the Commonwealth. All surface mine safety analysts shall have at least five (5) years' experience in surface mines in the Commonwealth. For the purposes of this subsection, a degree in mining engineering from a recognized institution shall be deemed equivalent to two (2) years of practical experience in coal mines or an associate degree in mining technology from a recognized institution shall be deemed equivalent to one (1) year practical experience in coal mines. A person desiring to use a mining engineering or technology degree for practical experience credit shall file proof of having received a degree prior to examination.
- (3) No person shall be appointed to the office of mine inspector, underground mine safety analyst, electrical inspector, or mine safety instructor unless he holds a current mine foreman's certificate. No person shall be appointed to the office of surface mine safety analyst unless he holds a current surface mine foreman's certificate. A person appointed as mine inspector, mine safety analyst, electrical inspector, and mine safety instructor shall pass an examination administered by the board. The commissioner may recommend to the Governor applicants for the positions of mine inspector, mine safety analyst, electrical inspector, or mine safety instructor who have successfully passed the examination and are proved by worth, training, and experience to be the most competent of the applicants.
- (4) Mine inspectors, mine safety analysts, electrical inspectors, and mine safety instructors shall be of good moral character and temperate habits and shall not, while holding office, act in any official capacity in operating any coal mine.
- (5) No reimbursement for traveling expenses shall be made except on an itemized accounting for the expenses submitted by inspectors, analysts, and safety instructors who shall verify upon oath that the expenses were incurred in the discharge of their official duties.
- (6) Each mine inspector, mine safety analyst, electrical inspector, and mine safety instructor shall take oath, which shall be certified by the officer administering it. The oath, in writing, and the certificate, shall be filed in the office of the Secretary of State.
- (7) Each mine inspector, mine safety analyst, electrical inspector, and mine safety instructor shall give bond with surety approved by the Governor.

Section 10. KRS 351.140 is amended to read as follows:

Each mine inspector shall give his entire time and attention to the duties of his office, which shall consist of the following:

- (1) Inspecting mines and aiding, under the direction of the commissioner, in carrying out and enforcing the provisions of the law relating to the inspection of mines;
- (2) Training officials and workmen in and about the mines in first aid and mine rescue methods;
- (3) Advising officials and workmen in methods pertaining to safety in all its phases and in methods pertaining to the prevention of mine fires and explosions;
- (4) Taking charge of mine rescue and recovery work whenever a mine fire, mine explosion or other serious accident occurs within his district, and the commissioner is not present, and assisting in such work in other districts when so directed by the commissioner;
- (5) Reopening mines or portions of mines that have been sealed on account of fire or any other cause, when directed by the commissioner to do so;
- (6) Inspecting each *underground coal* mine in his district at least **three (3) times a year and all other mines once every six (6) months. The commissioner may cause inspections**~~once every six (6) months, or~~ more often if practicable and if funds permit, and whenever any danger to the workmen may exist; making a personal examination of the interior of each mine with respect to ventilation, drainage, roof control, blasting, electricity, escapeways, and general security, and also a personal examination of the outside facilities of the mine; and in gassy mines below the water table, inspections shall be more frequent, and as often as practical whenever any danger to workmen is indicated by a previous inspection. Such inspections shall involve at least two (2) inspectors. The inspectors shall locate themselves in different sections of the mine in order to determine the effectiveness and reliability of the ventilation system. Each section of the mine shall be so inspected;
- (7) It shall be permissible for a mine inspector to inspect any coal preparation plant or surface facility of any mining operation of coal including any overland coal belts; and
- (8) A mine inspector shall have the express authority to enter upon the premises of and inspect any coal mine, including any overland coal belts, at any reasonable time.

Section 11. 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). ***The license shall be issued when the following are properly submitted to the commissioner:***
  - (a) ***The annual report of the licensee and the annual mine map required in KRS 351.170 and Section 27 of this Act;***
  - (b) ***A certification from the executive director of the Office of Workers Claims that the licensee has provided positive proof of compliance with the provisions of KRS Chapter 342;***
  - (c) ***A certification from the commissioner of the Department of Revenue that the licensee is not a "delinquent taxpayer" as defined in KRS Chapter 131;***
  - (d) ***The ventilation plan required in Section 14 of this Act; and***
  - (e) ***An approved emergency action plan required by Section 2 of this Act***~~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 executive director of the Office 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 of the Department of Revenue 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 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 executive director of the Office of Workers' Claims, or upon receipt of notice from the commissioner 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 department shall immediately revoke any license, if the department receives:*
- (a) *Withdrawal of the certification of compliance with KRS Chapter 342 issued by the executive director of the Office of Workers' Claims; or*
  - (b) *Notice from the commissioner of the Department of Revenue that the licensee is a "delinquent taxpayer" as defined in KRS Chapter 131.*
- (6) *The commissioner, the executive director of the Office of Mine Safety and Licensing, or 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.*
- ~~(7)(6)}~~ *The department shall be authorized to seek injunctive relief for any violation of this section. **Revocation of a license by the department shall be an administrative function of the department. Appeals from revocation by the department shall be brought in Franklin Circuit Court.***
- ~~(8)(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 of revenue.*
- ~~(9)(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 12. KRS 351.190 is amended to read as follows:

The commissioner of the department shall partition the coal fields of the state into mine rescue divisions. In each division there shall be a station, the location of which shall be determined by the commissioner, and there shall be kept at each station apparatus, appliances, and supplies for use in the work of rescue and relief upon the occurrence of **entrapments, roof falls, inundation of liquids or gasses**, explosions or mine fires, and for the training of officials and miners in mine rescue work. The commissioner shall provide each station and himself with the necessary instruments, appliances, apparatus, chemicals, trucks, and automobiles, and shall designate one (1) of the inspectors to have charge of each station.

Section 13. KRS 352.010 is amended to read as follows:

- (1) As used in this chapter, unless the context requires otherwise:
- (a) "Abandoned workings" means excavations, either caved or sealed, that are deserted and in which further mining is not intended, or open workings which are ventilated and not inspected regularly;
  - (b) "Active workings" means all places in a mine that are ventilated and inspected regularly;
  - (c) "Approved" means that a device, apparatus, equipment, machinery, or practice employed in the mining of coal has been approved by the commissioner of the Department for Natural Resources;
  - (d) "Assistant mine foreman" means a certified person designated to assist the mine foreman in the supervision of a portion or the whole of a mine or of the persons employed therein;
  - (e) "Board" means the Mining Board created in KRS 351.105;
  - (f) "Commercial mine" means any coal mine from which coal is mined for sale, commercial use, or exchange. This term shall in no instance be construed to include a mine where coal is produced for own use;
  - (g) "Commissioner" means commissioner of the Department for Natural Resources;

- (h) "Department" means the Department for Natural Resources;
- (i) "Drift" means an opening through strata or coal seams with opening grades sufficient to permit coal to be hauled therefrom, or which is used for the purpose of ventilation, drainage, ingress, egress, and other purposes in connection with the mining of coal;
- (j) "Excavations and workings" means the excavated portions of a mine;
- (k) "Face equipment" means mobile or portable mining machinery having electric motors or accessory equipment normally installed or operated in by the last open crosscut in any entry or room;
- (l) "Fire boss" (often referred to as mine examiner) means a person certified as a mine foreman or assistant mine foreman who is designated by management to examine a mine or part of a mine for explosive gas or other dangers before a shift crew enters;
- (m) "Gassy mine." All underground mines shall be classified as gassy or gaseous;
- (n) "High voltage" means any voltage of one thousand (1,000) volts or more;
- (o) "Imminent danger" means the existence of any condition or practice which could reasonably be expected to cause death or serious physical harm before the condition or practice can be abated;
- (p) "Inactive workings" shall include all portions of a mine in which operations have been suspended for an indefinite period, but have not been abandoned;
- (q) "Intake air" means air that has not passed through the last working place of the split or by the unsealed entrances to abandoned workings and by analysis contains not less than nineteen and one-half percent (19.5%) of oxygen, no dangerous quantities of flammable gas, and no harmful amounts of poisonous gas or dust;
- (r) "Licensee" means any owner, operator, lessee, corporation, partnership, or other person who procures a license from the department to operate a coal mine;
- (s) "Low voltage" means up to and including six hundred sixty (660) volts;
- (t) "Medium voltage" means voltages greater than six hundred sixty (660) and up to nine hundred ninety-nine (999) volts;
- (u) "Mine" means any open pit or any underground workings from which coal is produced for sale, exchange, or commercial use, and all shafts, slopes, drifts, or inclines leading thereto, and includes all buildings and equipment, above or below the surface of the ground, used in connection with the workings. Workings that are adjacent to each other and under the same management and which are administered as distinct units shall be considered separate mines;
- (v) "Mine foreman" means a certified person whom the licensee, *mine manager*, or superintendent places in charge of the workings of the mine and of persons employed therein;
- (w) *"Mine manager" means a certified or noncertified person whom the licensee places in charge of a mine or mines and whose duties include, but are not limited to, operations at the mine or mines and supervision of personnel when qualified to do so;*
- (x) "Open-pit mine" shall include open excavations and open-cut workings including auger operations and highwall mining systems for the extraction of coal;
- (y)~~(x)~~ "Operator" means the licensee, owner, lessee, or other person who operates or controls a coal mine;
- (z)~~(y)~~ "Permissible" means that any equipment, device, or explosive that has been approved by the United States Bureau of Mines, the Mining Enforcement and Safety Administration, or the Mine Safety and Health Administration meets all requirements, restrictions, exceptions, limitations, and conditions attached to the classification;
- (aa)~~(z)~~ "Preshift examination" refers to the examination of an underground mine or part of a mine where miners are scheduled to work or travel, and shall be conducted not more than three (3) hours before any on-coming shift;
- (ab)~~(aa)~~ "Return air" means air that has passed through the last active working place on each split, or air that has passed through abandoned, inaccessible, or pillared workings;



- (ac)~~((ab))~~ **"Serious physical injury" means an injury which has a reasonable potential to cause death;**
- (ad) "Shaft" means a vertical opening through the strata that is or may be used, in connection with the mining of coal, for the purpose of ventilation or drainage, or for hoisting men, coal, or materials;
- (ae)~~((ae))~~ "Slope" means an inclined opening used for the same purpose as a shaft;
- (af)~~((ad))~~ "Superintendent" means the person who, on behalf of the licensee, has immediate supervision of one (1) or more mines;
- (ag)~~((ae))~~ "Supervisory personnel" shall mean a person or persons certified under the provisions of KRS Chapter 351 to assist in the supervision of a portion or the whole of the mine or of the persons employed therein;
- (ah)~~((af))~~ "Tipple or dumping point" means the structure where coal is dumped or unloaded from the mine car into railroad cars, trucks, wagons, or other means of conveyance;
- (ai)~~((ag))~~ "Working face" means any place in a coal mine at which the extraction of coal from its natural deposit in the earth is performed during the mining cycle;
- (aj)~~((ab))~~ "Working place" means the area of a coal mine inby the last open crosscut;
- (ak)~~((ai))~~ "Working section" means all areas of a coal mine from the loading point to and including the working faces; and
- (al)~~((aj))~~ "Workmanlike manner" means consistent with established practices and methods utilized in the coal industry.

- (2) The definitions in KRS 351.010 apply also to this chapter, unless the context requires otherwise.
- (3) Except as the context otherwise requires, this chapter applies only to commercial mines as defined in KRS 351.010 and shall not apply to electrical facilities owned, operated, or otherwise controlled by a retail electric supplier or generation and transmission cooperative as defined in KRS 278.010 or organized under KRS Chapter 279 for the purpose of communication, metering, or for the generation, control, transformation, transmission, and distribution of electric energy located in buildings used exclusively by utilities for such purposes or located outdoors on property owned or leased by the utility or on public highways, streets, roads, or outdoors by established easement rights on private property and that are covered by the National Electric Safety Code (NESC) or other applicable safety codes, or other authorities having jurisdiction and shall not apply to installations under the exclusive control of utilities for the purpose of communication, metering, or for the generation, control, transformation, transmission, and distribution of electric energy located in buildings used exclusively by utilities for such purposes or located outdoors on property owned or leased by the utility or on public highways, streets, roads, or outdoors by established rights on private property.

Section 14. KRS 352.020 is amended to read as follows:

- (1) ***A mine ventilation plan and any revision of an existing mine ventilation plan shall be suitable to the ventilation conditions and mining system of each mine. The mine ventilation plan and any revisions to the mine ventilation plan approved by the United States Mine Safety and Health Administration shall be submitted to the executive director or his or her authorized representative and incorporated into the license. All mine ventilation plans shall be set forth in printed form. The mine ventilation plan shall require the air quality throughout the mine contain at least nineteen and one-half percent (19.5%) oxygen and not more than one-half of one percent (0.5%) of carbon dioxide, and the volume and velocity of the air current shall be sufficient to dilute, render harmless, and carry away flammable, explosive, noxious, and harmful gases, dust, smoke, and fumes. A copy of the mine ventilation plan and any revisions to that plan shall be available to the miners and their representatives.***
- (2) The ventilation of all underground coal mines shall be produced by means of mechanically operated fans located outside the mine in fireproof housing and offset at least fifteen (15) feet to one (1) side or above the opening, protected by explosion doors or weak walls and arranged so that ventilating current may be reversed if necessary. The fan shall be installed so as to prevent recirculation of mine air. The main fan shall be operated from a power circuit independent from the mine circuit. If inside auxiliary fans are required to ventilate working places the commissioner must first approve the installation.

- (3)~~(2)~~ The licensee, superintendent, or foreman of every coal mine worked by shaft, slope, or drift shall provide and maintain for every mine two (2) separate and distinct escapeways, one (1) of which is vented by the intake air. However, if a mine was originally licensed prior to January 1, 1990, the commissioner may approve an alternate ventilation plan. Each active working section shall be ventilated by a separate split of intake air. In all mines the quantity of air passing through the last open crosscut between the intake and return in any pair or sets of entries shall be not less than nine thousand (9,000) cubic feet of air per minute and as much more as is necessary to dilute and render harmless and carry away flammable and harmful gases. All working faces from which coal is being cut, mined, or loaded in a working section between the intake and return airway entries shall be ventilated with a minimum quantity of three thousand (3,000) cubic feet of air per minute and as much more as is necessary to dilute and render harmless and carry away flammable and harmful gases. The quantity of air reaching the last crosscut in pillar sections may be less than nine thousand (9,000) cubic feet of air per minute if at least nine thousand (9,000) cubic feet of air per minute is being delivered to the intake of the pillar line. The air current shall under any conditions have a sufficient volume and velocity to reduce and carry away smoke from blasting and any flammable or harmful gases.~~[- All active underground working places in a mine shall be ventilated by a current of air containing not less than nineteen and one half percent (19.5%) of oxygen, and no harmful quantities of other noxious or poisonous gases.-]~~
- (4)~~(3)~~ All mines shall maintain at least nine thousand (9,000) cubic feet of air per minute at the points mentioned in subsection (3)~~(2)~~ of this section. The commissioner shall have the authority to require additional air in any mine when he deems it necessary for the safety of the employees.
- (5)~~(4)~~ When the air from a split has passed through and has ventilated all the working places in an air split of a mine it shall then be designated as return air. ***Return air courses shall not be designated as primary escapeways.***
- (6)~~(5)~~ As working places advance, breakthroughs for air shall be made not more than ninety (90) feet apart, except that where longwall or modern systems of mining are used the commissioner or his authorized representative may approve a greater distance between breakthroughs or the method of ventilating such longwall or modern systems of mining. If any breakthroughs between intake and return airways are not required for the passage of air ***or the travel of equipment***, they shall be closed with stoppings. All permanent stoppings shall be substantially built with suitable incombustible or fire resistant material subject to the approval of the mine inspector so as to keep the working places well ventilated. All brattice cloth and ventilation tubing shall be flame resistant. Doors on the main haulways shall be avoided where practicable, and overcasts, built of concrete or other suitable material and of ample strength, shall be adopted. Where doors are used they shall be built in a substantial manner, and shall be hung so as to close automatically when unobstructed.
- (7)~~(6)~~ In a mine where methane can be found to an extent of one percent (1%) or more on the return of any one (1) split, the inspector, with the approval of the commissioner may require the mine to be ventilated by the exhaust system, requiring the haulage roads and all ~~[- trolley and]~~ feed wires to be located on the intake air and the electrical system to be so arranged that no wires carrying electrical current shall be on return air. A period of not more than ninety (90) days from date of notification shall be allowed to make the changes required.
- (8) ***The ventilation plan shall require all fans utilized in the ventilation plan to be in operation for a sufficient period to ensure air quality and equalization of the mine atmosphere prior to the entry of workers into underground areas.***

Section 15. KRS 352.110 is amended to read as follows:

- (1) No licensee, superintendent, ***mine manager***, or mine foreman of any mine opened after June 16, 1972, shall permit persons to work therein unless there are to every seam of coal worked in the mine at least two (2) separate outlets, separated by natural strata of not less than one hundred fifty (150) feet in breadth if the mine is worked by shaft or slope, and separated by a pillar of natural strata of not less than two thousand (2,000) square feet if the mine is worked by drift, by which outlets distinct means of ingress and egress are readily available to persons employed in the mine, but it shall not be necessary for the two (2) outlets to belong to the same mine. This subsection does not apply to the openings of a new entry that is being worked for the purpose of making connection between the two (2) outlets so long as not more than twenty (20) persons are employed at one (1) time in making the connection or driving the second opening, or to any mine in which the second opening has been rendered unavailable by reason of final robbing or removal of pillars so long as not more than twenty (20) persons are employed therein at one (1) time, and the workings are no farther than five hundred (500) feet from the bottom of the shaft or slope or from the drift opening.

- (2) If any mine has but one (1) means of ingress or egress for persons employed therein, and the owner does not own suitable ground for another opening, the owner may select appropriate adjacent ground for that purpose and have it condemned pursuant to the Eminent Domain Act of Kentucky.

Section 16. KRS 352.133 is amended to read as follows:

- (1) All underground miners shall be provided with an approved self-contained self-rescuer device and shall have that device within twenty-five (25) feet of them at all times ~~unless the licensee receives approval from the commissioner to store self-contained self-rescuers more than twenty-five (25) feet away from underground miners~~. The self-contained self-rescuer shall be provided to the miners by the licensee at no cost to the miners.
- (2) *In addition to the requirements for self-contained self-rescuers set forth in this section, all licensed premises shall maintain caches of self-contained self-rescuer devices which shall be stored in locations readily accessible to the primary and secondary escapeways or provide proof of an order for self-contained self-rescuers through the submission of a valid purchase order that clearly names the vendor, contact information for the vendor, the number of devices purchased, and the date of the order, which shall not be later than thirty (30) days after the effective date of this Act. In all cases, the self-contained self-rescuers shall be in place by July 1, 2007, or shall be extended by the commissioner upon substantiated proof of unavailability.*
- (a) *The caches shall be maintained in sufficient numbers and locations determined in accordance with the most recent rules, standards, and regulations issued by the United States Mine Safety and Health Administration;*
- (b) *The caches shall be maintained in storage units capable of protecting the self-contained self-rescuers from water, dust, and any other condition which will cause deterioration of the self-contained self-rescuer;*
- (c) *The storage unit locations shall have reflective signs that read "SELF-RESCUERS" conspicuously posted as to be visible from the primary and secondary escapeways. Intrinsically safe strobe light devices also shall be attached to the storage unit. The strobe light devices may operate continuously or shall be capable of activation in the event of a mine emergency;*
- (d) *In addition to the requirements set forth in this section for self-contained self-rescuers, the mine operator shall provide for each person who is underground at least one (1) additional self-contained self-rescuer device which provides protection for a period of one (1) hour or longer, to cover all persons in the mine; and*
- (e) *If a mantrip or mobile equipment is used to enter or exit the mine, additional self-contained self-rescuer devices, each of which provides protection for a period of one (1) hour or longer, shall be available for all persons who use the transportation from portal to portal.*
- (3) *It shall be a Class D felony for any person to remove a self-rescuer from the cache for purposes other than use during an emergency, or for repair, maintenance, or replacement or as authorized by the licensee.*

Section 17. KRS 352.135 is amended to read as follows:

*In all ~~Where return airways are~~ designated ~~as~~ escapeways, each operator shall provide lifeline cords, with attached reflective material at not to exceed twenty-five (25) foot intervals **and devices indicating the direction to the surface at not to exceed one hundred (100) foot intervals**, from ~~outby the loading point~~ **outby the loading point** ~~the last open crosscut to the surface~~; provided, that in case of a shaft mine, such lifeline cords shall extend from ~~outby to the loading point~~ **outby to the loading point** ~~the last open crosscut~~ to the bottom of the designated escape shaft. Such lifeline cord shall be of durable construction sufficient to allow miners to see and to use effectively to guide themselves out of the mine in the event of an emergency.*

Section 18. KRS 352.150 is amended to read as follows:

- (1) After June 16, 1972, on single-track haulage roads in mines, which the persons employed in the mine must use while performing their work or while traveling on foot to and from their work, there shall be places of refuge on one (1) side not less than five (5) feet in depth from the side of the mine car, and five (5) feet wide, and not more than ninety (90) feet apart. Refuge holes of the same dimensions shall also be provided at switch throws.
- (2) Special places of refuge are not required on haulage roads on which room necks or breakthroughs occur at regular intervals not exceeding ninety (90) feet, and thus furnish places of refuge, or on haulage roads in which

the track is so laid as to give a minimum clearance on one (1) side of not less than thirty (30) inches from the side of any haulage engine or any mine car, the clearance to be on the side of the road opposite that upon which electric wires are strung, if electric wires are strung in the road.

- (3) No unauthorized person shall travel on foot to or from work upon any haulage road or slope where transportation is by track, when other roads in proper condition for travel are available.
- (4) On all main haulage roads where hauling is done by machinery the mine foreman shall provide a proper system of signals, and a conspicuous light or marker approved by the commissioner on the front and rear of every trip or train of cars when in motion in the mine.
- (5) Man-trips shall be operated at safe speeds consistent with the condition of roads and type of equipment used and shall be so controlled that they can be stopped within the limits of visibility, in no event at a speed in excess of twelve (12) miles per hour.
- (6) Each man-trip consisting of more than one (1) mine car of men shall be under the charge of a certified official, and it shall be operated independently of any loaded trip of coal or other material.
- (7) Cars on the man-trip shall not be overloaded, and sufficient cars in good mechanical condition shall be provided.
- ~~(8) [No person shall ride under the trolley wire unless suitably covered man cars are used.]~~
- ~~(9) [~~ No material or tools except small hand tools shall be transported in the same car with men on any man-trip unless in a separate, enclosed compartment of the car, and all persons shall ride inside of man-trip cars, except the motorman and brakeman or trip rider.
- ~~(9) [(10)]~~ Men shall not load or unload before the cars in which they are to ride or are riding come to a full stop, and men shall proceed in an orderly manner to and from man-trips.
- ~~(10) [(11)]~~ A waiting station shall be provided where men are required to wait for man-trips or man-cages. It shall have sufficient room, ample clearance from moving equipment, and adequate seating facilities.
- ~~(11) [(12)]~~ ~~[Trolley and ]~~Power wires shall be guarded effectively at man-trip stations where there is a possibility of any person coming in contact with energized electric wiring while loading or unloading from the man-trip.
- ~~(12) [(13)]~~ Cars used for transporting men on slopes shall be equipped with a safety device capable of stopping the trip in event of failure of the rope or couplings. The device shall be approved by the commissioner.
- ~~(13) [(14)]~~ Where belts are used for transporting men, unless the commissioner finds that a safety hazard exists which cannot be corrected, the belt transport will be allowed, and a minimum clearance of eighteen (18) inches shall be maintained between the belt and the roof or cross bars, projecting equipment, cap pieces, overhead cables, wiring, and other objects; but where the height of the coal bed permits, the clearance shall not be less than twenty-four (24) inches.
- ~~(14) [(15)]~~ Unless a greater speed is allowed by special permission from the commissioner, in which event the conditions, limitations, and rules imposed in connection with the grant of permission shall be observed, the belt speed shall not exceed two hundred fifty (250) feet per minute where the minimum overhead clearance is eighteen (18) inches, or three hundred (300) feet per minute when the minimum overhead clearance is twenty-four (24) inches, while men are loading, unloading, or being transported.
- ~~(15) [(16)]~~ The space between men riding on a belt line shall not be less than six (6) feet.
- ~~(16) [(17)]~~ Loading and unloading stations shall be illuminated properly.
- ~~(17) [(18)]~~ A certified official or some other supervisory personnel appointed by the mine foreman shall supervise all man-trips.
- ~~(18) [(19)]~~ At all mines utilizing track haulage or transportation, there shall be developed a safe and uniform system of traveling through all switch points to prevent collisions. This system shall be designed in a manner which ensures that all persons can determine who has the right of way in all circumstances. Information concerning this system shall be included in annual retraining.
- ~~(19) [(20)]~~ Efficient equipment, either mobile or self-propelled, equipped with sufficient first-aid equipment and supplies, shall be available on all underground sections where men are present to transport injured workers to the surface.

~~(20)~~~~(21)~~ At those mines that do not have a contract or other arrangement for providing ambulance service, a 4-wheel-drive vehicle or other vehicle suitable to the terrain equipped with sufficient first-aid equipment and supplies shall be available to the mines or preparation facilities for the transportation of injured workers. At those mines that have a contract or other arrangement for providing ambulance service, the access road to the mine or preparation facility shall be kept in a condition which is passable by the ambulance vehicle **or other emergency rescue equipment**.

~~(21)~~~~(22)~~ The commissioner shall be empowered to draft additional administrative regulations providing for transportation of men when necessary.

Section 19. KRS 352.180 is amended to read as follows:

- (1) Whenever serious ~~physical~~~~personal~~ injury or loss of life occurs in a mine or in the machinery connected therewith or whenever a fire, explosion, **entrapment of an individual for more than thirty (30) minutes, inundation of a mine by water or gases,** or other serious accident occurs, the superintendent of the mine, or, **if he is absent, the mine manager,** or if he is absent, the mine foreman in charge of the mine **or his designee,** shall **within fifteen (15) minutes of having actual knowledge of the occurrence and access to the communication system as required under subsection (3) of Section 1 of this Act**~~immediately~~ give notice to the ~~department~~~~mine inspector~~ and to the representative of the miner, stating the particulars of the accident~~, and if anyone is killed thereby to the commissioner~~. **No person shall alter the scene of a mining accident in a manner that will interfere with the department's investigation of the accident, except to the extent necessary to rescue an individual or to eliminate an imminent danger.**
- (2) **Upon receipt of notification of an occurrence set forth in subsection (1) of this section,** the mine inspector shall immediately go to the scene of the accident and make an investigation and suggestions and render the assistance as he deems necessary for the future safety of the employees, investigate the cause of the fire, explosion, or accident, make a record thereof, and forward it to the commissioner.
- (3) The record **of the investigations** shall be preserved with the other records of ~~the commissioner's~~~~his~~ office. To aid in making the investigations, the commissioner or the mine inspector may compel the attendance of witnesses and administer oaths.
- (4) **Failure to comply with the reporting requirements set forth in this section shall create a rebuttable presumption of an intentional order to violate mine safety laws that place miners in imminent danger of serious physical injury or death and shall be subject to revocation, suspension, or probation of the mine license and a civil monetary penalty of not less than ten thousand dollars (\$10,000) nor more than one hundred thousand dollars (\$100,000).**

Section 20. KRS 352.280 is amended to read as follows:

- (1) In all mines the licensee, **mine manager,** or superintendent shall employ one (1) or more properly certified persons.
- (2) A properly certified person shall examine carefully, within three (3) hours before each shift enters the mine:~~;~~
  - (a) Every working place;~~;~~
  - (b) All places adjacent to live workings;~~;~~
  - (c) Every roadway where persons are required to work or travel;~~;~~
  - (d) All abandoned panels on the intake;~~;~~
  - (e) Every set of seals on the intake;~~;~~ and
  - (f) All roof falls near active workings on the intake and on the working sections.
- (3) Before proceeding with the examination he shall see that the air current is traveling its proper course.
- (4) **A properly certified person**~~In making the examination he~~ shall use approved gas detection devices **in the performance of the required examination and shall examine the entrances to all worked-out and abandoned portions adjacent to the intake roadways and working places under his charge where explosive gas is likely to accumulate.**

- (5) ~~[A properly certified person shall examine for all dangers in all portions of the mines under his charge, and]~~ After examination ***the properly certified person*** ~~[he]~~ shall leave at or as close as possible to the face of every place examined the date and time of the examination and his initials as evidence that he has performed his duty.
- (6) ***If an explosive mixture of gas is discovered, the properly certified person*** ~~[He shall also examine the entrances to all worked-out and abandoned portions adjacent to the roadways and working places under his charge where explosive gas is likely to accumulate, and he]~~ shall place a danger signal across the entrance to every place where explosive gas is discovered or where immediate danger is found to exist from any other cause. The signal shall be sufficient warning ***to ensure that persons do not enter the area*** ~~[for persons not to enter]~~.
- (7) When the mine is idle and workmen are required to go into the mine, the section, portion, or part of the mine entered must be inspected by a properly certified person within three (3) hours before the workmen enter.
- (8) Each week, a properly certified person designated by the mine foreman shall examine each set of seals on the return, all designated intake and return entries, and all escapeways.

Section 21. KRS 352.320 is amended to read as follows:

- (1) All commercial coal mines shall employ a certified mine foreman therein to properly carry out the plans and rules when approved by the commissioner of the department and to be responsible for compliance with the provisions of KRS Chapter 351 and this chapter.
- (2) When the mine workings become so extensive that the mine foreman is unable personally to carry out the duties required of him by law, the operator, ~~[or]~~ superintendent, ***or mine manager*** shall employ a sufficient number of persons holding suitable certificates of qualifications to act as assistants to the mine foreman, and under his instructions.

Section 22. KRS 352.340 is amended to read as follows:

The mine foreman or his assistants shall visit and carefully examine each working place in the mine at least every four (4) hours while the mine employees are at work. He shall examine as live workings, on regular inspections, all places in live sections that are temporarily abandoned. If the mine foreman finds any place to be in a dangerous condition, he shall not leave the place until it is made safe, or until the employees working therein are removed until the place is made safe. He shall see that every mine liberating explosive gas is kept free of standing gas in all working places and roadways, and that all accumulations of explosive or noxious gases in the worked-out or abandoned portions of any mine are removed as soon as possible after discovery. He shall ensure that all preshift examinations are conducted by a certified person and that examinations of conveyor belts have been conducted. He shall not allow any person who may be endangered by the presence of explosive or noxious gases to enter that portion of the mine until the gases have been removed. He shall direct and see that all dangerous places and the entrances to worked-out and abandoned places in all mines are properly barricaded across the openings, so that no person will enter, and that danger signs are posted upon the barricade to warn persons of existing danger. He shall give prompt attention to the removal of all dangers reported to him by his assistants, the fire boss or any person working in the mine, and if it is impracticable to remove the danger at once he shall notify every person whose safety is menaced thereby to remain away from the portion where the dangerous condition exists. He or his assistants, fire bosses, or other certified persons shall, at least once every week, travel and examine all air courses, escapeways, ***the caches of self-contained self-rescuer devices required by Section 16 of this Act, the cache's contents***, seals on the return, roads, and openings that give access to old workings or pillar falls, and make a record of the condition of all places where danger has been found. The record shall be made with ink pencil in the record book provided for that purpose.

Section 23. KRS 352.350 is amended to read as follows:

- (1) The mine foreman shall notify, in writing, the licensee or superintendent of the mine of his inability to comply with any of the requirements of the mining laws, and the licensee or superintendent shall at once attend to the matter complained of by the mine foreman so as to enable him to comply with the mining laws.
- (2) The mine foreman shall each day enter and sign plainly with ink, in a book provided for that purpose, a report of the condition of the mine. The report shall clearly state any danger that comes under his observation during the day or is reported to him by his assistants or by the fire bosses, and shall state what action was taken to correct such danger, whether or not there is a proper supply of material on hand for the safe working of the mine, and whether or not the mining laws are being complied with. The mine foreman shall each day read carefully, and countersign with ink, all reports entered in the record book of the fire bosses.

- (3) The mine superintendent, *mine manager*, mine foreman, and assistant foreman shall be held jointly responsible for the immediate compliance with the provisions of KRS Chapter 351 and this chapter.

Section 24. KRS 352.410 is amended to read as follows:

- (1) Each superintendent *or mine manager* shall, on behalf and at the expense of the licensee, keep on hand at or within convenient distance of the mine, not to exceed five hundred (500) feet, a sufficient quantity of all materials and supplies required to preserve the safety of employees, as ordered by the mine foreman and required by law. If the superintendent *or mine manager* cannot procure the necessary materials or supplies, he shall at once notify the mine foreman, who shall withdraw the men from the mine until the materials or supplies are received.
- (2) The superintendent *or mine manager* shall, at least once each week, read and examine carefully and countersign all reports entered in the mine record book of the mine foreman.
- (3) The licensee, ~~the~~ superintendent, *or mine manager* shall cooperate with the mine foreman and other officials in the fulfillment of their duties under KRS Chapter 351 and this chapter, and shall direct that the mine foreman and all other employees under him comply with the law, especially when his attention is called by the mine inspector or by the commissioner to any violations of the laws.
- (4) The superintendent *or mine manager* shall keep on hand at the mine a supply of printed rules, notices, and record books required by this chapter. The superintendent *or mine manager* shall see that rules, notices, and record books are delivered to the proper persons at the mine and are properly cared for, and that the rules and notices are posted in conspicuous places at or near the entrance to the mine and kept legible.

Section 25. KRS 352.420 is amended to read as follows:

- (1) The operator, ~~the~~ superintendent, *or mine manager* of each mine shall give the commissioner at least ten (10) days' notice of the following:
  - (a) Abandonment of a mine;
  - (b) Resumption of work in a mine after an abandonment or discontinuance for a period of two (2) weeks or more; and
  - (c) Change in the operator or name of a mine.
- (2) Each mine shall be inspected and approved by the department before operations are resumed after an abandonment.

Section 26. KRS 352.430 is amended to read as follows:

- (1) The operator, ~~the~~ superintendent, *or mine manager* of every mine shall furnish the mine inspector proper facilities for entering the mine and making examinations or obtaining information.
- (2) If any inspector discovers that any mine does not conform to the provisions of KRS Chapter 351 and this chapter in respect to the safety of employees, or that by reason of any defect or practice not specifically covered by these chapters in or about the mine, the lives or health of persons employed therein are endangered, he shall immediately issue an emergency order to the licensee or superintendent. If he deems it necessary for the immediate protection from imminent danger of bodily harm of the persons employed in the mine, he shall withdraw the men who may be endangered *according to the following procedures*:~~;~~
  - (a) If the entire mine is affected by the dangerous condition, all men shall be withdrawn and production shall be halted until all defects causing the imminently dangerous condition are corrected;~~;~~
  - (b) If an imminent danger affects only a portion of the mine, the persons whose safety may be menaced thereby shall be withdrawn from the affected part of the mine and production halted in that area until the dangerous condition is corrected;~~;~~
  - (c) ~~However,~~ Where production is necessary to correct the unsafe condition, it shall be permitted to that extent, using only the necessary personnel; ~~and~~
  - (d) Production at the affected area of a mine from which men are withdrawn pursuant to this section may be resumed upon reinspection by a mine inspector and a finding by that inspector that the mine is no longer imminently unsafe.

- (3) In all emergency hearings, a departmental attorney, the Attorney General, the Commonwealth's attorney, or the county attorney of the judicial circuit or county in which the mine is situated shall appear for the Commonwealth and defend the action.

Section 27. KRS 352.450 is amended to read as follows:

- (1) The operator or superintendent of each underground mine shall annually make or cause to be made a map of the workings of the mine which is accurate and of professional quality, on a scale of not less than one hundred (100) and not more than five hundred (500) feet to the inch, showing the area mined and the forms of the excavations up to January 1, together with the location and connection of the property and mineral lease lines of all adjoining lands within one thousand (1,000) feet of the excavations and, marked on each tract, the name of each owner or lessee of adjoining lands and of mine property for which the map is being filed. Such map shall also show:
- (a) The proposed general plan of mining for the next twelve (12) months;
  - (b) All pillared, worked-out, and abandoned areas;
  - (c) Entries and aircourses with the direction of airflow indicated by arrows;
  - (d) Dip of the coal bed;
  - (e) Escapeways;
  - (f) Major roof falls;
  - (g) Any worked-out areas within one thousand (1,000) feet of the projections proposed for the next twelve (12) months, designating whether active, abandoned, or pillared, and showing precautions to be taken if mines are projected towards old workings which cannot be examined;
  - (h) Mines above or below;
  - (i) Water pools above;
  - (j) Location of all known oil and gas wells, both producing and abandoned, within the area required to be mapped, as well as owners and well numbers when possible;
  - (k) Such map shall identify those areas of the mine which are inaccessible or cannot be entered safely and on which no information is available;
  - (l) The name and address of the mine, the mine number, seam, and seam thickness;
  - (m) The scale and orientation of the map, longitude and latitude, and corresponding USGS 7.5 minute quadrangle map;
  - (n) The property or boundary lines of the mine, indicating the twenty-five (25) foot barrier required by KRS 352.490 between projections and property lines;
  - (o) All known drill holes that penetrate the coal bed being mined;
  - (p) All shaft, slope, drift, and tunnel openings and auger and strip-mined areas of the coal bed being mined;
  - (q) The location of all surface mine ventilation fans; the location may be designated on the mine map by symbols;
  - (r) The location of railroad tracks and public highways leading to the mine, and mine buildings of a permanent nature with identifying names shown, and water sheds near openings of the mine;
  - (s) The location and description of at least two (2) permanent base line points coordinated with the underground and surface mine traverses, and the location and description of at least two (2) permanent elevation bench marks used in connection with establishing or referencing mine elevation surveys, and any other identifying permanent landmarks;
  - (t) The location and elevation of any body of water dammed in the mine or held back in any portion of the mine; provided, however, such bodies of water may be shown on overlays or tracings attached to the mine maps used to show contour lines;
  - (u) The elevations of tops and bottoms of shafts and slopes, and the floor at the entrance to drift and tunnel openings;



- (v) The elevation of the floor at intervals of not more than two hundred (200) feet in:
  - 1. At least one (1) entry of each working section, main entry, and cross entries;
  - 2. The last line of open crosscuts of each working section, and main and cross entries before such sections and main and cross entries are abandoned;
  - 3. Rooms advancing toward or adjacent to property or boundary lines or adjacent mines; and
- (w) Contour lines passing through whole number elevations of the coal bed being mined. The spacing of such lines shall not exceed ten (10) foot elevation levels, except that a broader spacing of contour lines may be approved by the commissioner or his authorized representative for steeply-pitching coal beds. Contour lines may be placed on overlays or tracings attached to mine maps.

The operator, ~~or~~ superintendent, **or mine manager** shall deposit a true copy of the map with his license application to the commissioner within forty-five (45) days after January 1, and another copy of the map shall be kept at the office of the mine. A copy shall also be furnished the district office of the department.

- (2) After making and filing the map with the commissioner, the operator, ~~or~~ superintendent, **or mine manager** thereafter is only required to file annually with the commissioner, within the time specified, such additional map and statement as is necessary to show the progress of the workings, the amount and forms of excavations, and the property lines within one thousand (1,000) feet of the excavations extended since the date of the preceding map. The commissioner shall annually, before January 1, give notice that the map is required.
- (3) The commissioner may require any operator, ~~or~~ superintendent, **or mine manager** to furnish a map other than those required in subsections (1) and (2) of this section or of a surface mine, and the operator or superintendent shall immediately comply with the requirement.
- (4) The mine inspector shall have the authority to stop production at the mine of any operator who does not furnish within thirty (30) days of notification of specific deficiencies a map which fully complies with the requirements of this section.

Section 28. KRS 352.460 is amended to read as follows:

- (1) If the operator, ~~or~~ superintendent, **or mine manager** of any mine fails to furnish to the commissioner any map required by KRS 352.450 and 352.480, the commissioner may cause a correct survey and map of the mine or extensions thereof to be made at the expense of the owner, lessee or operator of the mine, and the cost of the map shall be recoverable from the owner, lessee or operator in the same manner as debts are recoverable by law.
- (2) If at any time the commissioner has reason to believe that any map furnished under KRS 352.450 and 352.480 is materially incorrect, so that it will not serve the purpose for which it was intended, he may have a survey and map made or corrected, and the expense of making the survey, map or correction shall be paid by the owner, lessee or operator of the mine, or recovered in the same manner as debts are recoverable by law; but if the map furnished by the operator or superintendent is found to be correct, the expense of the survey and drafting of the map shall be paid by the Commonwealth.

**Approved April 21, 2006.**

## CHAPTER 186

(SB 179)

AN ACT relating to notary publics.

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

Section 1. KRS 423.010 is amended to read as follows:

- (1) The Secretary of State may appoint as many notaries public as he or she deems necessary, who shall hold office for four (4) years. Any resident of the Commonwealth of Kentucky desiring to be appointed a notary public shall make written application to the Secretary of State. The application shall be approved by the Circuit Judge, circuit clerk, county judge/executive, county clerk, justice of the peace, or a member of the General Assembly of the county of the residence of the applicant or in the county in which the applicant's principal

place of employment is located. A person who is not a resident of Kentucky but who is employed in Kentucky may become a notary public by making an application to the Secretary of State which has been approved by an officer specified in this section from the county in which the applicant is principally employed in Kentucky. No officer shall charge or accept any fee for approving the application. A notary public shall be eighteen (18) years of age, a resident of the county from which he or she makes his or her application or be principally employed in the county from which he or she makes his or her application, of good moral character, and capable of discharging the duties imposed upon him or her by this chapter, and the endorsement of the officer approving the application shall so state. The Secretary of State, in his or her certificate of appointment to the applicant, shall designate the limits within which the notary is to act. Before a notary acts, he or she shall take an oath before any person authorized to administer an oath as set forth in KRS 62.020 that he or she will honestly and diligently discharge the duties of his or her office. He or she shall in the same court give an obligation with good security, ***which shall be proven by a notarized statement from, and not the personal appearance of, the person providing the security,*** for the proper discharge of the duties of his or her office. Every certificate of a notary public shall state the date of the expiration of his or her commission. The Secretary of State shall give to each notary appointed a certificate of his or her appointment under the seal of the Commonwealth of Kentucky in lieu of a commission heretofore required to be issued to the notary by the Governor of Kentucky, and receive a fee of ten dollars (\$10) for the certificate.

- (2) A county clerk shall have the powers of a notary public in the exercise of the official functions of the office of clerk within his or her county, and the official actions of the county clerk shall not require the witness or signature of a notary appointed pursuant to subsection (1) of this section.

**Approved April 21, 2006.**

## CHAPTER 187

### (HB 361)

AN ACT relating to candidates.

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

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

- (1) A candidate for any office to be voted for at any regular election may be nominated by a petition of electors qualified to vote for him ***or her***, complying with the provisions of subsection (2) of this section. No person whose registration status is as a registered member of a political party shall be eligible to election as an independent candidate, nor shall any person be eligible to election as an independent candidate whose registration status was as a registered member of a political party on January 1 immediately preceding the regular election for which the person seeks to be a candidate. This restriction shall not apply to candidates to those offices specified in KRS 118.105(7), for supervisor of a soil and water conservation district, for candidates for mayor or legislative body in cities of the second to sixth class, or to candidates participating in nonpartisan elections.
- (2) The form of the petition shall be prescribed by the State Board of Elections. It shall be signed by the candidate and by registered voters from the district or jurisdiction from which the candidate seeks nomination. The petition shall include a declaration, sworn to by the candidate, that he or she possesses all the constitutional and statutory requirements of the office for which the candidate has filed. Signatures for a petition of nomination for a candidate seeking any office, excluding President of the United States in accordance with KRS 118.591(1), shall not be solicited prior to the first Wednesday after the first Monday in November of the year preceding the year in which the office will appear on the ballot. A petition of nomination for a state officer, or any officer for whom all the electors of the state are entitled to vote, shall contain five thousand (5,000) petitioners; for a representative in Congress from any congressional district, or for any officer from any other district except as herein provided, four hundred (400) petitioners; for a county officer, member of the General Assembly, or Commonwealth's attorney, one hundred (100) petitioners; for a soil and water conservation district supervisor, twenty-five (25) petitioners; for a city officer ***or board of education member***, two (2) petitioners; and for an officer of a division less than a county, except as herein provided, twenty (20) petitioners. It shall not be necessary that the signatures of the petition be appended to one (1) paper. Each petitioner shall include ***the date he or she affixes the signature,*** ~~his~~ address of residence, ~~and~~ ~~his Social Security number or~~ date of birth. Failure of a voter to include ***the signature affixation date,*** ~~his Social Security number or~~ date of birth, and address of residence shall result in ~~the~~ ~~his~~ signature not being counted. If any

person joins in nominating, by petition, more than one (1) nominee for any office to be filled, he *or she* shall be counted as a petitioner for the candidate whose petition is filed first, except a petitioner for the nomination of candidates for soil and water conservation district supervisors may be counted for every petition to which his *or her* signature is affixed.

- (3) Titles, ranks, or spurious phrases shall not be accepted on the filing papers and shall not be printed on the ballots as part of the candidate's name; however, nicknames, initials, and contractions of given names may be accepted as the candidate's name.
- (4) The Secretary of State and county clerks shall examine the petitions of all candidates who file with them to determine whether each petition is regular on its face. If there is an error, the Secretary of State or the county clerk shall notify the candidate by certified mail within twenty-four (24) hours of filing.

**Approved April 21, 2006.**

## CHAPTER 188

**(HB 556)**

AN ACT relating to gasoline and special fuel taxes.

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

Section 1. KRS 138.240 is amended to read as follows:

- (1) Every gasoline dealer and every special ~~fuel~~<sup>fuels</sup> 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 reports on the forms the department may prescribe, of the total number of gallons of gasoline and special fuel received in this state during the next preceding calendar month. ***For tax periods beginning on or after January 1, 2007, the report shall be submitted electronically in a manner prescribed by the department.*** 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) Bulk sales of gasoline or bulk sales of special fuels sold 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.
- (4) *Persons subject to the gasoline and special fuel tax may apply for a waiver from the requirement in subsection (1) of this section that the report be submitted electronically for tax periods beginning on or after January 1, 2007, by submitting a request on a form prescribed by the department. The request shall indicate the lack of one (1) or more of the following:*
- (a) *Compatible computer hardware;*
  - (b) *Internet access; or*
  - (c) *Other technological capabilities determined relevant by the department.*
- (5) *If a person qualifies for a waiver under subsection (4) of this section, paper reports including the information required by subsections (1) through (3) of this section shall be submitted.*

Section 2. KRS 138.280 is amended to read as follows:

- (1) (a) *For tax periods beginning prior to January 1, 2007, 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 may waive this requirement and accept the dealer's check or allow for remittance of the tax owed to the department by electronic fund transfer 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.*
- (b) *For tax periods beginning on or after January 1, 2007, the payments computed as provided in KRS 138.270 shall be transmitted electronically in a manner prescribed by the department.*
- (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.
- (3) *Persons subject to the gasoline and special fuels tax may apply for a waiver from the requirements of paragraph (b) of subsection (1) of this section by submitting a request on a form prescribed by the department. The request shall indicate the lack of one (1) or more of the following:*
- (a) *Compatible computer hardware;*
- (b) *Internet access; or*
- (c) *Other technological capabilities determined relevant by the department.*
- (4) *If a person qualifies for a waiver of the electronic payment requirements established by paragraph (b) of subsection (1) of this section, 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.*

- (5) The department shall promulgate administrative regulations establishing electronic fund transfer requirements for the payment of taxes due for the preceding calendar month and computed as provided by KRS 138.270.

**Approved April 21, 2006.**

## CHAPTER 189

**(HB 555)**

AN ACT relating to retired teachers, making an appropriation therefor, and declaring an emergency.

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

Section 1. KRS 161.553 is amended to read as follows:

- (1) The cost of providing statutory benefit improvements for annuitants may be funded by annual appropriations from the state on an actuarial amortized basis over the lifetime of the annuitants. The schedules in subsections (1)(a), (1)(b), and (1)(c) of this section are the annual appropriations which shall be made by the state for benefit improvements approved in the respective fiscal years or bienniums prior to July 1, ~~2008~~~~[2006]~~:

(a)	Cost of Living	<del>2006-2007</del> <del>[2004-2005]</del>	Each Succeeding Fiscal Year
	Allowance		
	<del>[ 1990-1992</del>	<del>\$4,901,700</del>	<del>\$2,486,800 in 2005-2006]</del>
	1992-1994	\$2,229,400	<del>[\$2,229,400 through 2006-2007</del>
			<del>and]</del>
			\$1,125,700 in 2007-2008
	1994-1996	\$6,142,000	\$6,142,000 through 2010-2011
	1996-1998	\$4,459,000	\$4,459,000 through 2010-2011
	1998-2000	\$15,333,900	\$15,333,900 through 2012-2013
			and
			\$7,938,600 through 2013-2014
	2000-2002	\$12,511,400	\$12,511,400 through 2014-2015
			and
			\$7,227,700 in 2015-2016
	2002-2004	\$21,405,700	
			\$21,405,700 through 2021-2022
			and

\$11,204,100 in 2022-2023

**2004-2006**

**\$15,413,700**

**\$15,413,700 through 2023-2024**

**and**

**\$7,421,400 in 2024-2025**

(b) Minimum Value **2006-2007**~~[2004-2005]~~ Each Succeeding Fiscal Year  
Annuities

~~[ 1990-1992 \$2,246,900 \$1,232,100 in 2005-2006]~~

1992-1994 \$2,217,700 ~~[\$2,217,700 through 2006-2007]~~

1994-1996 \$2,126,000 \$2,126,000 through 2008-2009

2002-2004 \$3,375,900

\$3,375,900 through 2016-2017

and

\$2,027,800 in 2017-2018

(c) Sick Leave **2006-2007**~~[2004-2005]~~ Each Succeeding Fiscal Year  
Allowance

1998-2000 \$4,660,300 \$4,660,300 through 2012-2013

and

\$2,425,900 through 2013-2014

2000-2002 \$6,167,100 \$6,167,100 through 2014-2015

and

\$3,579,100 in 2015-2016

2002-2004 **\$5,337,000**~~[\$6,282,500]~~ **\$5,337,000**~~[\$6,282,500]~~ through 2021-2022

and

2004-2006 **\$7,261,100**~~[\$8,009,200]~~ **\$7,261,100**~~[\$8,009,200]~~ through 2023-2024

and

\$4,339,500 in 2024-2025

2006-2008

\$4,293,800

\$9,211,000 through 2025-2026

and

\$4,917,200 in 2026-2027

- (2) *The cost of providing the transitional funding for the state medical insurance fund stabilization contribution as provided by KRS 160.550(2) may be funded by annual appropriations from the state on an amortized basis. The schedule in this subsection is the annual appropriation which shall be made by the state in the respective fiscal years or biennium prior to July 1, 2008:*

<i>Amortization of</i>	<i>2006-2007</i>	<i>Each Succeeding Fiscal Year</i>
<i>Transitional Funding</i>	<i>\$13,325,100</i>	<i>\$13,325,100 through 2014-2015</i>
		<i>and</i>
		<i>\$9,075,500 in 2015-2016</i>

- (3) *The Kentucky Teachers' Retirement System is directed to study the feasibility of stabilizing the employer contribution rate set forth in KRS 161.550 should the state use the funding provided under this section to issue pension obligation bonds, the proceeds of which would be deposited with Kentucky Teachers' Retirement System for investment and payment of retirement benefits. The cost of the feasibility study shall be paid by the Kentucky Teachers' Retirement System.*

- (4) The present values of providing statutory cost-of-living increases for annuitants not included in subsection (1) of this section are to be assigned to the unfunded obligations of the retirement system and are identified as follows:

1986-1988	\$34,689,893
1990-1992	\$68,107,473
1992-1994	\$15,749,976

Section 2. KRS 161.620 is amended to read as follows:

- (1) The retirement allowance, in the form of a life annuity with refundable balance, of a member retiring for service shall be calculated as follows:
- For retirements effective July 1, 1998, and thereafter, except as otherwise provided by this section, the annual allowance for each year of service shall be two percent (2%) of the final average salary for service performed prior to July 1, 1983, and two and one-half percent (2.5%) of the final average salary for service performed after July 1, 1983, for all members not employed by a state college or university. The annual retirement allowance for each year of service performed by members of the Teachers' Retirement System who are members under the provisions of KRS 161.220(4)(b) or (n) shall be two percent (2%) of the final average salary. Actuarial discounts due to age or service credit at retirement may be applied as provided in this section.
  - For individuals who become members of the Kentucky Teachers' Retirement System on or after July 1, 2002, except those persons who become members under KRS 161.220(4)(b) or (n), and who upon retirement have earned less than ten (10) full years of service credit, the retirement allowance shall be two percent (2%) of the member's final average salary for each year of service. For individuals who become members of the Kentucky Teachers' Retirement System on or after July 1, 2002, except those persons who become members under KRS 161.220(4)(b) or (n), and who upon retirement have earned at least ten (10) full years of service credit, the annual allowance for each year of service shall be two and one-half percent (2.5%) of the member's final average salary.
  - The board of trustees may approve for members who initially retire on or after July 1, 2004, except those persons who are members under KRS 161.220(4)(b) or (n), a retirement allowance of three

percent (3%) of the member's final average salary for each year of service credit earned in excess of thirty (30) years. This three percent (3%) factor shall be in lieu of the two and one-half percent (2.5%) factor provided for in paragraph (b) of this subsection for every year or fraction of a year of service in excess of thirty (30) years. Upon approval of this three percent (3%) retirement factor, the board of trustees may establish conditions of eligibility regarding the type of service credit that will qualify for meeting the requirements of this subsection. This subsection is optional with the board of trustees and shall not be subject to KRS 161.714.

- (d) The retirement allowance of a member at retirement, as measured on a life annuity, shall not exceed the member's last yearly salary or the member's final average salary, whichever is the greater amount. For purposes of this section, "yearly salary" means the compensation earned by a member during the most recent period of contributing service, either consecutive or nonconsecutive, preceding the member's effective retirement date and shall be subject to the provisions of KRS 161.220(9) and (10).
- (2) Effective July 1, 2002, and annually on July 1 thereafter, the retirement allowance of each retired member and of each beneficiary of a retirement option shall be increased in the amount of one and one-half percent (1.5%), provided the retired member had been retired for at least the full twelve (12) months immediately preceding the date that the increase is effective. In the event that the retired member had been retired for less than the full twelve (12) months immediately preceding the date that the increase is effective, then the increase shall be reduced on a pro rata basis by each month that the retired member had not been retired for the full twelve (12) months immediately preceding the effective date of the increase.
- (3) Any member qualifying for retirement under a life annuity with refundable balance shall be entitled to receive an annual allowance amounting to not less than four hundred dollars (\$400) effective July 1, 2002, and not less than four hundred forty dollars (\$440) effective July 1, 2003, multiplied by the service credit years of the member. These minimums shall apply to the retired members receiving annuity payments and to those members retiring on or subsequent to the effective dates listed in this subsection.
- (4) The minimum retirement allowance provided in this section shall apply in the case of members retired or retiring under an option other than a life annuity with refundable balance in the same proportion to the benefits of the member and his beneficiary or beneficiaries as provided in the duly-adopted option tables at the time of the member's retirement.
- (5) Effective July 1, ~~2006~~~~[2004]~~, the monthly allowance of each retired member and each recipient of a retirement option of the retired member may be increased in an amount not to exceed eight-tenths of one percent (0.8%) of the monthly allowance in effect the previous month, provided the retired member had been retired for at least the full twelve (12) months immediately preceding the date that the increase is effective. In the event that the retired member had been retired for less than the full twelve (12) months immediately preceding the date that the increase is effective, then the increase shall be reduced on a pro rata basis by each month that the retired member had not been retired for the full twelve (12) months immediately preceding the effective date of the increase. The level of increase provided for in this subsection shall be determined by the funding provided in the ~~2006-2008~~~~[2002-2004]~~ biennium budget appropriation.
- (6) Effective July 1, ~~2007~~~~[2005]~~, the monthly allowance of each retired member and each recipient of a retirement option of the retired member may be increased in an amount not to exceed ~~six-tenths~~~~[seven-tenths]~~ of one percent (~~0.6%~~~~[(0.7%)]~~) of the monthly allowance in effect the previous month, provided the retired member had been retired for at least the full twelve (12) months immediately preceding the date that the increase is effective. In the event that the retired member had been retired for less than the full twelve (12) months immediately preceding the date that the increase is effective, then the increase shall be reduced on a pro rata basis by each month that the retired member had not been retired for the full twelve (12) months immediately preceding the effective date of the increase. The level of increase provided for in this subsection shall be determined by the funding provided in the ~~2006-2008~~~~[2002-2004]~~ biennium budget appropriation.
- (7) Effective July 1, 1990, monthly payments of two hundred dollars (\$200) shall be payable for the benefit of an adult child of a member retired for service when the child's mental or physical condition is sufficient to cause dependency on the member at the time of retirement. Eligibility for this payment shall continue for the life of the child or until the time the mental or physical condition creating the dependency no longer exists or the child marries. Benefits under this subsection shall apply to legally adopted survivors provided the proceedings for the adoption were initiated at least one (1) year prior to the death of the member. The board of trustees shall be the sole judge of eligibility or dependency and may require formal application or information relating thereto.



- (8) Members of the Teachers' Retirement System shall be subject to the annuity income limitations imposed by Section 415 of the Internal Revenue Service Code.
- (9) Compensation in excess of the limitations imposed by Section 401(a)(17) of the Internal Revenue Code shall not be used in determining a member's retirement annuity. The limitation on compensation for eligible members shall not be less than the amount which was allowed to be taken into account by the retirement system in effect on July 1, 1993. For this purpose, an eligible member is an individual who was a member of the retirement system before the first plan year beginning after December 31, 1995.

Section 3. KRS 161.661 is amended to read as follows:

- (1) Any member who has completed five (5) or more years of accredited service in the public schools of Kentucky after July 1, 1941, may retire for disability and be granted a disability allowance if found to be eligible as provided in this section. Application for disability benefits shall be made within one (1) year of the last contributing service in Kentucky, and the disability must have occurred during the most recent period of employment in a position covered by the Teachers' Retirement System and subsequent to the completion of five (5) years of teaching service in Kentucky. A disability occurring during the regular vacation immediately following the last period of active service in Kentucky or during an official leave for which the member is entitled to make regular contributions to the retirement system, shall be considered as having occurred during a period of active service. The annual disability allowance shall be equal to sixty percent (60%) of the member's final average salary. Members with twenty-seven (27) or more years of service credit are eligible for service retirement only.
- (2) The provisions of KRS 161.520, 161.525, and subsections (3), (4), and (5) of this section shall not apply to disability retirees whose benefits were calculated on the service retirement formula nor to survivors of these members.
- (3) Members shall earn one (1) year of entitlement to disability retirement, at sixty percent (60%) of the member's final average salary, for each four (4) years of service in a covered position, but any member meeting the service requirement for disability retirement shall be credited with no less than five (5) years of eligibility.
- (4) A member retired by reason of disability shall continue to earn service credit at the rate of one (1) year for each year retired for disability. This service shall be credited to the member's account at the expiration of entitlement as defined in subsection (3) of this section, or when the member's eligibility for disability benefits is terminated upon recommendation of a medical review committee, and this service shall be used in calculating benefits as provided in subsection (5) of this section, but under no circumstances shall this service be used to provide the member with more than twenty-seven (27) years of total service credit. The service credit shall be valued at the same level as service earned by active members as provided under KRS 161.600 and 161.620.
- (5) Any member retired by reason of disability and remaining disabled at the expiration of the entitlement period shall have his disability benefits recalculated using the service retirement formula with service credit as set out in subsection (4) of this section. The retirement allowance shall be calculated as set forth in KRS 161.620, except that those persons less than sixty (60) years of age shall be considered as sixty (60) years of age. Members having their disability benefits recalculated under this subsection shall not be entitled to a benefit based upon an average of their three (3) highest salaries as set forth in KRS 161.220(9), unless approved otherwise by the board of trustees.
- (6) Members who have their disability retirement allowance recalculated at the expiration of the entitlement period shall continue to have coverage under the post-retirement medical insurance program. Restrictions on employment shall remain in effect until the member attains age seventy (70) or until the member's eligibility is discontinued. KRS 161.520 and 161.525 shall not apply to survivors of disability retirees whose retirement allowances have been recalculated at the expiration of the entitlement period. Members who have their disability retirement allowance recalculated at the expiration of their entitlement period shall be entitled to a minimum monthly allowance of five hundred dollars (\$500) as the basic straight life annuity. The minimum allowance shall be effective July 1, 1992, and shall apply to those members who have had their allowance recalculated prior to that date and to disability retirees who will have their benefit allowance recalculated on or after that date.

- (7) Effective July 1, 1992, members retired for disability prior to July 1, 1964, shall be entitled to a minimum monthly allowance of five hundred dollars (\$500) as their basic straight life annuity and their surviving spouse shall be eligible for survivor benefits as provided in KRS 161.520(1)(a) and (b).
- (8) Any member retired by reason of disability may voluntarily waive disability benefits and return to teaching or any member, who is age sixty (60) years or older, may elect to waive disability benefits and retire for service on the basis of service credited to the member on the effective date of the disability retirement.
- (9) In order to qualify for retirement by reason of disability a member must suffer from a physical or mental condition presumed to be permanent in duration and of a nature as to render the member incapable of being gainfully employed in a covered position. The incapability must be revealed by a competent examination by a licensed physician or physicians and must be approved by a majority of a medical review committee.
- (10) A member retired by reason of disability shall be required to undergo periodic examinations at the discretion of the board of trustees to determine whether the disability allowance shall be continued. When examination and recommendation of a medical review committee indicate the disability no longer exists, the allowance shall be discontinued.
- (11) Eligibility for payment shall begin on the first day of the month following receipt of the application in the Teachers' Retirement System office, or the first of the month next following the last payment of salary or sick leave benefits by the employer, whichever is the later date.
- (12) No person who receives a disability allowance may be employed in a position that entails duties or qualification requirements similar to positions subject to participation in the retirement system either within or without the State of Kentucky. So doing shall constitute a misdemeanor and shall result in loss of the allowance from the first date of this service. A member who applies for and is approved for disability retirement on or after July 1, 2002, and whose annual disability benefit is less than forty thousand dollars (\$40,000) may earn income in any occupation other than covered employment only to the extent that the annual income from the other employment when added to the annual disability benefit does not exceed forty thousand dollars (\$40,000). For any member who exceeds this limit as a result of income from other employment, the Kentucky Teachers' Retirement System shall reduce the member's disability benefit on a dollar-for-dollar basis for each dollar that the member's combined annual disability benefit and annual income from other employment exceeds forty thousand dollars (\$40,000). The board of trustees may annually increase the forty thousand dollar (\$40,000) limit by the percentage increase in the annual average of the consumer price index for all urban consumers for the most recent calendar year as published by the Federal Bureau of Labor Statistics, not to exceed five percent (5%).
- (13) All members who applied for disability retirement before July 1, 2002, and were approved as a result of that application shall be subject to the income limitations as they existed on June 30, 2002, ***until July 1, 2006. Effective July 1, 2006, the twenty-seven thousand dollar (\$27,000) limitation shall be increased to forty thousand dollars (\$40,000) and may be adjusted by the board of trustees by the consumer price index in the manner described in this subsection (12) of this section.*** The recipient of a disability allowance who engages in any gainful occupation other than covered employment must make a report of the duties involved, compensation received, and any other pertinent information required by the board of trustees.
- ~~(14)~~~~(13)~~ The board of trustees shall designate medical review committees, each consisting of three (3) licensed physicians. A medical review committee shall pass upon all applications for disability retirement and upon all applicant statements, medical certifications, and examinations submitted in connection with disability applications. The disposition of each case shall be recommended by a medical review committee in writing to the retirement system. Members of a medical review committee shall follow administrative regulations regarding procedures as the board of trustees may enact and shall be paid reasonable fees and expenses as authorized by the board of trustees in compliance with the provisions of KRS 161.330 and 161.340. The retirement system may secure additional medical examinations and information as it deems necessary. A member may appeal any final agency decision denying his or her disability retirement application pursuant to the provisions of KRS 161.250(2).
- ~~(15)~~~~(14)~~ A disability may be presumed to be permanent if the condition creating the disability may be reasonably expected to continue for one (1) year or more from the date of application for disability benefits.
- ~~(16)~~~~(15)~~ Any member who has voluntarily waived disability benefits or whose disability benefits have been discontinued on recommendation of a medical review committee, may apply for reinstatement of disability benefits. The application for reinstatement must be made to the retirement system within twelve (12) months of

the date disability benefits terminated. If the termination of benefits were voluntary, the reinstatement may be made without medical examination if application is made within three (3) months of the termination date. Other applications for reinstatement will be processed in the same manner as new applications for benefits.

~~(17)(16)~~ No person who is receiving disability benefits under this section may be employed in a position which qualifies the person for membership in a retirement system financed wholly or in part with public funds. Employment in a position prohibited by this subsection shall result in disqualification for those disability benefits from the date of employment in the prohibited position.

~~(18)(17)~~ Any person who is receiving benefits and becomes disqualified from receiving those benefits under this section, or becomes disqualified from receiving a portion of those benefits due to income from other than covered employment, shall immediately notify the Teachers' Retirement System of this disqualification in writing and shall return all benefits paid after the date of disqualification. Failure to comply with these provisions shall create an indebtedness of that person to the Teachers' Retirement System. Interest at the rate of eight percent (8%) per annum shall be charged if the debt is not repaid within sixty (60) days after the date of disqualification. Failure to repay this debt creates a lien in favor of the Teachers' Retirement System upon all property of the person who improperly receives benefits and does not repay those benefits. The Kentucky Teachers' Retirement System may, in order to collect an outstanding debt, reduce or terminate any benefit that a member is otherwise entitled to receive.

Section 4. KRS 161.520 is amended to read as follows:

Upon the death of an active contributing member or upon the death of a member retired for disability, except as provided in KRS 161.661(6), the survivors of the deceased member in the following named order, may elect to receive a survivor's benefit payable as follows:

- (1) Where there is a surviving widow or widower who is named as the primary beneficiary of the member's retirement account, the benefit shall be:
  - (a) One hundred eighty dollars (\$180) per month with no restriction on other income;
  - (b) Two hundred forty dollars (\$240) per month when the surviving widow or widower's total income from all sources does not exceed six thousand six hundred dollars (\$6,600) per year or five hundred fifty dollars (\$550) per month; or
  - (c) If the deceased member has a minimum of ten (10) years of service credit with the Teachers' Retirement System, the surviving widow or widower may apply for an annuity actuarially equivalent to the annuity that would have been paid to the deceased member when eligibility conditions were met. Eligibility for payments would begin at the time the age of the deceased member would have met the requirements of KRS 161.600(1). In exercising this right, the surviving widow or widower shall be entitled to receive an annuity for life, except as provided in subsection (6) of this section. This subsection applies to surviving spouses of members who die on or after July 1, 1978. A surviving widow or widower of a member who dies after July 1, 1978, shall be eligible for benefit payments provided under paragraphs (a) and (b) of this subsection until they begin receiving payments under this provision.
- (2) Where there are surviving unmarried children under age eighteen (18) or under age nineteen (19) if a full-time student in high school, the benefit shall be two hundred dollars (\$200) per month in the case of one (1) child, three hundred forty dollars (\$340) per month in the case of two (2) children, four hundred dollars (\$400) per month in the case of three (3) children, and four hundred forty dollars (\$440) per month in the case of four (4) or more children. Benefits under this subsection shall apply in addition to benefits which may be payable under subsections (1) and (3) of this section.
- (3) Where the survivor is a child age eighteen (18) or older whose mental or physical condition is sufficient to cause his dependency on the deceased member at the time of the member's death, the benefit shall be two hundred dollars (\$200) per month, payable for the life of the child or until the time as the mental or physical condition creating the dependency no longer exists or the child marries. Benefits under this subsection and subsection (2) of this section shall apply to legally adopted survivors provided the proceedings for the adoption were initiated at least one (1) year prior to the death of the member. The mental or physical condition of the adult child shall be revealed by a competent examination by a licensed physician and shall be approved by a majority of a medical review committee as defined in KRS 161.661(~~14~~)(~~13~~). Benefits under this subsection shall apply in addition to benefits which may be payable under subsections (1) and (2) of this section.

- (4) Where the sole eligible survivors are dependent parents aged sixty-five (65) or over, the benefit shall be two hundred dollars (\$200) per month for one (1) parent or two hundred ninety dollars (\$290) per month for two (2) parents. Dependency of a parent shall be established as of the date of the death of the member.
- (5) Where the sole eligible survivor is a dependent brother or sister, the benefit shall be one hundred sixty five dollars (\$165) per month. In order to qualify the brother or sister must have been a resident of the deceased member's household for at least one (1) full year prior to the member's death or must have been receiving care in a hospital, nursing home, or other institution at the member's expense for same period.
- (6) The benefit to a child as defined in subsection (2) of this section shall terminate upon the attainment of age eighteen (18) or upon reaching age nineteen (19), if a full-time student in high school, or upon marriage, except that benefits shall continue until the attainment of age twenty-three (23) for an unmarried child who is a full-time student in a recognized educational program beyond the high school level. The benefit to a widow, widower, dependent parent, or dependent brother or sister or dependent child age eighteen (18) or older shall terminate upon marriage, or upon termination of the condition creating the dependency.
- (7) The board of trustees shall be the sole judge of eligibility or dependency of any beneficiary, and may require formal application or information relating to eligibility or dependency, including proof of annual income satisfactory to the board. The board of trustees may subpoena records and individuals whenever it deems this action necessary.
- (8) No payment of benefits shall be made unless the board of trustees authorizes the payment. The board shall promulgate administrative regulations for the administration of the provisions in this section and in every case the decision of the board of trustees shall be final as to eligibility, dependency, or disability, and the amount of benefits payable.
- (9) In the event that there are no eligible survivors as defined in subsections (1) to (5) of this section, the board of trustees shall pay to the estate or assigns of the deceased member a refund of his accumulated contributions as provided in KRS 161.470(7). If the benefits paid or payable under subsections (1) to (5) of this section and KRS 161.661 shall amount to a sum less than the member's accumulated contributions at the time of death, the board of trustees shall pay to the estate or assigns of the deceased member the balance of the accumulated contributions.
- (10) Any person who is receiving benefits and becomes disqualified from receiving those benefits under this section shall immediately notify the Teachers' Retirement System of this disqualification in writing and shall return all benefits paid after the date of disqualification. Failure to comply with these provisions shall create an indebtedness of that person to the Teachers' Retirement System. Interest at the rate of eight percent (8%) per annum shall be charged if the debt is not repaid within sixty (60) days after the date of disqualification. Failure to repay this debt creates a lien in favor of the Teachers' Retirement System upon all property of the person who improperly receives benefits and does not repay those benefits.

Section 5. Whereas, retirement annuity adjustments are implemented at the beginning of the fiscal year, an emergency is declared to exist, and this Act takes effect July 1, 2006.

**Approved April 21, 2006.**

## **CHAPTER 190**

**(SB 124)**

AN ACT relating to special license plates.

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

Section 1. KRS 186.166 is amended to read as follows:

- (1) The Transportation Cabinet shall, unless directed otherwise by the General Assembly, perpetually produce the following special license plates: military license plates, U.S. Congressional license plates, volunteer firefighter license plates, disaster and emergency services license plates, Fraternal Order of Police license plates, Law Enforcement Memorial license plates, street rod license plates, nature license plates, amateur radio license plates, Kentucky General Assembly license plates, Kentucky Court of Justice license plates, Masonic Order license plates, collegiate license plates, independent college and university license plates, child victims' trust

fund license plates, Kentucky Horse Council license plates, Ducks Unlimited license plates, Gold Star Mothers license plates, and spay neuter license plates.

- (2) The design of the plates identified for perpetual production under this section may be revised upon request of a group or organization requesting a design revision under the provisions of KRS 186.164(15).
- (3) ***The design of a Purple Heart license plate shall not include any representation of the word "Kentucky" that is a registered trademark or slogan which appears on a general issue license plate.***

Section 2. KRS 186.162 is amended to read as follows:

- (1) As used in this section and in KRS 186.043, 186.164, 186.166, and 186.174:
  - (a) "Special license plate" means a unique license plate issued under this chapter to a group or organization that readily identifies the operator of the motor vehicle ***or motorcycle*** bearing the plate as a member of a group or organization, or a supporter of the work, goals, or mission of a group or organization. The term shall not include regular license plates issued under KRS 186.240;
  - (b) "Street rod" means a modernized private passenger motor vehicle manufactured prior to the year 1949, or designed or manufactured to resemble a vehicle manufactured prior to 1949;
  - (c) "SF" means the portion of an initial or renewal fee to obtain a special license plate that is dedicated for use by the Transportation Cabinet;
  - (d) "CF" means the portion of an initial or renewal fee to obtain a special license plate that is dedicated for use by a county clerk; and
  - (e) "EF" means the portion of an initial or renewal fee to obtain a special license plate that is mandated by this chapter to be dedicated for use by a particular group or organization.
- (2) The initial purchase fee and renewal fee for a special license plate created under this chapter shall be as established in this subsection and includes the name of group or organization and the total initial and renewal fee required for the plate. The amount in parentheses indicates how the total fee is required to be divided:
  - (a) Disabled veterans who receive assistance to purchase a vehicle from the United States Veterans' Administration and recipients of the Congressional Medal of Honor:
    1. Initial Fee: \$0 (\$0 SF/\$0 CF/\$0 EF).
    2. Renewal Fee:\$0 (\$0 SF/\$0 CF/\$0 EF).
  - (b) Former prisoners of war and survivors of Pearl Harbor:
    1. Initial Fee: \$20 (\$12 SF/\$3 CF/\$5 EF to the veterans' program trust fund established under KRS 40.460).
    2. Renewal Fee:\$3 (\$0 SF/\$3 CF/\$0 EF).
  - (c) Members of the Kentucky National Guard:
    1. Initial Fee: \$20 (\$12 SF/\$3 CF/\$5 EF to the veterans' program trust fund established under KRS 40.460).
    2. Renewal Fee:\$8 (\$0 SF/\$3 CF/\$5 EF to the veterans' program trust fund established under KRS 40.460).
  - (d) Recipients of the Purple Heart; members of the Civil Air Patrol; active, retired, veteran, reserve, or auxiliary members of the United States Army, Navy, Air Force, Marine Corps, or Coast Guard; Merchant Marines who served between December 7, 1941, and August 15, 1945; and disabled veterans who have been declared to be at least seventy percent (70%) service-connected disabled by the United States Department of Veterans' Affairs, or who receive total service-connected disability rating for compensation on individual unemployability and have not received assistance from the United States Department of Veterans' Affairs toward the purchase of a motor vehicle:
    1. Initial Fee: \$20 (\$12 SF/\$3 CF/\$5 EF to the veterans' program trust fund established under KRS 40.460).

2. Renewal Fee: \$20 (\$12 SF/\$3 CF/\$5 EF to the veterans' program trust fund established under KRS 40.460).
- (e) Recipients of the Distinguished Service Cross, Navy Cross, or Air Force Cross:
  1. Initial Fee: \$3 (\$0 SF/\$3 CF/\$0 EF).
  2. Renewal Fee:\$3 (\$0 SF/\$3 CF/\$0 EF).
- (f) Disabled license plates:
  1. Initial Fee: \$15 (\$12 SF/\$3 CF/\$0 EF).
  2. Renewal Fee:\$15 (\$12 SF/\$3 CF/\$0 EF).
- (g) Historic vehicles:
  1. Initial Fee for two plates: \$53 (\$50 SF/\$3 CF/\$0 EF).
  2. Renewal Fee: Do not renew annually.
- (h) Members of Congress:
  1. Initial Fee: \$40 (\$37 SF/\$3 CF/\$0 EF).
  2. Renewal Fee:\$20 (\$12 SF/\$3 CF/\$5 EF to the veterans' program trust fund established under KRS 40.460).
- (i) Volunteer firefighters:
  1. Initial Fee: \$15 (\$12 SF/\$3 CF/\$0 EF).
  2. Renewal Fee:\$15 (\$12 SF/\$3 CF/\$0 EF).
- (j) Disaster and emergency services:
  1. Initial Fee: \$28 (\$25 SF/\$3 CF/\$0 EF).
  2. Renewal Fee:\$15 (\$12 SF/\$3 CF/\$0 EF).
- (k) Fraternal Order of Police:
  1. Initial Fee: \$40 (\$37 SF/\$3 CF/\$0 EF).
  2. Renewal Fee:\$15 (\$12 SF/\$3 CF/\$0 EF).
- (l) Law Enforcement Memorial:
  1. Initial Fee: ~~\$38~~~~\$75~~ (\$25~~\$62~~ SF/\$3 CF/\$10 EF to the Kentucky Law Enforcement Memorial Foundation, Inc.).
  2. Renewal Fee:\$25 (\$12 SF/\$3 CF/\$10 EF to the Kentucky Law Enforcement Memorial Foundation, Inc.).
- (m) Personalized plates:
  1. Initial Fee: \$40 (\$37 SF/\$3 CF/\$0 EF).
  2. Renewal Fee:\$40 (\$37 SF/\$3 CF/\$0 EF).
- (n) Street rods:
  1. Initial Fee: \$40 (\$37 SF/\$3 CF/\$0 EF).
  2. Renewal Fee:\$15 (\$12 SF/\$3 CF/\$0 EF).
- (o) Nature plates:
  1. Initial Fee: \$25 (\$12 SF/\$3 CF/\$10 EF to Kentucky Heritage Land Conservation Fund established under KRS 146.570).
  2. Renewal Fee:\$25 (\$12 SF/\$3 CF/\$10 EF to Kentucky Heritage Land Conservation Fund established under KRS 146.570).

- (p) Amateur radio:
  - 1. Initial Fee: \$40 (\$37 SF/\$3 CF/\$0 EF).
  - 2. Renewal Fee:\$15 (\$12 SF/\$3 CF/\$0 EF).
- (q) Kentucky General Assembly:
  - 1. Initial Fee: \$40 (\$37 SF/\$3 CF/\$0 EF).
  - 2. Renewal Fee:\$20 (\$12 SF/\$3 CF/\$5 EF to the veterans' program trust fund established under KRS 40.460).
- (r) Kentucky Court of Justice:
  - 1. Initial Fee: \$40 (\$37 SF/\$3 CF/\$0 EF).
  - 2. Renewal Fee:\$8 (\$0 SF/\$3 CF/\$5 EF to the veterans' program trust fund established under KRS 40.460).
- (s) Masons:
  - 1. Initial Fee: \$28 (\$25 SF/\$3 CF/\$0 EF).
  - 2. Renewal Fee:\$15 (\$12 SF/\$3 CF/\$0 EF).
- (t) Collegiate plates:
  - 1. Initial Fee: \$50 (\$37 SF/\$3 CF/\$10 EF to the general scholarship fund of the university whose name will be borne on the plate).
  - 2. Renewal Fee:\$25 (\$12 SF/\$3 CF/\$10 EF to the general scholarship fund of the university whose name will be borne on the plate).
- (u) Independent Colleges:
  - 1. Initial Fee: \$38 (\$25 SF/\$3 CF/\$10 EF to the Association of Independent Kentucky Colleges and Universities for distribution to the general scholarship funds of the Association's members).
  - 2. Renewal Fee:\$25 (\$12 SF/\$3 CF/\$10 EF to the Association of Independent Kentucky Colleges and Universities for distribution to the general scholarship funds of the Association's members).
- (v) Child Victims:
  - 1. Initial Fee: \$38 (\$25 SF/\$3 CF/\$10 EF to the child victims' trust fund established under KRS 41.400).
  - 2. Renewal Fee:\$20 (\$12 SF/\$3 CF/\$5 EF to the child victims' trust fund established under KRS 41.400).
- (w) Kentucky Horse Council:
  - 1. Initial Fee: \$38 (\$25 SF/\$3 CF/\$10 EF to the Kentucky Horse Council).
  - 2. Renewal Fee:\$20 (\$12 SF/\$3 CF/\$5 EF to the Kentucky Horse Council).
- (x) Ducks Unlimited:
  - 1. Initial Fee: \$38 (\$25 SF/\$3 CF/\$10 EF to Kentucky Ducks Unlimited).
  - 2. Renewal Fee:\$25 (\$12 SF/\$3 CF/\$10 EF to Kentucky Ducks Unlimited).
- (y) Spay neuter:
  - 1. Initial Fee: \$25 (\$12 SF/\$3 CF/\$10 EF to the animal control and care fund established under KRS 258.119).
  - 2. Renewal Fee:\$20 (\$12 SF/\$3 CF/\$5 EF to the animal control and care fund established under KRS 258.119).

## (z) Gold Star Mothers:

1. Initial Fee: \$15 (\$12 SF/\$3 CF/ \$0 EF).
2. Renewal Fee:\$15 (\$12 SF/\$3 CF/ \$0 EF).

- (3) Any special license plate may be combined with a personalized license plate for a twenty-five dollar (\$25) state fee in addition to all other fees for the particular special license plate established in this section and in KRS 186.164(3). The twenty-five dollar (\$25) fee required under this subsection shall be divided between the cabinet and the county clerk of the county where the applicant is applying for the license plate with the cabinet receiving twenty dollars (\$20) and the county clerk receiving five dollars (\$5).
- (4) ***Owners and lessees of motorcycles registered under subsection (2) of Section 3 of this Act may be eligible to receive special license plates issued under this section or established under the provisions of KRS 186.164 after the cabinet has received three hundred (300) applications and initial state fees from the sponsoring organization. Applicants for a special license plate for a motorcycle shall be required to pay the fee for a special plate as prescribed in this section or in KRS 186.164. The fee paid for the special plate for a motorcycle shall be in lieu of the registration fee required under subsection (2) of Section 3 of this Act.***

Section 3. KRS 186.050 is amended to read as follows:

- (1) The annual registration fee for motor vehicles, including taxicabs, airport limousines, and U-Drive-Its, primarily designed for carrying passengers and having provisions for not more than nine (9) passengers, including the operator, and pickup trucks and passenger vans which are not being used on a for-hire basis shall be eleven dollars fifty cents (\$11.50).
- (2) Except as provided in KRS 186.041 ***and in Section 2 of this Act***, the annual registration fee for each motorcycle shall be nine dollars (\$9), and for each sidecar attachment, seven dollars (\$7).
- (3) (a) All motor vehicles having a declared gross weight of vehicle and any towed unit of six thousand (6,000) pounds or less, except those mentioned in subsections (1) and (2) of this section and those engaged in hauling passengers for hire, operating under certificates of convenience and necessity, are classified as commercial vehicles and the annual registration fee, except as provided in subsections (4) to (14) of this section, shall be eleven dollars and fifty cents (\$11.50).
- (b) All motor vehicles except those mentioned in subsections (1) and (2) of this section, and those engaged in hauling passengers for hire, operating under certificates of convenience and necessity, are classified as commercial vehicles and the annual registration fee, except as provided in subsections (3)(a) and (4) to (14) of this section, shall be as follows:

Declared Gross Weight of Vehicle and Any Towed Unit	Registration Fee
6,001-10,000	\$24.00
10,001-14,000	30.00
14,001-18,000	50.00
18,001-22,000	132.00
22,001-26,000	160.00
26,001-32,000	216.00
32,001-38,000	300.00
38,001-44,000	474.00
44,001-55,000	669.00
55,001-62,000	1,007.00
62,001-73,280	1,250.00
73,281-80,000	1,410.00

- (4) (a) Any farmer owning a truck having a gross weight of thirty-eight thousand (38,000) pounds or less may have it registered as a farmer's truck and obtain a license for eleven dollars and fifty cents (\$11.50). The



applicant's signature upon the certificate of registration and ownership shall constitute a certificate that he is a farmer engaged in the production of crops, livestock, or dairy products, that he owns a truck of the gross weight of thirty-eight thousand (38,000) pounds or less, and that during the next twelve (12) months the truck shall not be used in for-hire transportation and may be used in transporting persons, food, provender, feed, machinery, livestock, material, and supplies necessary for his farming operation, and the products grown on his farm.

- (b) Any farmer owning a truck having a declared gross weight in excess of thirty-eight thousand (38,000) pounds shall not be required to pay the fee set out in subsection (3) of this section and, in lieu thereof, shall pay forty percent (40%) of the fee set out in subsection (3) of this section and shall be exempt from any fee charged under the provisions of KRS 281.752. The applicant's signature upon the registration receipt shall be considered to be a certification that he is a farmer engaged solely in the production of crops, livestock or dairy products, and that during the current registration year the truck will be used only in transporting persons, food, provender, feed, and machinery used in operating his farm and the products grown on his farm.
- (5) Any person owning a truck or bus used solely in transporting school children and school employees may have the truck or bus registered as a school bus and obtain a license for eleven dollars fifty cents (\$11.50) by filing with the county clerk, in addition to other information required, an affidavit stating that the truck or bus is used solely in the transportation of school children and persons employed in the schools of the district, that he has caused to be printed on each side of the truck or bus and on the rear door the words "School Bus" in letters at least six (6) inches high, and of a conspicuous color, and the truck or bus will be used during the next twelve (12) months only for the purpose stated.
- (6) Any church or religious organization owning a truck or bus used solely in transporting persons to and from a place of worship or for other religious work may have the truck or bus registered as a church bus and obtain a license for eleven dollars and fifty cents (\$11.50) by filing with the county clerk, in addition to other information required, an affidavit stating that the truck or bus will be used only for the transporting of persons to and from a place of worship, or for other religious work, and that there has been printed on the truck or bus in large letters the words "Church Bus," with the name of the church or religious organization owning and using the truck or bus, and that during the next twelve (12) months the truck or bus will be used only for the purpose stated.
- (7) Any person owning a motor vehicle with a gross weight of fourteen thousand (14,000) pounds or less on which a wrecker crane or other equipment suitable for wrecker service has been permanently mounted may register the vehicle and obtain a license for eleven dollars fifty cents (\$11.50) by filing with the county clerk, in addition to other information required, an affidavit that a wrecker crane or other equipment suitable for wrecker service has been permanently mounted on such vehicle and that during the next twelve (12) months the vehicle will be used only in wrecker service. If the gross weight of the vehicle exceeds fourteen thousand (14,000) pounds, the vehicle shall be registered in accordance with subsection (3) of this section. The gross weight of a vehicle used in wrecker service shall not include the weight of the vehicle being towed by the wrecker.
- (8) Motor vehicles having a declared gross weight in excess of eighteen thousand (18,000) pounds, which when operated in this state are used exclusively for the transportation of property within the limits of the city named in the affidavit hereinafter required to be filed, or within ten (10) miles of the city limits of the city if it is a city of the first, second, third, or fourth class, or within five (5) miles of its limits if it is a city of the fifth or sixth class, or anywhere within a county containing an urban-county government, shall not be required to pay the fee as set out in subsection (3) of this section, and in lieu thereof shall pay seventy-five percent (75%) of the fee set forth in subsection (3) of this section and shall be exempt from any fee charged under the provisions of KRS 281.752. Nothing in this section shall be construed to limit any right of nonresidents to exemption from registration under any other provisions of the laws granting reciprocity to nonresidents. Operations outside of this state shall not be considered in determining whether or not the foregoing mileage limitations have been observed. When claiming the right to the reduced fee, the applicant's signature on the certificate of registration and ownership shall constitute a certification or affidavit stating that the motor vehicle when used within this state is used only for the transportation of property within the city to be named in the affidavit and the area above set out and that the vehicle will not be used outside of a city and the area above set out during the current registration period.

- (9) Motor vehicles having a declared gross weight in excess of eighteen thousand (18,000) pounds, which are used exclusively for the transportation of primary forest products from the harvest area to a mill or other processing facility, where such mill or processing facility is located at a point not more than fifty (50) air miles from the harvest area or which are used exclusively for the transportation of concrete blocks or ready-mixed concrete from the point at which such concrete blocks or ready-mixed concrete is produced to a construction site where such concrete blocks or ready-mixed concrete is to be used, where such construction site is located at a point not more than thirty (30) air miles from the point at which such concrete blocks or ready-mixed concrete is produced shall not be required to pay the fee as set out in subsection (3) of this section, and in lieu thereof, shall pay seventy-five percent (75%) of the fee set out in subsection (3) of this section and shall be exempt from any fee charged under the provisions of KRS 281.752. The applicant's signature upon the certificate of registration and ownership shall constitute a certification that the motor vehicle will not be used during the current registration period in any manner other than that for which the reduced fee is provided in this section.
- (10) Any owner of a commercial vehicle registered for a declared gross weight in excess of eighteen thousand (18,000) pounds, intending to transfer same and desiring to take advantage of the refund provisions of KRS 186.056(2), may reregister such vehicle and obtain a "For Sale" certificate of registration and ownership for one dollar (\$1). Title to a vehicle so registered may be transferred, but such registration shall not authorize the operation or use of the vehicle on any public highway. No refund may be made under the provisions of KRS 186.056(2) until such time as the title to such vehicle has been transferred to the purchaser thereof. Provided, however, that nothing herein shall be so construed as to prevent the seller of a commercial vehicle from transferring the registration of such vehicle to any purchaser thereof.
- (11) The annual registration fee for self-propelled vehicles containing sleeping or eating facilities shall be twenty dollars (\$20) and the multiyear license plate issued shall be designated "Recreational vehicle." The foregoing shall not include any motor vehicle primarily designed for commercial or farm use having temporarily attached thereto any sleeping or eating facilities, or any commercial vehicle having sleeping facilities.
- (12) The registration fee on any vehicle registered under this section shall be increased fifty percent (50%) when the vehicle is not equipped wholly with pneumatic tires.
- (13)
  - (a) The Department of Vehicle Regulation is authorized to negotiate and execute an agreement or agreements for the purpose of developing and instituting proportional registration of motor vehicles engaged in interstate commerce, or in a combination of interstate and intrastate commerce, and operating into, through or within the Commonwealth of Kentucky. The agreement or agreements may be made on a basis commensurate with, and determined by, the miles traveled on, and use made of, the highways of this Commonwealth as compared with the miles traveled on and use made of highways of other states, or upon any other equitable basis of proportional registration. Notwithstanding the provisions of KRS 186.020, the cabinet shall promulgate administrative regulations concerning the registration of motor vehicles under any agreement or agreements made under this section and shall provide for direct issuance by it of evidence of payment of any registration fee required under such agreement or agreements. Any proportional registration fee required to be collected under any proportional registration agreement or agreements shall be in accordance with the taxes established in this section.
  - (b) Any owner of a commercial vehicle who is required to title his motor vehicle under this section shall first title such vehicle with the county clerk pursuant to KRS 186.020 for a state fee of one dollar (\$1). Title to such vehicle may be transferred; however title without proper registration shall not authorize the operation or use of the vehicle on any public highway. Any commercial vehicle properly titled in Kentucky may also be registered in Kentucky, and, upon payment of the required fees, the department may issue an apportioned registration plate to such commercial vehicle.
  - (c) Any commercial vehicle that is properly titled in a foreign jurisdiction, which vehicle is subject to apportioned registration, as provided in paragraph (a) of this subsection, may be registered in Kentucky, and, upon proof of proper title, and payment of the required fees, the department may issue an apportioned registration plate to the commercial vehicle. The department shall promulgate administrative regulations in accordance with this section.
- (14) Any person seeking to obtain a special license plate for an automobile that has been provided to him pursuant to an occupation shall meet both of the following requirements:
  - (a) The automobile shall be provided for the full-time exclusive use of the applicant; and

- (b) The applicant shall obtain permission in writing from the vehicle owner or lessee on a form provided by the cabinet to use the vehicle and for the vehicle to bear the special license plate.

**Approved April 21, 2006.**

## CHAPTER 191

**(HB 573)**

AN ACT relating to on-site sewage systems.

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

Section 1. KRS 211.350 is amended to read as follows:

- (1) The cabinet shall regulate the construction, installation, or alteration of on-site sewage disposal systems except for systems that have a surface discharge. ***The cabinet shall create and maintain an electronic database for Kentucky on-site wastewater systems information which for each system shall include but not be limited to permit application date, permit application status, system installation date, system type, latitude and longitude of system, records of system plan and site evaluations, inspection dates, and the condition of system at time of inspection. The cabinet shall within twenty-four (24) months of the effective date of this Act annually report to the Governor and the Legislative Research Commission on the status of on-site systems statewide, including numbers and types of systems, summaries of conditions of systems, geographic distribution, observations of trends, and recommendation for future protection of public health and safety with on-site sewage disposal systems.***
- (2) ***The Department for Public Health shall maintain a current list of approved and experimental on-site wastewater treatment technologies and shall make this list available, and guidance and expertise, to local health departments, which will provide it to on-site wastewater professionals and permit applicants.***
- (3) ***Site evaluations shall be completed by the local health department within fifteen (15) working days of receipt of the application. If further information is required, the local health department shall promptly notify the applicant and shall have an additional ten (10) working days after that submittal of additional information in which to evaluate and issue or deny the permit. It shall be the responsibility of the property owner or owner's agent to protect and maintain the suitability of an approved site and to notify the local health department for a reinspection if site conditions substantively change. If a site previously determined to be suitable is thereafter declared unsuitable by the local health department, remedial measures shall be provided in writing to the property owner or owner's agent within fifteen (15) working days.***
- (4) ***After the conclusion of the site evaluation, the local health department shall, upon request, provide a list of all options that may be approved for the property, including new and emerging technologies. It shall be the responsibility of the owner of advanced treatment, alternative, experimental, or new and emerging technology systems to contract with a management entity, certified system operator, or trained system operator to develop and implement an approved operations and maintenance plan specific to, and appropriate for, the approved system.***
- (5)~~(2)~~ No person, firm, or corporation shall construct, install, alter, or cause to be constructed, installed, or altered, any on-site sewage disposal system subject to regulation by the cabinet without having first obtained an on-site sewage disposal permit from the local health department. In lieu of inspection and certification by the local health department a licensed professional engineer in private practice licensed by the Commonwealth of Kentucky may perform site evaluations and approve system designs for an on-site sewage disposal system for the person, firm, or corporation and apply for the permit from the local health department. The final systems installation inspection shall be performed by the local health department ***as soon as practicable***. All applicable provisions of KRS Chapter 322 shall govern the licensed professional engineer. A professional engineer shall not perform site evaluations, approve system designs, or certify system installations of an on-site sewage disposal system on property owned by himself, an employee, or a partner of an engineering firm by which he is employed, or on property owned by the engineering firm. Nothing in this section shall be construed to deny a farmstead owner the right to obtain a permit. Except for farmstead owners on their own property, the construction, installation, or alteration shall be performed only by a person certified by the cabinet pursuant to KRS 211.357.

- ~~(6)(3)~~ A local health department that issues a permit for an on-site sewage disposal system based on the site evaluation or system design of a licensed professional engineer in private practice licensed by the Commonwealth of Kentucky shall not be held liable for any defects or failures of the on-site sewage disposal system due to the site evaluation or system design.
- ~~(7)(4)~~ No person, firm, or corporation shall use or continue to use or permit the use or continued use of any on-site sewage disposal system that is constructed, installed, or altered under an on-site sewage disposal permit if the cabinet or local health department through a duly authorized inspector, employee, agent, or licensed professional engineer in private practice licensed by the Commonwealth of Kentucky finds that the system was not constructed, installed, or altered in conformance with the permit and regulations issued by the cabinet.
- ~~(8)(5)~~ No certified electrical inspector acting under authority of KRS 227.491 shall issue the certificates of approval of temporary or permanent electrical wiring unless the inspector has in his or her possession a notice of release as described in paragraphs (a) and (b) of this subsection. The inspector shall record the number of the notice of release on the certificate of approval. The person requesting approval of electrical wiring shall be responsible for obtaining the release from the local health department and providing it to the electrical inspector. This requirement shall only apply to dwellings, mobile homes, manufactured housing, buildings, or other structures that are constructed or installed after July 15, 1998. This requirement shall not apply to structures that do not have sewage waste fixtures or to those that are connected to a sewage waste disposal system approved by the Environmental and Public Protection Cabinet. Nothing in this section shall be construed to deny the continued use of any electrical service connected to wiring approved prior to July 15, 1998.
- (a) An initial notice of release to allow temporary electrical power for construction shall be issued to the property owner or owner's agent by the local health department upon the application for a site evaluation.
  - (b) A final notice of release to allow for permanent electrical power shall be issued to the property owner or owner's agent by the local health department upon approval of an on-site sewage disposal plan.
  - (c) This section shall not apply to any county that has adopted the Uniform State Building Code and has and enforces on-site sewage disposal permitting.
- ~~(9)(6)~~ All applications for on-site sewage disposal permits shall be accompanied by plans and specifications for the proposed system, including results of soils tests and other information as directed by the cabinet by regulation. If the site evaluation or approval of the system design is performed by a licensed professional engineer in private practice licensed by the Commonwealth of Kentucky, the application shall be accompanied by a statement by the engineer that he has met the requirements of the regulations issued by the cabinet for site evaluation and system design. Any action to deny an application shall be subject to appeal, and upon appeal an administrative hearing shall be conducted in accordance with KRS Chapter 13B.
- ~~(10)(7)~~ The cabinet shall fix a schedule of fees for the functions performed by the cabinet relating to the regulation of on-site sewage disposal systems. The fees shall be designed to fully cover the cost of the service performed but shall not exceed the cost of the service performed. Fees payable to the cabinet shall be paid into the State Treasury and credited to a trust and agency fund to be used by the cabinet in carrying out its responsibilities relating to the regulation of on-site sewage disposal systems. No part of the fund shall revert to the general fund of the Commonwealth.
- ~~(11)(8)~~ Any regulation relating to on-site sewage disposal that is in effect on July 15, 1992, shall remain in effect until altered by the secretary. The secretary may issue additional regulations necessary to carry out the purposes of this section.
- ~~(12)(9)~~ Nothing in this section shall authorize or allow the cabinet to inspect or take enforcement action against on-site sewage disposal systems installed on farmsteads prior to July 15, 1992, or modifications to those systems unless the actions are determined in writing by the cabinet, upon a written, verified complaint, to be necessary to prevent imminent harm or damage to the safety, life, or health of a person. In this instance, the cabinet shall deliver to the landowner a copy of the written determination and the verified complaint prior to the commencement of the inspection or enforcement action.

Section 2. KRS 211.370 is amended to read as follows:

The commissioner of the Department for Public Health shall, upon written request from a local board of health, authorize the local board of health to serve as its agent to issue permits for on-site sewage disposal systems *as*

*described in Section 1 of this Act* within that area of local board jurisdiction. As agent, the authorized local board of health shall act for the cabinet in issuing permits and granting variances for on-site sewage disposal systems. Actions by the local board of health shall comply with the regulations established by the cabinet relating to on-site sewage disposal systems. The local board of health shall include in the written request a procedure for administering this section. The local board of health may adopt regulations relating to the proper operation and maintenance of on-site sewage disposal systems. In counties containing a city of the first class or a consolidated local government and in urban-counties, the local board of health may adopt regulations relating to the proper construction, installation, and alteration of on-site sewage disposal systems which are more stringent than the regulations adopted by the cabinet.

Section 3. KRS 212.230 is amended to read as follows:

- (1) County, city-county, and district boards of health shall:
  - (a) Appoint a health officer and fix his salary subject to the approval of the Cabinet for Health and Family Services;
  - (b) Hold a regular meeting at least once every three (3) months, except that county or city-county boards whose counties are members of a district health department shall hold a regular meeting at least once every twelve (12) months, and other special or regular meetings as desired and keep full minutes of all the proceedings in a book provided for this purpose;
  - (c) Adopt, except as otherwise provided by law, administrative regulations not in conflict with the administrative regulations of the Cabinet for Health and Family Services necessary to protect the health of the people or to effectuate the purposes of this chapter or any other law relating to public health;
  - (d) Act in a general advisory capacity to the health officer on all matters relating to the local department of health;
  - (e) ***Provide information regarding the cabinet's ombudsman to all applicants;***
  - (f) Hear and decide appeals from rulings, decisions, and actions of the local health department or health officer, in accordance with KRS Chapter 13B, if the aggrieved party makes written request therefor to the board within thirty (30) days after the ruling, decision, or action complained of. ***In hearing appeals regarding on-site wastewater permitting, the local health board shall utilize the expertise of the regional on-site wastewater consultants employed by the Department for Public Health;***
  - (g) ***Provide all information on on-site wastewater systems to the cabinet for incorporation into the statewide database as provided for in subsection (1) of Section 1 of this Act;*** and
  - ~~(h)(f)~~ Perform all other functions necessary to carry out the provisions of law and the regulations adopted pursuant thereto, relating to local boards of health; and
- (2) Except as otherwise provided in subsection (1), all powers and authority of the local board of health under existing statutes are transferred to the county department of health.

**Approved April 21, 2006.**

## CHAPTER 192

**(SB 38)**

AN ACT relating to general principles of justification.

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

Section 1. KRS 503.010 is amended to read as follows:

The following definitions apply in this chapter unless the context otherwise requires:

- (1) "Deadly physical force" means force which is used with the purpose of causing death or serious physical injury or which the defendant knows to create a substantial risk of causing death or serious physical injury.
- (2) "Dwelling" means ***a building or conveyance of any kind, including any attached porch, whether the building or conveyance is temporary or permanent, mobile or immobile, which has a roof over it, including a tent,***

*and is designed to be occupied by people lodging therein at night*~~[any building or structure, though movable or temporary which is for the time being either totally or partially the defendant's home or place of lodging].~~

- (3) "Imminent" means impending danger, and, in the context of domestic violence and abuse as defined by KRS 403.720, belief that danger is imminent can be inferred from a past pattern of repeated serious abuse.
- (4) "Physical force" means force used upon or directed toward the body of another person and includes confinement.
- (5) *"Residence" means a dwelling in which a person resides either temporarily or permanently or is visiting as an invited guest.*
- (6) *"Vehicle" means a conveyance of any kind, whether or not motorized, which is designed to transport people or property.*

SECTION 2. A NEW SECTION OF KRS CHAPTER 503 IS CREATED TO READ AS FOLLOWS:

- (1) *A person is presumed to have held a reasonable fear of imminent peril of death or great bodily harm to himself or herself or another when using defensive force that is intended or likely to cause death or great bodily harm to another if:*
  - (a) *The person against whom the defensive force was used was in the process of unlawfully and forcibly entering or had unlawfully and forcibly entered a dwelling, residence, or occupied vehicle, or if that person had removed or was attempting to remove another against that person's will from the dwelling, residence, or occupied vehicle; and*
  - (b) *The person who uses defensive force knew or had reason to believe that an unlawful and forcible entry or unlawful and forcible act was occurring or had occurred.*
- (2) *The presumption set forth in subsection (1) does not apply if:*
  - (a) *The person against whom the defensive force is used has the right to be in or is a lawful resident of the dwelling, residence, or vehicle, such as an owner, lessee, or titleholder, and there is not an injunction for protection from domestic violence or a written pretrial supervision order of no contact against that person; or*
  - (b) *The person sought to be removed is a child or grandchild, or is otherwise in the lawful custody or under the lawful guardianship of, the person against whom the defensive force is used; or*
  - (c) *The person who uses defensive force is engaged in an unlawful activity or is using the dwelling, residence, or occupied vehicle to further an unlawful activity; or*
  - (d) *The person against whom the defensive force is used is a peace officer, as defined in KRS 446.010, who enters or attempts to enter a dwelling, residence, or vehicle in the performance of his or her official duties and the officer identified himself or herself in accordance with any applicable law or the person using force knew or reasonably should have known that the person entering or attempting to enter was a peace officer.*
- (3) *A person who is not engaged in an unlawful activity and who is attacked in any other place where he or she has a right to be has no duty to retreat and has the right to stand his or her ground and meet force with force, including deadly force if he or she reasonably believes it is necessary to do so to prevent death or great bodily harm to himself or herself or another or to prevent the commission of a felony involving the use of force.*
- (4) *A person who unlawfully and by force enters or attempts to enter a person's dwelling, residence, or occupied vehicle is presumed to be doing so with the intent to commit an unlawful act involving force or violence.*

Section 3. KRS 503.050 is amended to read as follows:

- (1) The use of physical force by a defendant upon another person is justifiable when the defendant believes that such force is necessary to protect himself against the use or imminent use of unlawful physical force by the other person.
- (2) The use of deadly physical force by a defendant upon another person is justifiable under subsection (1) only when the defendant believes that such force is necessary to protect himself against death, serious physical

injury, kidnapping,~~[-or]~~ sexual intercourse compelled by force or threat, ***felony involving the use of force, or under those circumstances permitted pursuant to Section 2 of this Act.***

- (3) Any evidence presented by the defendant to establish the existence of a prior act or acts of domestic violence and abuse as defined in KRS 403.720 by the person against whom the defendant is charged with employing physical force shall be admissible under this section.

- (4) ***A person does not have a duty to retreat prior to the use of deadly physical force.***

Section 4. KRS 503.070 is amended to read as follows:

- (1) The use of physical force by a defendant upon another person is justifiable when:
- (a) The defendant believes that such force is necessary to protect a third person against the use or imminent use of unlawful physical force by the other person; and
  - (b) Under the circumstances as the defendant believes them to be, the person whom he seeks to protect would himself have been justified under KRS 503.050 and 503.060 in using such protection.
- (2) The use of deadly physical force by a defendant upon another person is justifiable when:
- (a) The defendant believes that such force is necessary to protect a third person against imminent death, serious physical injury, kidnapping,~~[-or]~~ sexual intercourse compelled by force or threat, ***or other felony involving the use of force, or under those circumstances permitted pursuant to Section 2 of this Act;*** and
  - (b) Under the circumstances as they actually exist, the person whom he seeks to protect would himself have been justified under KRS 503.050 and 503.060 in using such protection.

- (3) ***A person does not have a duty to retreat if the person is in a place where he or she has a right to be.***

Section 5. KRS 503.080 is amended to read as follows:

- (1) The use of physical force by a defendant upon another person is justifiable when the defendant believes that such force is immediately necessary to prevent:
- (a) The commission of criminal trespass, ***robbery***,~~[-or]~~ burglary, ***or other felony involving the use of force, or under those circumstances permitted pursuant to Section 2 of this Act,*** in a dwelling, building or upon real property in his possession or in the possession of another person for whose protection he acts; or
  - (b) Theft, criminal mischief, or any trespassory taking of tangible, movable property in his possession or in the possession of another person for whose protection he acts.
- (2) The use of deadly physical force by a defendant upon another person is justifiable under subsection (1) only when the defendant believes that the person against whom such force is used is:
- (a) Attempting to dispossess him of his dwelling otherwise than under a claim of right to its possession; or
  - (b) Committing or attempting to commit a burglary, ***robbery, or other felony involving the use of force, or under those circumstances permitted pursuant to Section 2 of this Act,*** of such dwelling; or
  - (c) Committing or attempting to commit arson of a dwelling or other building in his possession.

- (3) ***A person does not have a duty to retreat if the person is in a place where he or she has a right to be.***

SECTION 6. A NEW SECTION OF KRS CHAPTER 503 IS CREATED TO READ AS FOLLOWS:

- (1) ***A person who uses force as permitted in Section 2 of this Act and in KRS 503.050, 503.070, and 503.080 is justified in using such force and is immune from criminal prosecution and civil action for the use of such force, unless the person against whom the force was used is a peace officer, as defined in KRS 446.010, who was acting in the performance of his or her official duties and the officer identified himself or herself in accordance with any applicable law, or the person using force knew or reasonably should have known that the person was a peace officer. As used in this subsection, the term "criminal prosecution" includes arresting, detaining in custody, and charging or prosecuting the defendant.***

- (2) *A law enforcement agency may use standard procedures for investigating the use of force as described in subsection (1) of this section, but the agency may not arrest the person for using force unless it determines that there is probable cause that the force that was used was unlawful.*
- (3) *The court shall award reasonable attorney's fees, court costs, compensation for loss of income, and all expenses incurred by the defendant in defense of any civil action brought by a plaintiff if the court finds that the defendant is immune from prosecution as provided in subsection (1).*

**Approved April 21, 2006.**

## CHAPTER 193

(SB 59)

AN ACT relating to reorganization.

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

SECTION 1. KRS CHAPTER 39G IS ESTABLISHED AND A NEW SECTION THEREOF IS CREATED TO READ AS FOLLOWS:

- (1) *The Kentucky Office of Homeland Security shall be attached to the Office of the Governor and shall be headed by an executive director appointed by the Governor.*
- (2) *The executive director shall:*
  - (a) *Publicize the findings of the General Assembly stressing the dependence on Almighty God as being vital to the security of the Commonwealth by including the provisions of KRS 39A.285(3) in its agency training and educational materials. The executive director shall also be responsible for prominently displaying a permanent plaque at the entrance to the state's Emergency Operations Center stating the text of KRS 39A.285(3);*
  - (b) *Establish and chair an interagency working group composed of the chair of the Senate Veterans, Military Affairs, and Public Protection Committee, the chair of the House of Representatives Seniors, Military Affairs, and Public Safety Committee, state agency representation, and private agency representation. The working group shall have the purpose of identifying risks and needs and making a complete assessment of the preparedness of the Commonwealth to respond to acts of war or terrorism, including nuclear, biological, chemical, electromagnetic pulse, agro-, eco-, or cyber-terrorism;*
  - (c) *Serve as the State Appointed Administrator for the United States Department of Homeland Security;*
  - (d) *Implement all homeland security Presidential and Gubernatorial Directives, including directives pertaining to state and local compliance with the National Incident Management System;*
  - (e) *Coordinate the efforts of the Kentucky Office of Homeland Security with the efforts of the Federal Department of Homeland Security;*
  - (f) *Accept and allocate any homeland security funds in compliance with applicable federal and state laws and administrative regulations; and*
  - (g) *Inform the members of the General Assembly of the process by which a public agency applies for a federal homeland security grant and shall provide the following information to the members at least ninety (90) days before an application deadline:*
    - 1. *The application deadline;*
    - 2. *How a public agency can obtain an application form;*
    - 3. *How a public agency can obtain assistance in filling out an application form; and*
    - 4. *Any other information that would be helpful to a public agency interested in applying for a federal homeland security grant.*
- (3) *The executive director may delegate responsibilities created under this section to another executive branch agency.*
- (4) *The Kentucky Office of Homeland Security shall:*



- (a) *Develop and publish a comprehensive statewide homeland security strategy that coordinates state and local efforts to detect, deter, mitigate, and respond to a terrorist incident;*
  - (b) *Develop a comprehensive strategy addressing how state and federal funds and other assistance will be allocated within the state to purchase specialized equipment required to prevent and respond effectively and safely to terrorist incidents;*
  - (c) *Urge the state and local governments to exceed minimum federal requirements for receiving assistance in preparing to respond to acts of war or terrorism in the hope that the Commonwealth will become a national leader in this preparation;*
  - (d) *Provide information explaining how individuals and private organizations, including volunteer and religious organizations, can best prepare for and respond to incidents contemplated by this section and to other threatened, impending, or declared emergencies and whom to contact should they desire to volunteer help or services during such an emergency. The program shall identify and encourage these private organizations to specifically commit to provide food, shelter, personnel, equipment, materials, consultation, and advice, or other services needed to respond to these incidents; and*
  - (e) *Promulgate any administrative regulations necessary to carry out the provisions of this chapter.*
- (5) *The adjutant general, or his or her designee, shall concurrently notify the Governor and the executive director of the Office of Homeland Security of a disaster or emergency involving homeland security. The adjutant general, or his or her designee, shall be the Governor's primary point of contact for managing and responding to a disaster or emergency involving homeland security.*

SECTION 2. A NEW SECTION OF KRS CHAPTER 39G IS CREATED TO READ AS FOLLOWS:

- (1) *The Kentucky Office of Homeland Security shall identify and maintain a record of all federal homeland security funding, including grants, received in Kentucky. The record shall identify, at a minimum, the specific federal source, the amount, the specific recipient, the intended use of the funding, the actual use, and any unspent amount.*
- (2)
  - (a) *Not later than September 15 of each year, each department headed by an elected officer, as identified in KRS 12.020 I., each cabinet headed by an appointed officer, as identified in KRS 12.020 II., and each department headed by an appointed officer, as identified in KRS 12.020 III., shall submit to the Kentucky Office of Homeland Security a record of all federal homeland security funding, including grants, received during the state fiscal year starting with the fiscal year ending June 30, 2005. The record shall identify, at a minimum, the specific federal source, the amount, the specific recipient, the intended use of the funding, the actual use, and any unspent amount.*
  - (b) *Not later than August 1 of each year, each city, county, urban-county, charter county, consolidated local government, and special taxing district shall submit to its area development district a record of all federal homeland security funding, including grants, received during the state fiscal year by the city, county, urban-county, charter county, consolidated local government, special taxing district, or a public agency thereof, starting with the fiscal year ending June 30, 2005. The record shall identify, at a minimum, the specific federal source, the amount, the specific recipient, the intended use of the funding, the actual use, and any unspent amount.*
  - (c) *Not later than August 15 of each year, each area development district shall group the records required under paragraph (b) of this subsection by county and submit them to the Department for Local Government.*
  - (d) *Not later than September 20 of each year, the Department for Local Government shall submit the records received under paragraph (c) of this subsection to the Kentucky Office of Homeland Security.*
  - (e) *Any funds received for the purpose of homeland security shall be monitored by the Kentucky Office of Homeland Security and subject to audit and compliance inspections as directed by the executive director.*
- (3) *The Kentucky Office of Homeland Security, area development districts, and the Department for Local Government shall educate entities that report under this section about their responsibilities under this section. If an entity is late in reporting under this section, the office, an area development district, or the Department for Local Government shall remind that entity of its reporting requirements under this section.*

- (4) *The Kentucky Office of Homeland Security shall directly notify the chief executive officer of each city, county, urban-county, charter county, and consolidated local government concerning grants for homeland security projects as the grants become available.*

SECTION 3. A NEW SECTION OF KRS CHAPTER 39G IS CREATED TO READ AS FOLLOWS:

*Each year by November 1, the executive director of the Kentucky Office of Homeland Security shall submit a written report to the Governor, the Auditor of Public Accounts, the Legislative Research Commission, and the Interim Joint Committee on Seniors, Veterans, Military Affairs, and Public Protection. The written report shall:*

- (1) *Assess the Commonwealth's preparedness to respond to acts of war or terrorism, including nuclear, biological, chemical, electromagnetic pulse, agro-, eco-, or cyber-terrorism;*
- (2) *Identify the priority of needs, areas of improvement, and the overall progress made with regard to the Commonwealth's preparedness; and*
- (3) *Provide a record of all federal homeland security funding, including grants, gathered under Section 2 of this Act since the last annual written report, as well as any other relevant homeland security funding information gathered by the Kentucky Office of Homeland Security. The record shall identify, at a minimum, the specific federal source, the amount, the specific recipient, the intended use of the funding, the actual use of the funding, and any unspent amount.*
- (4) *The Auditor of Public Accounts shall conduct an examination of revenues and expenditures provided under the annual written report and under subsection (2)(c) of Section 2 of this Act and, if examination findings warrant, shall conduct audits. No later than January 30, the Auditor shall submit all examination and audit reports to the Senate Veterans, Military Affairs, and Public Protection Committee and the House Seniors, Military Affairs, and Public Safety Committee.*
- (5)
  - (a) *In addition to the annual report required under this section, the executive director of the Office of Homeland Security shall provide to the Legislative Research Commission and the Interim Joint Committee on Appropriations and Revenue a quarterly report on the receipt and expenditure of homeland security funds since the previous quarterly report.*
  - (b) *The report shall identify, at a minimum, the following:*
    1. *Amount and specific source of any homeland security funds received;*
    2. *Specific expenditures by amount, recipient, and intended or actual use; and*
    3. *Balance of funds remaining in the account.*
  - (c) *The initial quarterly report shall be submitted by October 15, 2006, and shall contain the required information on receipts and expenditures since the passage of the federal Homeland Security Act of 2002, Pub. L. No. 107-296.*

SECTION 4. A NEW SECTION OF KRS CHAPTER 39G IS CREATED TO READ AS FOLLOWS:

*The Commercial Mobile Radio Service Emergency Telecommunications Board of Kentucky, created in KRS 65.7623, shall be attached to the Office of Homeland Security for administrative purposes.*

Section 5. KRS 39A.050 is amended to read as follows:

- (1) *The Division of Emergency Management shall coordinate for the Governor all matters pertaining to the comprehensive emergency management program and disaster and emergency response of the Commonwealth. The division shall be the executive branch agency of state government having primary jurisdiction, responsibility, and authority for the planning and execution of disaster and emergency assessment, mitigation, preparedness, response, and recovery for the Commonwealth; the coordination of all disaster and emergency response by and between all state agencies, all agencies of city, county, and urban-county or charter county government, all local entities, and all political subdivisions of the Commonwealth for an emergency, declared emergency, disaster, or catastrophe as contemplated in KRS 39A.010, 39A.020, or 39A.030; the coordination of, and liaison with, related or concerned federal government agencies, elected officials of other states, private organizations or private sector companies dealing with disaster and emergency response; the coordination of all recovery operations and mitigation initiatives subsequent to disasters or emergencies; and the coordination of all public information activities regarding state government disaster and emergency response operations.*
- (2) *The Division of Emergency Management shall have and exercise the following powers, authorities, and duties:*

- (a) To develop, administer, and maintain a statewide comprehensive emergency management program for the Commonwealth, and through it an integrated emergency management system for the disaster and emergency response of the Commonwealth, which shall be coordinated with the emergency management programs, and other related public safety, emergency response, mitigation, or disaster recovery programs, of all appropriate federal government agencies including the Federal Emergency Management Agency, the *federal Department*~~Office~~ of Homeland Security, the State Department, the Federal Aviation Administration, the Centers for Disease Control and Prevention, the Department of Transportation, the Environmental Protection Agency, the Occupational Safety and Health Administration, the Department of Defense, the National Oceanic and Atmospheric Administration, the Department of Justice, the Bureau of Alcohol, Tobacco, and Firearms, the National Transportation Safety Board, the Chemical Safety and Hazard Investigation Board, the Army Corps of Engineers, the National Security Council, the Department of Health and Human Services, the Federal Railroad Administration, the United States Geological Survey, the Department of Energy, the Nuclear Regulatory Commission, the Department of Agriculture, the Department of Housing and Urban Development, the American Red Cross, the other states, and other appropriate public or private agencies, to the fullest appropriate extent;
- (b) To coordinate the development, implementation, and maintenance of comprehensive emergency management programs by local emergency management agencies in the cities, counties, and urban-county or charter county governments of the Commonwealth to ensure that all such programs, agencies, and organizations are organized, administered, and operated as functional components of the integrated emergency management system of the Commonwealth;
- (c) To develop and maintain a comprehensive, risk-based, all-hazards disaster and emergency response plan entitled "Kentucky Emergency Operations Plan," the provisions of which shall establish the organizational structure to be utilized by state government for managing disaster and emergency response, and set forth the policies, procedures, and guidelines for the coordination and execution of all disaster and emergency response for an emergency, declared emergency, disaster, or catastrophe in the Commonwealth. The Kentucky Emergency Operations Plan shall be submitted to the Governor for approval when the Governor assumes office following each gubernatorial election, or at other times as the director deems appropriate. The Governor shall provide written approval of the Kentucky Emergency Operations Plan through issuance of an executive order, and the division shall file a copy of the executive order with the Legislative Research Commission. The Kentucky Emergency Operations Plan shall be the primary strategic disaster and emergency response planning component of the integrated emergency management system of the Commonwealth, and shall be utilized and followed by all state agencies, all local government agencies, all local public agencies or entities, and all other political subdivisions of the Commonwealth which may be involved in disaster and emergency response in the Commonwealth. The Kentucky Emergency Operations Plan shall be updated by the division not less than annually;
- (d) To maintain and operate the State Emergency Operations Center facility, which shall be the official and primary state government twenty-four (24) hour warning point, communications, and command center, from which the Governor, cabinet secretaries, department heads, and other state agency officials can, at any time, rapidly, adequately, and effectively manage the disaster and emergency response of the Commonwealth. The State Emergency Operations Center facility shall be the primary state direction and control component of the integrated emergency management system of the Commonwealth for the coordination of all disaster and emergency response in the Commonwealth;
- (e) To develop, monitor, and operate, on a twenty-four (24) hour per day basis, the appropriate alerting or warning systems, public safety telecommunications systems, or radio networks; any state trunked, fiber, or interactive communication systems; computer, fax, other telecommunications or information networks; and systems needed for communication and coordination with all necessary or appropriate federal, state, or local public safety, law enforcement, emergency management, or other disaster and emergency response agencies, and state or local dispatch centers in the Commonwealth, and other appropriate interests, and through these agencies and systems to receive or disseminate emergency information, or to receive timely notification of, and continual assessment of, all threatened or actual emergency incidents or disaster situations occurring anywhere in or near the Commonwealth;

- (f) To immediately notify the Governor,~~and~~ the adjutant general, ***and the executive director of the Kentucky Office of Homeland Security, or his or her designee***, in the event of any major emergency incidents or disaster occurrences, or the threatened or impending occurrence of any of these events, and to keep the Governor,~~and~~ the adjutant general, ***and the executive director of the Kentucky Office of Homeland Security, or his or her designee***, informed of all actions being taken in response to these events;
- (g) To respond to the scenes of emergencies or disasters, or their threatened or impending occurrence and to directly and immediately investigate, analyze, and assess the nature and seriousness of these situations; to convene meetings, gather information, conduct briefings, and evaluate ongoing emergency response activities; take actions to execute the appropriate provisions of the Kentucky Emergency Operations Plan; coordinate the establishment and operation of a state incident management system; establish or manage sub-state or area emergency operations centers, or on-scene command posts; and fully expedite and coordinate the disaster and emergency response of the Commonwealth;
- (h) To establish and operate area field offices of the division, each office to be headed by an area manager, responsible for administering the policies, plans, programs, and duties of the division in specific geographic areas of the Commonwealth, including the coordination of comprehensive emergency management programs developed by the cities, counties, urban-county, or charter county governments in the areas;
- (i) To provide funds to the cities, counties, and urban-county or charter county governments of the Commonwealth to support the development, administration, operation, and maintenance of local emergency management agencies created pursuant to KRS Chapters 39A to 39F;
- (j) To require the regular submission of program administration data, records, materials, reports, or documents from local emergency management agencies as may be necessary and sufficient to conduct performance reviews and assessments to ensure compliance with all state or federal funding and program requirements, and to ensure local program compatibility and consistency with the mission, goals, and objectives of the comprehensive emergency management program and integrated emergency management system of the Commonwealth;
- (k) To ascertain the requirements of the Commonwealth and its cities and counties for emergency resources and the necessities of life in the event of disaster or emergency; institute an emergency resource management plan and procure emergency supplies, materials, and equipment; and use or employ in time of emergency any of the property, services, and resources of state or local government in the Commonwealth for the purposes set forth in KRS Chapters 39A to 39F;
- (l) To institute public information and education programs, emergency management training programs, and exercise programs to test and evaluate emergency operations plans and disaster and emergency response and recovery capabilities; ***and***
- ~~(m) To assess the threat of and the Commonwealth's capacity for responding to acts of war or terrorism, including but not limited to nuclear, biological, chemical, agro, eco, electromagnetic pulse, or cyber terrorism;~~
- ~~(n) To develop a statewide plan and needs assessment for responding to acts of war or terrorism, including but not limited to nuclear, biological, chemical, agro, eco, electromagnetic pulse, or cyber terrorism;~~
- ~~(o) Develop a comprehensive strategy addressing how state and federal funds and other U.S. Department of Justice assistance will be allocated within the state to purchase specialized equipment required to respond to terrorist incidents effectively and safely;~~
- ~~(p) Establish as a goal to exceed the minimum requirements established by the U.S. Department of Justice, under congressional direction, for state and local governments receiving assistance needed to enhance their capabilities to respond to terrorist attacks. This goal is established in order for the Commonwealth to emerge as a preeminent national leader in preparation and training to address terrorist incidents involving weapons of mass destruction; and~~
- ~~(q)~~ To promulgate administrative regulations to carry out the provisions of KRS Chapters 39A to 39F.

Section 6. KRS 36.010 is amended to read as follows:

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

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

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

(2) Division of Emergency Management;

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

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

~~(5) Office for Security Coordination;~~

~~(6)~~ Kentucky Guard Youth Challenge Division; and

~~(6)~~~~(7)~~ Kentucky Civil Air Patrol.

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

Section 7. KRS 39A.070 is amended to read as follows:

The director, with the approval of the adjutant general, shall exercise the following powers, responsibilities, and duties:

- (1) To represent the Governor on all matters pertaining to the comprehensive emergency management program and the disaster and emergency response of the Commonwealth;
- (2) To coordinate the development of a statewide comprehensive emergency management program, and through it, an integrated emergency management system for the disaster and emergency response of the Commonwealth;
- (3) To promulgate administrative regulations and issue orders, directives, standards, rules, procedures, guidance, or recommended practices necessary to coordinate the development, administration, organization, operation, implementation, and maintenance of the statewide comprehensive emergency management program and the integrated emergency management system of the Commonwealth;
- (4) To coordinate the development of comprehensive emergency management programs by the cities, counties, and urban-county or charter county governments as functional components of the integrated emergency management system of the Commonwealth;
- (5) To supervise the development and maintenance of the Kentucky Emergency Operations Plan, and to review and give concurrence to local emergency operations plans required pursuant to KRS Chapters 39A to 39F;
- (6) To coordinate the comprehensive emergency management program of the Commonwealth with the emergency management or other emergency response-related programs of the federal government, and of other states, to the fullest appropriate extent;
- (7) To advise the Governor and the adjutant general immediately of the occurrence or threatened or impending occurrence of any disaster or emergency, and to recommend to the Governor any emergency actions, written orders, emergency powers, or executive orders that the Governor should execute;
- (8) To serve as the Governor's primary liaison with local officials in the event of the occurrence, or threatened or impending occurrence, of any disaster or emergency in the cities, counties, urban-counties, or charter counties of the Commonwealth;

- (9) To take any other preparedness or response actions deemed necessary for adequate response to a disaster or emergency situation to include: requesting increased readiness activities by state or local agencies in advance of an actual disaster or emergency; requesting implementation of local emergency operations plans or the activation of local emergency operations centers; requesting reports from state or local agencies regarding emergency situations, damage assessments, or the taking of emergency response actions; and requesting the mobilization or deployment of any trained and equipped forces of state or local government for the disaster and emergency response purposes set forth in KRS Chapters 39A to 39F;
- (10) To request and utilize the personnel, equipment, services, and facilities of existing officers and agencies of the Commonwealth and of all political subdivisions and special districts. All these officers and agencies shall fully cooperate with and extend their resources to the director as requested to the extent that local public safety is not unreasonably compromised;
- (11) To employ measures and give directions to the state or local boards of health as necessary for the purpose of securing compliance with the provisions of KRS Chapters 39A to 39F, or with the findings or recommendations of the boards of health, because of conditions arising from disasters, emergency situations, national security emergencies, or the threat thereof;
- (12) To request and utilize the services of state and local law enforcement officers for the purpose of securing compliance with the provisions of KRS Chapters 39A to 39F, or any order of the Governor pertaining to disaster and emergency response;
- (13) On behalf of this Commonwealth, with the approval of the Governor or act of the General Assembly, to enter into reciprocal aid agreements or compacts with other states and the federal government, either on a statewide, local, county, or city basis, or with other states or a province of a foreign country. The mutual aid agreements shall be limited to the furnishing or exchange of food, clothing, medicine, and other supplies; engineering services; emergency housing; police services; National Guard personnel and resources while under the control of the state; health, medical, and related services; firefighting; rescue; search and rescue or recovery; urban search and rescue; hazardous materials response services, transportation and construction services and equipment; personnel necessary to provide or conduct these services and other supplies, equipment, facilities, personnel, and services as needed; the reimbursement of costs and expenses for equipment, supplies, personnel, and similar items for mobile support units, firefighting, search and rescue, and police units, and health units; and on the terms and conditions deemed necessary;
- (14) To sponsor and develop mutual aid plans and agreements among the urban-county or charter county governments, counties, cities, and other political subdivisions and special districts of the Commonwealth, similar to the mutual aid arrangements with other states referred to in subsection (13) of this section;
- (15) To procure motor vehicles, radio and telecommunications equipment, protective clothing, safety equipment, and other necessary supplies and materials to meet the emergency response, operational, and administrative needs of the division;
- (16) To identify deficiencies existing in the emergency management program organization, facilities, and capabilities of the Commonwealth, including but not limited to: personnel and administrative resources; state, sub-state, area, or local emergency operations centers; mobile command posts; emergency telecommunications and computer systems; alerting and warning systems; stockpiles of critical resources; or any other necessary elements, and to recommend to the adjutant general, for consideration by the Governor or the General Assembly or other appropriate funding authority, the administrative or operational funding requirements, and long-range capital construction or improvement projects needed to meet the emergency management infrastructure needs of the Commonwealth;
- (17) To serve as the state coordinating officer and notify the Governor of the appropriations necessary to fund the expected emergency operational or response costs of the division, and the Commonwealth's share of the grants provided by Pub.L.No. 93-288, Title V, Federal Disaster Assistance Programs as amended by Pub.L.No. 100-707, the Robert T. Stafford Disaster Relief and Emergency Assistance Act, or successor acts or titles, and further, take action necessary to ensure entitlement to all other federal relief or assistance programs;
- (18) To cooperate with the President of the United States, the Federal Emergency Management Agency, and other appropriate federal offices and agencies, and the offices and agencies of other states in matters pertaining to the comprehensive emergency management program of the Commonwealth and nation; and in connection with these, to take any measures considered necessary to implement any request of the President and the appropriate federal offices and agencies, for any action requiring effective disaster and emergency response, including the

direction or control and mobilization of disaster and emergency response forces; tests and exercises, warnings, and signals for drills or other emergency response activities and the mechanical devices to be used in connection with these; the shutting off of water mains, gas mains, electric power connections, and the suspension of all other utility services; the conduct of civilians and the movement and cessation of movement of pedestrians and vehicular traffic during, prior, and subsequent to a drill, emergency, declared emergency, or disaster; public meetings or gatherings; and the evacuation and sheltering of the civilian population; *and*

(19) ~~To develop a statewide plan and needs assessment for responding to acts of war or terrorism, including nuclear, biological, chemical, agro, eco, electromagnetic pulse, or cyber terrorism; and~~

(20) To delegate any authority vested in the director under KRS Chapters 39A to 39F and to provide for the subdelegation of any such authority.

Section 8. KRS 11.5163 is amended to read as follows:

- (1) The executive director 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 shall provide direction, stewardship, leadership, and general oversight of information technology and information resources. The executive director 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 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, the Governor's Office for Policy and Management, and the General Assembly.
- (4) The executive director 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 who shall serve as chair;
  - (b) The executive director of the Office of Infrastructure Services, Commonwealth Office of Technology;
  - (c) The executive director of the Office of the 911 Coordinator;
  - (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, or the commissioner's designee;
  - (i) The chief information officer of the Environmental and Public Protection Cabinet;

- (j) The director of the Division of Emergency Management, Department of Military Affairs;
  - (k) The executive director of the **Kentucky Office of Homeland**~~[for]~~ Security~~[-Coordination, Department of Military Affairs];~~
  - (l) The chief information officer, Department for Public Health, Cabinet for Health and Family 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 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 9. KRS 39A.283 is amended to read as follows:

KRS 39A.050, 39A.070, **and** 39A.285~~[-, and 39A.287]~~ may be cited as the Antiterrorism Act of 2002.

Section 10. KRS 11.507 is amended to read as follows:

- (1) The roles and duties of the Commonwealth Office of 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 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 ~~and 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 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 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 194A.146;
  - (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 194A.146;
  - (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 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 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 11. KRS 11.512 is amended 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; *and*
- (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 12. 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) Governor's Scholars Program;
- (8) Agricultural Development Board;
- (9) Office of Early Childhood Development;
- (10) Kentucky Agency for Substance Abuse Policy;
- (11) Education Professional Standards Board;
- (12) Kentucky Agricultural Finance Corporation; ~~and~~
- (13) Office of Minority Empowerment; *and*
- (14) Office of Homeland Security.**

Section 13. 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, the *Office of Homeland Security*~~[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 *Office of Homeland Security*~~[Commonwealth Office of 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 14. 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 15. Any provision of law to the contrary notwithstanding, the General Assembly confirms the Governor's Executive Order 2005-563, dated June 16, 2005, relating to the Kentucky Office of Homeland Security, to the extent it is not otherwise confirmed or superseded by this Act.

Section 16. The following KRS sections are repealed:

36.224 Office for Security Coordination -- Federal homeland security funding.

39A.287 Preparedness of Commonwealth to respond to acts of war or terrorism -- Annual assessment.

**Approved April 21, 2006.**

## CHAPTER 194

(SB 133)

AN ACT relating to military affairs.

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

Section 1. KRS 36.040 is amended to read as follows:

- (1) The adjutant general shall:
  - (a)~~(1)~~ Represent the Governor in all military matters pertaining to the Commonwealth of Kentucky;
  - (b)~~(2)~~ Be the executive head of the Department of Military Affairs and exercise all functions vested by law in the department;

- (c){(3)} Establish the internal organizational structure of the major organizations of the department;
  - (d){(4)} Organize and supervise all programs, functions, and personnel assigned to the department in accordance with all state and federal statutes and administrative regulations;
  - (e){(5)} Be responsible to the Governor for the proper carrying into effect of all laws, rules, and regulations of the United States and of this state affecting the militia and other military organizations established by law;
  - (f){(6)} Perform the duties prescribed for him by laws of the United States and regulations issued thereunder;
  - (g){(7)} Direct and supervise the chiefs of staff departments and supervise all troops and all departments, arms, and branches of the Kentucky Army and Air National Guard;
  - (h){(8)} Supervise the preparation of all returns and reports of the Department of Military Affairs;
  - (i){(9)} Keep a register of all the officers of the Kentucky National Guard, and make a written report to the Governor for the annual period ending on June 30 of each year of the operations and conditions of the Department of Military Affairs;
  - (j){(10)} Cause to be prepared and issued all necessary blank books, forms, and notices required to carry into full effect matters assigned to the adjutant general under the provisions of KRS Chapters 36, 37, and 38;
  - (k){(11)} Direct and supervise the safekeeping and repairing of the ordnance, arms, accouterments, equipment, and all other military property belonging to the state or issued to it by the United States;
  - (l){(12)} Notify the Finance and Administration Cabinet of all military property of the state which after inspection is found unsuitable for use of the cabinet;
  - (m){(13)} Keep an account of:
    - 1.{(a)} All expenses, including pay of officers and enlisted men, allowance to officers and organizations;
    - 2.{(b)} Any other moneys required to be disbursed by him and through his office, including subsistence and transportation of the National Guard; and
    - 3.{(c)} All military property of the United States.
  - (n){(14)} Issue and make requisitions for military property under the direction of the Governor, but no military property shall be issued to persons or organizations other than those belonging to the National Guard, except to such portion of the Kentucky active militia as is called out by the Governor;
  - (o){(15)} Maintain as a part of his office a Bureau of War Records in which all records pertaining to wars and relics shall be kept, and be custodian of all such records, relics, colors, standards, and battle flags now the property of the state, or in its possession, or which the state may hereafter acquire;
  - (p){(16)} Organize units of the National Guard at places designated by the Governor and have the members mustered into service under regulations prescribed by the Governor;
  - (q){(17)} Issue all regulations, orders, and directives for the proper functioning and utilization of the Department of Military Affairs and its divisions;
  - (r){(18)} Hire, discharge, and pay any personnel that the adjutant general deems necessary to fulfill defense contracts without regard to KRS Chapter 18A.
- (2) ***The adjutant general, or his or her designee, may enter into any federal contracts, federal grants, and federal agreements with the United States of America, by and through the Department of Defense, Department of the Army, Department of the Air Force, National Guard Bureau, Federal Aviation Administration, United States Department of Homeland Security, and Federal Emergency Management Agency, and any other division, department, or agency of the federal government, as may be deemed necessary to carry out the general intent and purposes of the Department of Military Affairs.***

Section 2. KRS 61.394 is amended to read as follows:

All officers and employees of this state, or of any department or agency thereof who are members of the National Guard or of any reserve component of the Armed Forces of the United States, or of the reserve corps of the United

States Public Health Service, shall be entitled to leave of absence from their respective duties, without loss of time, pay, regular leave, impairment of efficiency rating, or of any other rights or benefits to which they are entitled, while in the performance of duty or training in the service of this state or of the United States under competent orders ~~as for a period in any one (1) federal fiscal year not to exceed that~~ specified in this section. ***In any one (1) federal fiscal year, officers or employees, while on military leave, shall be paid their salaries or compensations for a period or periods not exceeding twenty-one (21) calendar days. Any unused military leave in a federal fiscal year shall be carried over to the next year. Any unused military leave shall expire two (2) years after it has accrued*** ~~[fifteen (15) calendar days or ten (10) working days if the employee's position is based upon a five (5) day work week; twelve (12) days if the employee's position is based upon a six (6) day work week; fifteen (15) days if the employee's position is based upon a seven (7) day work week].~~

Section 3. KRS 38.250 is amended to read as follows:

~~{(1)—}~~Every unit of the Kentucky National Guard shall assemble for drill and instructions not less than forty-eight (48) times each year, and shall participate in encampments, maneuvers or other exercises at least fifteen (15) days in each year unless excused therefrom by the Governor. The number present in order to obtain credit for the drill, period of time and type of instruction shall be such as is prescribed by the Governor.

~~{(2)—All employees of the Commonwealth of Kentucky who are members of the Kentucky National Guard and/or the Reserve Forces of the United States shall be entitled to fifteen (15) days annual military leave with pay.}~~

Section 4. KRS 171.782 is amended to read as follows:

- (1) The Kentucky Military Heritage Commission is hereby established as an independent agency of the Commonwealth of Kentucky which is attached to the Kentucky Heritage Council for administrative and support purposes. The Heritage Council may request and receive additional administrative aid and support from the Kentucky Historical Society, the Department of Military Affairs, the Commission on Military Affairs, and the Department of Veterans' Affairs.
- (2) The Kentucky Military Heritage Commission shall consist of the adjutant general, the Director of the Kentucky Historical Society, the state historic preservation officer, the executive director of the commission on Military Affairs, and the commissioner of the Department of Veterans' Affairs ***or their designees, whose names shall be provided in writing.***
- (3) The commission shall receive requests for designation of a geographic site as a military heritage site and for designation of an object as a military heritage object in accordance with KRS 171.780 to 171.788 and the administrative regulations promulgated thereunder.
- (4) The commission shall promulgate administrative regulations necessary to carry out KRS 171.780 to 171.788 and to protect military heritage sites and military heritage objects.
- (5) The commission may seek funding from any source, public or private, and may expend funds for the operation of the commission and for the protection of military heritage sites and military heritage objects.
- (6) The commission may employ such persons as it deems necessary, consistent with available funding, to carry out the duties of the commission.

Section 5. KRS 304.13-063 is amended to read as follows:

- (1) Any schedule of rates or rating plan for automobile liability and physical damage insurance filed with the executive director shall provide for an appropriate reduction in premium charges for a period of at least three (3) years and up to five (5) years for those insureds fifty-five (55) years of age and older who successfully complete a motor vehicle accident prevention course meeting standards set by the Transportation Cabinet ***or insureds of any age who complete a defensive driving course provided by the United States Armed Forces to members of the United States Armed Forces. The reduction in premium charges for members of the United States Armed Forces who complete a defensive driving course provided by the United States Armed Forces shall be actuarially sound.*** There shall, however, be no reduction in premiums for a self-instructed course or for a course which does not provide for classroom or field driving instruction for a minimum number of hours, to be determined by the Transportation Cabinet.
- (2) All insurance companies writing automobile liability and physical damage insurance in Kentucky shall allow an appropriate reduction in premium charges to all eligible persons subject to this section.

- (3) Upon successfully completing the approved course, each participant shall be issued by the course's sponsoring agency a certificate which shall be the basis of qualification for the discount on insurance.
- (4) Each participant shall take an approved course each five (5) years to continue to be eligible for the discount on insurance.
- (5) The Transportation Cabinet is hereby empowered to promulgate regulations setting standards for the motor vehicle accident prevention course described in subsection (1) of this section.
- (6) No discount shall be available under this section to those completing the prescribed motor vehicle accident prevention course under a court order as a result of a motor vehicle conviction.

Section 6. Section 5 of this Act takes effect January 1, 2007.

**Approved April 21, 2006.**

## CHAPTER 195

(SB 174)

AN ACT relating to mental retardation.

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

Section 1. KRS 202B.021 is amended to read as follows:

- (1) Mentally retarded minors and adult persons may be voluntarily admitted for care and treatment in an ICF/MR under the applicable provisions of this section.
- (2) Upon the recommendation or approval of the interdisciplinary team of an ICF/MR, a physician may admit for care and treatment a mentally retarded minor upon application of a parent or guardian. Upon recommendation or approval of the interdisciplinary team of an ICF/MR, the physician may also admit ***an individual with mental retardation***~~[a mildly or moderately mentally retarded adult person]~~ who applies voluntarily therefor and who, in the opinion of the physician, possesses the mental capacity to give informed consent for admission.
- (3) Upon recommendation or approval of the interdisciplinary team of an ICF/MR, the physician shall discharge any voluntarily admitted resident whose care and treatment in the ICF/MR is determined to be no longer necessary or advisable.
- (4) If an adult resident who has been admitted voluntarily requests his or her release in writing, or if the release of a minor resident is requested in writing by the minor's parent or guardian, the resident shall be released unless further detained under the applicable provisions of this chapter.

Section 2. KRS 202B.100 is amended to read as follows:

- (1) Proceedings for involuntary admission of a person to an ICF/MR shall be initiated by the filing of a verified petition in District Court.
- (2) The petition and all subsequent court documents shall be entitled: "In the interest of (name of respondent)."
- (3) The petition shall be filed by a qualified mental retardation professional, peace officer, county attorney, Commonwealth's attorney, spouse, relative, friend, or guardian of the person concerning whom the petition is filed.
- (4) The petition shall set forth:
  - (a) Petitioner's relationship to the respondent;
  - (b) Respondent's name, residence, and current location, if known;
  - (c) The name and residence of respondent's parents, if living and if known, or respondent's legal guardian, if any and if known;
  - (d) The name and residence of respondent's husband or wife, if any, and if known;
  - (e) The name and residence of the person having custody of the respondent, if any, or if no such person is known, the name and residence of a near relative or that such person is unknown;~~and~~

- (f) *Documentation by the petitioner that the respondent has mental retardation that shall include the findings of a psychological examination or assessment completed in a reasonable time prior to the filing of the petition that documents a Full Scale IQ in the moderate to severe range of mental retardation. If the court finds that a more current psychological examination or assessment is necessary, the court shall order such examination; and*
  - (g) Petitioner's belief, including the factual basis therefor, that the respondent ~~is mentally retarded and~~ presents a danger or threat of danger to self, family, or others if not admitted to an ICF/MR.
- (5) Upon receipt of the petition, the court shall examine the petitioner under oath as to the contents of the petition. If the petitioner is a qualified mental retardation professional, the court may dispense with the examination.
  - (6) If, after reviewing the allegations contained in the petition and examining the petitioner under oath, it appears to the court that there is probable cause to believe the respondent should be involuntarily admitted, the court shall:
    - (a) Set a date for a preliminary hearing;
    - (b) Notify the respondent, the respondent's legal guardian, if any, and if known, and the respondent's spouse, parents, or nearest relative or friend concerning the allegations and contents of the petition and the date and purpose of the preliminary hearing; and the name, address, and telephone number of the attorney appointed to represent the respondent; and
    - (c) Cause the respondent to be examined without unnecessary delay by two (2) ~~qualified mental retardation~~ professionals, ~~at least~~ one (1) of whom is a *qualified mental retardation professional and one (1) of whom is a licensed psychiatrist, psychologist, or physician with special training and experience in serving individuals with mental retardation. One (1) of the professionals shall be from the community and one (1) shall be an employee of a state operated ICF/MR facility* ~~physician~~. The qualified mental retardation *professional* ~~professionals~~ shall certify *his or her* ~~their~~ findings within twenty-four (24) hours, excluding weekends and holidays.
  - (7)
    - (a) If the respondent is presently residing in an ICF/MR under the provisions of this chapter, the court may allow continued further residence therein for the respondent to accomplish the examination ordered by the court.
    - (b) If the respondent is not currently residing in an ICF/MR under the provisions of this chapter, the court may order the respondent, the respondent's guardian, or any person or entity exercising custodial control of the respondent to submit the respondent to an examination, without unnecessary delay, by two (2) ~~qualified mental retardation~~ professionals, ~~at least~~ one (1) of whom is a *qualified mental retardation professional and one (1) of whom is a licensed psychiatrist, psychologist, or physician with special training and experience in serving individuals with mental retardation. One (1) of the professionals shall be from the community and one (1) shall be an employee of a state-operated ICF/MR facility* ~~physician~~.
  - (8) If, upon completion of the preliminary hearing, the court finds there is probable cause to believe the respondent should be involuntarily admitted, the court shall order a final hearing to determine if the respondent should be involuntarily admitted.
  - (9) If the court finds there is no probable cause, the proceedings against the respondent shall be dismissed, and the respondent shall be released from the ICF/MR.
  - (10) If, upon completion of the final hearing, the court finds the respondent should be involuntarily admitted, the court shall order the respondent admitted in an ICF/MR for an indeterminate period. The order shall also specify the period within which the initial review pursuant to KRS 202B.250.

Section 3. KRS 202B.130 is amended to read as follows:

In any proceeding for involuntary admission under the applicable provisions of this chapter, if the criteria for involuntary admission are not certified by at least two (2) ~~examining qualified mental retardation~~ professionals *as specified in subsection (6)(c) of Section 2 of this Act*, ~~at least one (1) of whom is a physician~~, the court shall, without taking any further action, terminate the proceedings and order the release of the person. The qualified mental retardation *professional* ~~professionals~~ shall certify to the court, within twenty-four (24) hours of the examination,

excluding weekends and holidays, ***his or her***~~their~~ findings and opinions as to whether the person shall be involuntarily admitted.

Section 4. KRS 202B.170 is amended to read as follows:

- (1) Following the preliminary hearing but prior to the completion of the final hearing, the court may order the respondent to reside in ***his or her current residence, an emergency placement designated by the regional mental health and mental retardation program, or*** an ICF/MR approved by the secretary for that purpose for the committing judicial district in a community program approved by the secretary or in a hospital. The respondent may be released, upon application and agreement of the parties, for the purpose of community-based outpatient treatment.
- (2) A physician of an ICF/MR or a hospital shall discharge a respondent residing therein and notify the court and attorneys of record, if the interdisciplinary team of the ICF/MR or an authorized staff physician of the hospital determines that the respondent no longer meets the criteria for involuntary admission.
- (3) If a respondent is discharged by the ICF/MR or hospital pursuant to subsection (2) of this section, the proceedings against the respondent shall be dismissed.

Section 5. KRS 202B.200 is amended to read as follows:

- (1) The court which orders any person to an ICF/MR under the provisions of this chapter, shall at once notify the cabinet that the order has been made, advising of the sex and condition of the person.
- (2) The ICF/MR may refuse to receive any person who has been ordered to be involuntarily admitted by a court order if appropriate programs and space are not available or the papers presented with the person at the ICF/MR do not comply with the provisions of this chapter or if it does not receive notification of the order of involuntary admission as required by this chapter.
- (3) After the cabinet has been so notified, the court may order the sheriff of the county to transport the person from the county in which the person is located to the ICF/MR designated by the cabinet. The actual traveling expenses of persons transporting the person to the institution shall be paid by the cabinet. Each female admitted to an ICF/MR shall be accompanied by a female attendant, unless accompanied by her mother, father, sister, brother, husband, daughter, or son.
- (4) In returning any person to the county from which that person is sent, the cost of returning the person shall be paid in the same manner, when necessary.
- (5) If a person is involuntarily admitted by a court order, the person shall be transported to the ICF/MR designated by the cabinet and accompanied by the following documents:
  - (a) A copy of the petition for involuntary admission;
  - (b) The certificate of qualified mental retardation professionals;~~and~~
  - (c) ***A current physical examination that documents no serious medical issues;***
  - (d) ***The psychological examination or assessment that documents a Full Scale IQ in the moderate to severe range of mental retardation; and***
  - (e) The order of involuntary admission.

SECTION 6. A NEW SECTION OF KRS CHAPTER 205 IS CREATED TO READ AS FOLLOWS:

- (1) ***As used in this section, "aging caregiver" means an individual age sixty (60) and older who provides care for an individual with mental retardation or other developmental disability.***
- (2) ***If state, federal, or other funds are available, the Kentucky Department for Mental Health and Mental Retardation shall, in cooperation with the Division of Aging Services and the Department for Medicaid Services, establish a centralized resource and referral center designed as a one-stop, seamless system to provide aging caregivers with information and assistance with choices and planning for long-term supports for individuals with mental retardation or developmental disability.***
- (3) ***The center created in subsection (2) of this section shall provide, but not be limited to, the following services:***
  - (a) ***Comprehensive information on available programs and services, including but not limited to:***



1. *Residential services;*
  2. *Employment training;*
  3. *Supported employment;*
  4. *Behavioral support;*
  5. *Respite services;*
  6. *Adult day health or adult day social services;*
  7. *Support coordination;*
  8. *Home or environmental modifications;*
  9. *Community living services, including an attendant, and assistance with homemaking, shopping, and personal care;*
  10. *Support groups in the community;*
  11. *Psychiatric services;*
  12. *Consumer-directed options;*
  13. *Attorneys or legal services to assist with will preparation; and*
  14. *The impact of inheritance on government benefits and options including establishing a special needs trust;*
- (b) *Printed material and Internet-based information related to:*
1. *Options for future planning;*
  2. *Financial and estate planning;*
  3. *Wills and trusts; and*
  4. *Advance directives and funeral and burial arrangements; and*
- (c) *Referral to community resources.*
- (4) *The center created in subsection (2) of this section shall operate a toll-free number at least during regular business hours and shall publish information required in paragraph (a) of subsection (3) of this section and a description of services provided by the center on a cabinet Web site.*
  - (5) *The center created in subsection (2) of this section shall make the information listed in subsection (3) of this section available to the support broker and any representative of an individual who is participating in a Medicaid consumer directed option.*
  - (6) *The center shall use electronic information technology to track services provided and to follow-up with individuals served and provide additional information or referrals as needed.*
  - (7) *The department may contract with a private entity to provide the services required under subsections (2) and (3) of this section.*
  - (8) *The cabinet may provide services identified in subsection (3) of this section to individuals of any age who are caregivers of individuals with mental retardation or developmental disability.*
  - (9) *Prior to January 1, 2008, the department shall submit a report to the Interim Joint Committee on Health and Welfare that includes, but is not limited to, the following information:*
    - (a) *The number of individuals who contacted the center;*
    - (b) *A description of the categories of questions asked by individuals calling the center; and*
    - (c) *A summary of the services provided, including the community resources to which individuals were referred.*

**Approved April 21, 2006.**

## CHAPTER 196

## (HB 663)

AN ACT relating to tax credits for rehabilitation of historic structures.

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

Section 1. KRS 171.397 is amended to read as follows:

- (1) There shall be allowed as a credit against the taxes imposed by KRS 141.020, 141.040, ~~136.070,~~ or 136.505, an amount equal to:
  - (a) Thirty percent (30%) of the qualified rehabilitation expenses, in the case of owner-occupied residential property; and
  - (b) Twenty percent (20%) of the qualified rehabilitation expenses, in the case of all other property.

In the case of an exempt entity that has incurred qualified rehabilitation expenses, the credit provided in this subsection shall be available to transfer or assign as provided under subsection (8) or (9) of this section.
- (2)
  - (a) *A taxpayer seeking the credit provided under subsection (1) of this section shall file an application for a preliminary determination of maximum credit eligibility before April 30 of the year in which the proposed project will begin. The application shall describe the project, and shall include documentation supporting the qualification of the project for the credit, the proposed start date, the proposed completion date, the projected qualified rehabilitation expenses, and any other information the council may require. The council shall determine the preliminary maximum credit available for each taxpayer and shall notify the taxpayer of that amount by May 31 of the year in which the application was filed. If total credits applied for in any year exceed the certified rehabilitation credit cap, plus any amounts added to the cap pursuant to paragraph (c) of this subsection, the provisions of subsection (5) of this section shall be applied to reduce the approved credits for all taxpayers with qualifying applications for that year.*
  - (b) An application for *a final determination of credit* ~~shall must~~ be submitted to the council within thirty (30) days following the close of ~~the~~ *the* calendar year *in which the project is completed*. The council shall determine the *final* amount of credit approved for each taxpayer *based upon the actual expenditures, preliminary determination of maximum credit, and a determination that the expenditures are qualified rehabilitation expenses. The council shall* ~~and~~ notify the taxpayer and Department of Revenue of the *final* approved credit amount by the thirty first day of the third month following the close of the calendar year.
  - (c)
    1. *If the total amount of credits finally approved for a taxpayer under paragraph (b) of this subsection are less than the credits initially approved for a taxpayer under paragraph (a) of this subsection, the difference between the two amounts shall be added to the certified rehabilitation credit cap for the next calendar year.*
    2. *If the total amount of credits approved under paragraph (a) of this subsection in any calendar year is less than three million dollars (\$3,000,000), the difference between the credits actually awarded and the cap amount of three million dollars (\$3,000,000) shall be added to the certified rehabilitation credit cap for the next calendar year.*
- (3)
  - (a) The maximum credit which may be claimed with regard to owner-occupied residential property shall be sixty thousand dollars (\$60,000) subject to the provisions of subsection (5) of this section. The credit in this section shall be claimed for the taxable year in which the certified rehabilitation is completed.
  - (b) *The maximum credit which may be claimed with regard to all other property that is not owner-occupied residential shall be four hundred thousand dollars (\$400,000) subject to the provisions of subsection (5) of this section. The credit in this section shall be claimed for the taxable year in which the certified rehabilitation is completed.*
- (4) In the case of a husband and wife filing separate returns or filing separately on a joint return, the credit may be taken by either or divided equally, but the combined credit shall not exceed sixty thousand dollars (\$60,000) *if subject to the limitation in paragraph (a) of subsection (3) of this section, or four hundred thousand dollars*

*(\$400,000) if subject to the limitation in paragraph (b) of subsection (3) of this section, subject to the provisions of subsection (5) of this section.*

- (5) The credit amount approved for a calendar year for all taxpayers under *the provisions of paragraph (a) of subsection (2) of this section* shall be limited to the certified rehabilitation credit cap *plus any amounts added to the cap pursuant to paragraph (c) of subsection (2) of this section.* ~~The council shall notify the taxpayer and the Department of Revenue when the total credit amount approved exceeds the certified rehabilitation credit cap.~~ *When the total credits applied for and approved in any year under the provisions of paragraph (a) of subsection (2) of this section exceed the certified rehabilitation credit cap, plus any amounts added to the cap pursuant to paragraph (c) of subsection (2) of this section, the council shall apportion the certified rehabilitation credit cap as follows: Three million dollars (\$3,000,000) plus any amounts added to the cap pursuant to paragraph (c) of subsection (2) of this section, multiplied by a fraction, the numerator which is the approved credit amount for an individual taxpayer for a calendar year and the denominator which is the total approved credits for all taxpayers for a calendar year.*
- (6) If the credit amount that may be claimed in any tax year as determined under subsections (3) to (5) of this section exceeds the taxpayer's total tax liabilities under KRS~~136.070,~~ 136.505, 141.020, or 141.040, the taxpayer may carry the excess tax credit forward until the tax credit is used, provided that any tax credits not used within seven (7) years of the taxable year the certified rehabilitation was complete shall be lost.
- (7) If the taxpayer is a pass-through entity not subject to the tax imposed by KRS 141.040, the credit shall pass through in the same proportion as the distributive share of income or loss is passed through.
- (8) Credits received under this section may be transferred or assigned, for some or no consideration, along with any related benefits, rights, responsibilities, and liabilities to any entity subject to the tax imposed by KRS 136.505. Within thirty (30) days of the date of any transfer of credits, the party transferring the credits shall notify the Department of Revenue of:
  - (a) The name, address, employer identification number, and bank routing and transfer number, of the party to which the credits are transferred;
  - (b) The amount of credits transferred; and
  - (c) Any additional information the Department of Revenue deems necessary.

The provisions of this subsection shall apply to any credits that pass through to a successor or beneficiary of a taxpayer.

- (9) For purposes of this section, a lessee of a certified historic structure shall be treated as the owner of the structure if the remaining term of the lease is not less than the minimum period promulgated by administrative regulation by the council.
- (10) The taxes imposed in KRS 141.020 and 141.040 shall not apply to any consideration received for the transfer, sale, assignment, or use of a tax credit approved under this section.
- (11) The Department of Revenue shall assess a penalty on any taxpayer or exempt entity that performs disqualifying work, *as determined by the Kentucky Heritage Council*, on a certified historic structure for which a rehabilitation has been certified under this section in an amount equal to one hundred percent (100%) of the tax credit allowed on the rehabilitation. *Any penalties shall be assessed against the property owner who performs the disqualifying work and not against any transferee of the credits.*
- (12) The council may impose fees for processing applications for tax credits, not to exceed the actual cost associated with processing the applications.
- (13) The council may authorize a local government to perform an initial review of applications for the credit allowed under this section and forward the applications to the council with its recommendations.
- (14) The council and the Department of Revenue may promulgate administrative regulations in accordance with the provisions of KRS Chapter 13A to establish policies and procedures to implement the provisions of subsections (1) to (13) of this section.
- (15) The tax credit authorized by this section shall apply to tax periods ending on or after December 31, 2005.

Section 2. The provisions of this Act apply for taxable periods beginning on or after January 1, 2007.

Section 3. This Act takes effect January 1, 2007.

**Approved April 21, 2006.**

## CHAPTER 197

(SB 98)

AN ACT relating to administrative regulations.

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

Section 1. KRS 13A.250 is amended to read as follows:

- (1) Each administrative body ~~that~~<sup>which</sup> promulgates an administrative regulation which relates to any aspect of *state or* local government or any service provided thereby shall ***consider the cost that the administrative regulation may cause the state or local government to incur. The cost analysis shall include the projected cost or cost savings to the Commonwealth of Kentucky and each of its affected agencies, and the projected cost or cost savings to affected local governments, including cities, counties, fire departments, and school districts. Agencies affected by the administrative regulation may submit comments in accordance with KRS 13A.270(1) to the promulgating administrative body or to a subcommittee reviewing the administrative regulation.***
- (2) ***Each administrative body that promulgates an administrative regulation which relates to any aspect of state or local government or any service provided thereby shall*** prepare and submit with the administrative regulation a fiscal note.

~~{(2)}~~ The fiscal note shall state:

- (a) The number of the administrative regulation;
  - (b) The name and telephone number of the contact person of the administrative body;
  - (c) Whether the administrative regulation relates to any aspect of *state or*~~or~~ local government, including any service provided by that *state or* local government;
  - (d) The unit, part, or division of *state or* local government the administrative regulation will affect;
  - (e) In detail, the aspect or service of *state or* local government to which the administrative regulation relates, including identification of the applicable state or federal statute or regulation that mandates the aspect or service or authorizes the action taken by the administrative regulation; and
  - (f) The estimated effect of the administrative regulation on the expenditures and revenues of a *state or* local government ***agency*** for the first full year the administrative regulation will be in effect. If specific dollar estimates cannot be determined, the administrative body shall provide a brief narrative to explain the fiscal impact of the administrative regulation.
- (3) Any administrative body may request the advice and assistance of the Commission in the preparation of the fiscal note.

**Approved April 21, 2006.**

## CHAPTER 198

(HB 45)

AN ACT relating to caregivers.

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

SECTION 1. A NEW SECTION OF KRS CHAPTER 405 IS CREATED TO READ AS FOLLOWS:

- (1) ***The Cabinet for Health and Family Services shall create a centralized statewide service program that provides information and referrals through a statewide toll-free telephone number to grandparents who are caring for minor grandchildren.***
- (2) ***The program shall provide information on a wide variety of services, including but not limited to:***

- (a) *Kentucky Transitional Assistance Program;*
  - (b) *Medical coverage and services, including the Kentucky Children's Health Insurance Program;*
  - (c) *Educational services;*
  - (d) *Child care;*
  - (e) *Child support;*
  - (f) *Support groups;*
  - (g) *Housing assistance;*
  - (h) *Legal services; and*
  - (i) *Respite care for low-income kinship caregivers.*
- (3) *The cabinet may coordinate this program with the KyCARES Program.*
  - (4) *This program shall be known as the KinCare Support Program.*

SECTION 2. A NEW SECTION OF KRS CHAPTER 27A IS CREATED TO READ AS FOLLOWS:

- (1) *As used in this section, "medical treatment" means any medical, chiropractic, optometric, or dental examination, diagnostic procedure, and treatment, including but not limited to hospitalization, developmental screening, mental health screening and treatment, preventive care, pharmacy services, immunizations recommended by the federal Centers for Disease Control and Prevention's Advisory Committee on Immunization Practices, well-child care, and blood testing, except that "medical treatment" shall not include HIV/AIDS testing, controlled substance testing, or any other testing for which a separate court order or informed consent is required under other applicable law.*
- (2) *The Administrative Office of the Courts shall develop a standard power of attorney for the limited purpose of establishing authority to consent to medical treatment for a minor and to make school-related decisions for a minor.*
- (3) *The standard power of attorney developed under subsection (2) of this section shall be available through the Cabinet for Health and Family Services and the office of the circuit clerk where the informal caregiver resides.*

**Approved April 21, 2006.**

## CHAPTER 199

(SB 84)

AN ACT relating to the planning and budgeting threshold amounts for state capital projects.

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

Section 1. KRS 7A.010 is amended to read as follows:

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

- (1) "Capital project" means:
  - (a) Any undertaking which is to be financed or funded through an appropriation by the General Assembly of general fund, road fund, bond fund, trust and agency fund, or federal fund moneys, where the expenditure is a capital expenditure pursuant to statute or under standards prescribed by the Legislative Research Commission under the authority of KRS Chapter 48;
  - (b) Any undertaking which is to be financed by a capital expenditure for use by the state government or one of its departments or agencies, as defined in KRS 12.010 or enumerated in KRS 12.020, including projects related to the construction or maintenance of roads, and including projects of institutions of higher education as defined in KRS 164A.550(2);
  - (c) Any capital construction item, or any combination of capital construction items necessary to make a building or utility installation complete, estimated to cost ~~six~~<sup>sixty-four</sup> hundred thousand dollars

~~(\$600,000)~~~~(\$400,000)~~ or more, or any item of movable equipment, estimated to cost ~~two~~~~(one)~~ hundred thousand dollars ~~(\$200,000)~~~~(\$100,000)~~ or more, regardless of the source of funds;

- (d) Any lease of real property whose value is two hundred thousand dollars (\$200,000) or more;
  - (e) Any lease of an item of movable equipment if the total cost of the lease, lease-purchase, or lease with an option to purchase is ~~two~~~~(one)~~ hundred thousand dollars ~~(\$200,000)~~~~(\$100,000)~~ or more; or
  - (f) Any new acquisition, upgrade, or replacement of an information technology system estimated to cost ~~six~~~~(four)~~ hundred thousand dollars ~~(\$600,000)~~~~(\$400,000)~~ or more.
- (2) "Board" means the Capital Planning Advisory Board of the Kentucky General Assembly created by KRS 7A.110.
  - (3) "Plan" means the state capital improvement plan provided for by KRS 7A.120.
  - (4) "State agency" means any department, commission, council, board, bureau, committee, institution, legislative body, agency, government corporation, or other entity of the executive, judicial, or legislative branch of the state government.
  - (5) "Information technology system" means any related computer or telecommunications components that provide a functional system for a specific business purpose and contain one (1) or more of the following:
    - (a) Hardware;
    - (b) Software, including application software, systems management software, utility software, or communications software;
    - (c) Professional services for requirements analysis, system integration, installation, implementation, or data conversion services; or
    - (d) Digital data products, including acquisition and quality control.

Section 2. KRS 45.750 is amended to read as follows:

- (1) As used in KRS 45.760 to 45.810:

- (a) "Committee" means the Capital Projects and Bond Oversight Committee.
- (b) "Capital construction item" means:
  - 1. The construction, reconstruction, acquisition, and structural maintenance of buildings;
  - 2. The installation of utility services, including roads and sewers;
  - 3. The acquisition or improvement of real property;
  - 4. The purchase and installation initially or during major renovation of equipment, facilities, and furnishings of a permanent nature for buildings;
  - 5. The acquisition of any building to be occupied by any:
    - a. Subdivision of state government as defined in KRS 12.010 or enumerated in KRS 12.020;
    - b. Municipal corporation which exercises its authority on a statewide basis including, but not limited to, the Kentucky Employees Retirement System, Teachers' Retirement System of the State of Kentucky, Kentucky Higher Education Student Loan Corporation, Kentucky Lottery Corporation, Kentucky Housing Corporation, or any entity with a governing body whose membership is substantially similar to the membership of the governing body of a municipal corporation which exercises its authority on a statewide basis; and
    - c. Institution of higher education.
- (c) "Lease" means any lease, lease-purchase, or lease with an option to purchase of any real property space occupied by:
  - 1. Any entity listed in paragraph (b)5. of this subsection;
  - 2. The legislative branch; or
  - 3. The judicial branch when leased from a private sector landlord.

- (d) "Equipment" means:
1. Any major item of equipment, including aircraft;
  2. Any movable furnishing, appurtenance, or other equipment, necessary to make a building operable; and
  3. Equipment purchased or otherwise acquired, or equipment to be purchased or otherwise to be acquired, under a lease or lease-purchase contract or agreement or an arrangement equivalent to a lease or lease-purchase contract or agreement.
- (e) "Information technology system" means any related computer or telecommunications components that provide a functional system for a specific business purpose and contain one (1) or more of the following:
1. Hardware;
  2. Software, including application software, systems management software, utility software, or communications software;
  3. Professional services for requirements analysis, system integration, installation, implementation, or data conversion services; or
  4. Digital data products, including acquisition and quality control.
- (f) "Capital projects" means, regardless of the source of cash or other consideration:
1. Any capital construction item, or any combination of capital construction items necessary to make a building or utility installation complete, estimated to cost ~~six{four}~~ hundred thousand dollars ~~(\$600,000){(\$400,000)}~~ or more in cash or other consideration;
  2. Any lease of real property space with an annual rental cost exceeding two hundred thousand dollars (\$200,000);
  3. The use allowance paid by the judicial branch for a real property space pursuant to KRS 26A.090(2) and 26A.115 when the use allowance for the space exceeds two hundred thousand dollars (\$200,000) on an annual basis;
  4. Any item of equipment estimated to cost ~~two{one}~~ hundred thousand dollars ~~(\$200,000){(\$100,000)}~~ or more in cash or other consideration;
  5. Any lease of an item of movable equipment if the annual cost of the lease is ~~two{one}~~ hundred thousand dollars ~~(\$200,000){(\$100,000)}~~ or more or if the total cost of the lease-purchase or lease with an option to purchase is ~~two{one}~~ hundred thousand dollars ~~(\$200,000){(\$100,000)}~~ or more; and
  6. Any new acquisition, upgrade, or replacement of an information technology system estimated to cost ~~six{four}~~ hundred thousand dollars ~~(\$600,000){(\$400,000)}~~ or more in cash or other consideration.
- (g) "Emergency repair, maintenance, or replacement project" means the maintenance, repair, or reconstruction of a capital construction project or the maintenance, repair, or replacement of a major item of equipment that is:
1. Necessitated by injury or damage resulting from a disaster;
  2. Necessary to maintain government operations or to prevent or minimize injury or damage that could reasonably be expected to result from an impending disaster; or
  3. Necessitated by an unforeseen mechanical breakdown, electrical breakdown, or structural defect that must be corrected to make a facility or item of equipment usable.
- (h) "Disaster" means a fire, flood, tornado, other natural disaster, riot, enemy attack, sabotage, explosion, power failure, energy shortage, transportation emergency, or other man-caused disaster.

- (i) "Capital construction funds" means any funds used for capital construction, including, but not limited to, appropriated capital construction funds, agency funds, federal funds, private funds, or funds from any source held by an agency for management or investment purposes.
  - (j) "Entity head" means the Chief Justice of the Supreme Court, the President of the Senate and the Speaker of the House of Representatives, the secretary of the Finance and Administration Cabinet, the president of any university which complies with KRS 164A.585, 164A.595, and 164A.600, the board of trustees of the Kentucky Employees Retirement System, the board of trustees of the Teachers' Retirement System of the State of Kentucky, the board of directors of the Kentucky Higher Education Student Loan Corporation, the board of directors of the Kentucky Lottery Corporation, or the board of directors of the Kentucky Housing Corporation.
- (2) Except as provided in subsection (3) of this section, KRS 45.760 to 45.810 shall apply to capital projects and bonds for use by:
- (a) The state government;
  - (b) One of its departments or agencies, as defined in KRS 12.010 or enumerated in KRS 12.020;
  - (c) A municipal corporation which exercises its authority on a statewide basis including, but not limited to, the Kentucky Employees Retirement System, Teachers' Retirement System of the State of Kentucky, Kentucky Higher Education Student Loan Corporation, Kentucky Lottery Corporation, and Kentucky Housing Corporation; and
  - (d) Institutions of higher education.
- (3) KRS 45.760 to 45.810 shall not apply to:
- (a) Capital projects or bonds used directly in or for the construction or maintenance of roads, including, but not limited to, bulldozers, graders, earth movers, and real estate purchased for rights-of-way; and
  - (b) Political subdivisions, except for those defined in KRS 12.010, enumerated in KRS 12.020, or created as a municipal corporation which exercises its authority on a statewide basis including, but not limited to, the Kentucky Employees Retirement System, Teachers' Retirement System of the State of Kentucky, Kentucky Higher Education Student Loan Corporation, Kentucky Lottery Corporation, Kentucky Housing Corporation, or any entity with a governing body whose membership is substantially similar to the membership of the governing body of a municipal corporation which exercises its authority on a statewide basis. However, the provisions of KRS 45.750 to 45.810 shall not apply to acquisition or maintenance of any building or land which is purchased as a legal investment by any of the state retirement systems, which is not to be occupied by the retirement system, and which is financed solely with those assets of the retirement system used for investment purposes.

Section 3. KRS 45A.023 is amended to read as follows:

- (1) Notwithstanding any other provision of law to the contrary, the Department for Local Government, *the Department of Military Affairs, and the Office of Security Coordination* may enter into multiyear contracts, memoranda of agreement, memoranda of understanding, grant agreements, or any other similar documents that exceed the biennium in which they are made for projects that are funded solely through federal grant money.
- (2) All documents entered into in accordance with subsection (1) of this section shall contain a provision stating that the contract funding may be discontinued by the General Assembly in a subsequent budget.

**Approved April 21, 2006.**

## CHAPTER 200

(SB 157)

AN ACT relating to special license plates.

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

Section 1. KRS 186.164 is amended to read as follows:

- (1) The SF portion of the fee required under KRS 186.162 shall include the fee to reflectorize all license plates under KRS 186.240. All EF fees required under KRS 186.162 shall be collected at the time of an initial or



renewal application by the county clerk who shall forward the EF fee to the cabinet. The cabinet shall remit EF fees to the group or organization identified in KRS 186.162 on a quarterly basis. The cabinet may retain any investment income earned from holding EF fees designated to be remitted under this subsection to offset administrative costs incurred by the cabinet in the administration of EF fees.

- (2) A special license plate shall be the color and design selected by the group or organization identified in subsection (13) of this section, contingent upon the approval of the Transportation Cabinet. In addition to the design selected for a special license plate, the name "Kentucky," an annual renewal decal, and any combination of letters or numerals required by the cabinet in the design shall also appear on the plate.
- (3) Except as provided in KRS 186.162, the total initial fee for a special license plate created under this chapter shall be twenty-eight dollars (\$28), of which the Transportation Cabinet shall receive twenty-five dollars (\$25) and the county clerk shall receive three dollars (\$3), and the total renewal fee shall be fifteen dollars (\$15), of which the Transportation Cabinet shall receive twelve dollars (\$12) and the county clerk shall receive three dollars (\$3). The twenty-five dollar (\$25) initial fee and twelve dollar (\$12) renewal fee received by the Transportation Cabinet under this subsection shall include an applicant's registration fee required under KRS 186.050.
- (4) An actual metal special license plate shall be issued on the same schedule as regular license plates are issued under KRS 186.240. The cabinet shall have the discretion to extend the time period that will exist between the date a metal special license plate is issued and the date that regular plates are issued under KRS 186.240. A renewal registration decal shall be issued all other years during the owner's or lessee's birth month, except as provided in KRS 186.041(2), 186.042(5), and 186.174(2). A person seeking a special license plate for a vehicle provided as part of the person's occupation shall conform to the requirements of KRS 186.050(14).
- (5)
  - (a) If a special license plate issued under this chapter deteriorates to the point that the lettering, numbering, or images on the face of the plate are not legible, the plate shall be replaced free of charge, if the owner or lessee has not transferred the vehicle to which the plate was issued during the current licensing period.
  - (b) If a special license plate issued under this chapter is lost, stolen, or damaged in an accident, the county clerk shall issue a new plate upon payment of a three dollar (\$3) county clerk fee, if the owner or lessee has not transferred the vehicle to which the plate was issued during the current licensing period.
- (6) Upon the sale, transfer, or termination of a lease of a vehicle with any special license plate issued under this chapter, the owner or lessee shall remove the special plate and return it and the certificate of registration to the county clerk. The county clerk shall reissue the owner or lessee a regular license plate and a certificate of registration upon payment of a three dollar (\$3) county clerk fee. If the owner or lessee requests, the county clerk shall reissue the special plate upon payment of a three dollar (\$3) county clerk fee for use on any other vehicle of the same classification and category owned by the person during the current licensing period. If the owner or lessee has the special plate reissued to another vehicle, the regular license plate that is being replaced shall be returned to the county clerk who shall forward the plate to the Transportation Cabinet.
- (7) A special license plate may be issued to the owner or lessee of a motor vehicle that is required to be registered under KRS 186.050(1), (3)(a), or (4)(a), except a special license plate shall not be issued to a taxicab, airport limousine, or U-Drive-It registered and licensed under this chapter or KRS Chapter 281. A person applying for a special license plate shall apply in the office of the county clerk in the county of the person's residence, except as provided in KRS 186.168(3). All special license plates issued under this chapter may be combined with a personalized license plate under the provisions of KRS 186.174. The fee to combine a special license plate with a personalized license plate shall be as established in KRS 186.162(3).
- (8) Within thirty (30) days of termination from election to, appointment to, or membership with any group or organization, an applicant to whom a special license plate was issued under this chapter shall return the special license plate to the county clerk of the county of his or her residence, unless the person is merely changing his or her status with the group or organization to retired.
- (9) A group wanting to create a special license plate that is not authorized under this chapter on June 20, 2005, shall comply with the following conditions before being eligible to apply for a special license plate:
  - (a) The group shall be nonprofit and based, headquartered, or have a chapter in Kentucky;
  - (b) The group may be organized for, but shall not be restricted to, social, civic, or entertainment purposes;

- (c) The group, or the group's lettering, logo, image, or message to be placed on the license plate, if created, shall not discriminate against any race, color, religion, sex, or national origin, and shall not be construed, as determined by the cabinet, as an attempt to victimize or intimidate any person due to the person's race, color, religion, sex, or national origin;
  - (d) The group shall not be a political party and shall not have been created primarily to promote a specific political belief;
  - (e) The group shall not have as its primary purpose the promotion of any specific faith, religion, or antireligion;
  - (f) The name of the group shall not be the name of a special product or brand name, and shall not be construed, as determined by the cabinet, as promoting a product or brand name; and
  - (g) The group's lettering, logo, image, or message to be placed on the license plate, if created, shall not be obscene, as determined by the cabinet.
- (10) If the cabinet denies to issue a group a special license plate based upon the conditions specified in subsection (9) of this section, the group may appeal the denial to the next regularly scheduled session of the General Assembly for review of the denial and action on the group's request for a special license plate. The cabinet shall, immediately upon denying to issue a group a special license plate, notify in writing the chairperson of both the House and Senate Transportation Committees of the General Assembly of the denial and the reasons upon which the cabinet based the denial. The House and Senate chairpersons shall be required to present the information to his or her respective committee for consideration within the first ten (10) days of the next regularly scheduled session of the General Assembly, if requested to do so in writing by the group who was denied a special license plate. A person seeking a personalized license plate under KRS 186.174 shall be subject to the conditions specified in subsection (9)(c) to (g) of this section.
- (11) If the cabinet approves a request for a special license plate, the cabinet shall begin designing and printing the plate after the group collects a minimum of nine hundred (900) applications with each application being accompanied by a twenty-five dollar (\$25) state fee. The applications and accompanying fee shall be submitted to the cabinet at one (1) time as a whole and shall not be submitted individually or intermittently.
- (12) An initial applicant for, or an applicant renewing, his or her registration for a special license plate may, at the time of application, make a voluntary contribution that the county clerk shall forward to the cabinet. ***The entity that sponsors a special plate established by the process outlined in this section may set a requested donation amount, not to exceed ten dollars (\$10), that will automatically be added to the cost of registration or renewal, unless the individual registering or renewing the vehicle registration opts out of contributing that recommended amount.*** The cabinet shall, on an annual basis, remit the voluntary contributions to the appropriate group identified to be used for the declared purpose stated under subsection (13) of this section. The cabinet may retain any investment income earned from holding voluntary contributions designated to be remitted under this subsection to offset administrative costs incurred by the cabinet in the administration of the contributions. Any group or organization that receives a mandatory EF fee under KRS 186.162 shall submit the information required under subsection (13)(a) and (c) of this section to the Transportation Cabinet within thirty (30) days of June 20, 2005.
- (13) If a group wants to receive a donation when the group or organization's special license plate is initially purchased or renewed under subsection (12) of this section, the group shall, at the time the nine hundred (900) applications are submitted to the Transportation Cabinet, also submit a notarized affidavit to the cabinet attesting to:
- (a) The name, address, and telephone number for the group or organization. If the group or organization does not have its headquarters in the Commonwealth, then the name, address, and telephone number for the group or organization's Kentucky state chapter shall be required. The names of the officers of the group or organization shall also be required. If the entity receiving funds under subsection (12) of this section is not a state governmental agency, a program unit within a state governmental agency, or is a group or organization that does not have a statewide chapter, then an extra donation for use by the group or organization shall be prohibited;
  - (b) The amount of the monetary donation the group wants to receive when a person purchases the group or organization's special license plate; and

- (c) The purpose for which the donated funds will be used by the group or organization. Donated funds shall not be limited for use by members of the group or organization, and shall not be used for administrative or personnel costs of the group or organization.
- (14) All funds received by a group or organization under subsection (12) of this section shall be deposited into an account separate from all other accounts the group or organization may have, and the account shall be audited yearly at the expense of the group or organization. The completed audit shall be forwarded to the Transportation Cabinet in Frankfort. One hundred percent (100%) of the funds received by a group or organization under subsection (12) of this section shall be used for the express purpose identified by the group in subsection (13) of this section. Any group or organization that receives a mandatory EF fee under KRS 186.162 shall comply with the provisions of this subsection.
- (15) The secretary of the Transportation Cabinet shall promulgate administrative regulations under KRS Chapter 13A to establish additional rules to implement the issuance of special license plates issued under this chapter, including but not limited to:
  - (a) Documentation that will be required to accompany an application for a special license plate to provide proof of election to the United States Congress or the Kentucky General Assembly; election or appointment to the Kentucky Court of Justice; membership in a Masonic Order, Fraternal Order of Police, or disaster and emergency services organization; membership in the Gold Star Mothers of America; or ownership of an amateur radio operator license;
  - (b) The time schedule permissible for a group or organization to request a design change for the special license plate; and
  - (c) The procedures for review of proposed license plates and the standards by which proposed special license plates are approved or rejected in accordance with subsection (9) of this section.
- (16) Any individual, group, or organization that fails to audit any funds received under this chapter, or that intentionally uses any funds received in any way other than attested to under subsection (13) of this section or for administrative or personnel costs in violation of subsection (13) of this section shall be guilty of a Class D felony and upon conviction shall, in addition to being subject to criminal penalties, be assessed a mandatory five thousand dollar (\$5,000) fine.

**Approved April 21, 2006.**

## CHAPTER 201

### (HJR 101)

A JOINT RESOLUTION proclaiming coal miners recognition day.

WHEREAS, for generations, the coal miner entered darkness from darkness in the pre-dawn morning and returned from that darkness to the darkness of night after a long and dangerous day's labor; and

WHEREAS, although progress has been made relating to working conditions and to health and safety, the recent tragedies in West Virginia and Kentucky remind us all that coal mining is still one of America's most dangerous occupations, and

WHEREAS, Kentucky coal miners, in the arduous nature of their work and the key contribution of their labor to Kentucky's economy, epitomize all the best of working men and women; and

WHEREAS, the labor of coal miners produces the fuel that generates over 50% of the electricity that makes the comfort and productivity of American life possible; and

WHEREAS, the labor of coal miners directly contributes around \$153,000,000 in severance tax income annually to Kentucky state and county governments, annual sales tax revenues of more than \$430,000,000 to the state, and indirectly leads to the employment of three Kentuckians for each coal miner working; and

WHEREAS, our coal miners keep the Commonwealth and the nation supplied with an energy resource that produces electricity for the lowest cost, when compared with other fuels, making possible the nation's unmatched prosperity; and

WHEREAS, Kentucky coal miners are a vital source of skilled labor with the expertise to produce energy supplies from the vast coal reserves that buffer our country from dangerous dependence on foreign energy fuels;

NOW, THEREFORE,

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

Section 1. That on May 1 of each year Kentucky coal miners shall be recognized for their special contributions to our Commonwealth and the nation.

Section 2. That the commissioner of the Department Natural Resources, the commissioner of the Department of Labor, and the state offices of the United Mine Workers of America are encouraged to work with county governments, schools, other state agencies, federal agencies, and media outlets to establish celebrations and commemorations of coal miners on May 1 of every year.

Section 3. That this Resolution be sent to the commissioner of the Department of Natural Resources, the commissioner of the Department of Labor, and to the state offices of the United Mine Workers of America.

**Approved April 21, 2006.**

## **CHAPTER 202**

### **(HCR 287)**

A CONCURRENT RESOLUTION confirming the appointment of Jim D. Skaggs to the Council on Postsecondary Education.

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

WHEREAS, pursuant to KRS 164.011 and by Executive Order 2006-103, the Governor has appointed Mr. Jim D. Skaggs as a citizen member of the Council on Postsecondary Education to serve for a term expiring December 31, 2011, to replace Mr. Charlie Owen, whose term has expired; and

WHEREAS, the Senate and House of Representatives find that Mr. Jim D. Skaggs meets the requirements for membership on the council, being a resident and qualified voter of Kentucky, not holding an official relationship to any institution of postsecondary education in Kentucky, and not engaging in any occupation or business inconsistent with his duties as a member of the Council on Postsecondary Education;

NOW, THEREFORE,

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

Section 1. The Senate and House of Representatives, pursuant to KRS 164.011, do hereby confirm the appointment of Mr. Jim D. Skaggs to the Council on Postsecondary Education for a term expiring on December 31, 2011.

Section 2. The Clerk of the House of Representatives shall forward a copy of this Concurrent Resolution, and any written notification of its adoption, to Mr. Jim D. Skaggs, 847 Rivergreen Lane, Bowling Green, Kentucky 42103 and to Governor Ernie Fletcher, Room 100, State Capitol, Frankfort, Kentucky 40601.

**Approved April 21, 2006.**

## **CHAPTER 203**

### **(HCR 229)**

A CONCURRENT RESOLUTION confirming the appointment of Katheryn R. Baird to the Kentucky Board of Education.

WHEREAS, pursuant to KRS 156.029, the Governor has appointed, by Executive Order 2006-200, Katheryn R. Baird as a member of the Kentucky Board of Education representing the Seventh Supreme Court District for a term expiring April 14, 2010; and

WHEREAS, by letter dated February 24, 2006, the Governor has delivered Katheryn R. Baird's name for confirmation as a member of the board, as required by KRS 11.160, to replace Janice Blackburn Allen; and

WHEREAS, the House of Representatives and the Senate find that Katheryn R. Baird meets the requirements established in KRS 156.029 and 156.040 for membership on the Kentucky Board of Education;

NOW, THEREFORE,

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

Section 1. The House of Representatives and the Senate hereby confirm the appointment of Katheryn R. Baird to the Kentucky Board of Education for a term ending April 14, 2010.

Section 2. The Clerk of the House of Representatives, pursuant to KRS 11.160(2), shall notify Governor Ernie Fletcher, Room 100, State Capitol, Frankfort, Kentucky 40601; and Katheryn R. Baird, 202 Walnut Drive, Pikeville, Kentucky 41502, in writing, of the General Assembly's action.

**Approved April 21, 2006.**

## CHAPTER 204

### (HCR 227)

A CONCURRENT RESOLUTION confirming the appointment of Wilburn Joe Brothers to the Kentucky Board of Education.

WHEREAS, pursuant to KRS 156.029, the Governor has appointed, by Executive Order 2006-200, Wilburn Joe Brothers as a member of the Kentucky Board of Education representing the Second Supreme Court District for a term expiring April 14, 2010; and

WHEREAS, by letter dated February 24, 2006, the Governor has delivered Wilburn Joe Brothers's name for confirmation as a member of the board as required by KRS 11.160, to replace Helen W. Mountjoy, Utica; and

WHEREAS, the House of Representatives and the Senate find that Wilburn Joe Brothers meets the requirements established in KRS 156.029 and 156.040 for membership on the Kentucky Board of Education;

NOW, THEREFORE,

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

Section 1. The House of Representatives and the Senate hereby confirm the appointment of Wilburn Joe Brothers to the Kentucky Board of Education for a term ending April 14, 2010.

Section 2. The Clerk of the House of Representatives, pursuant to KRS 11.160(2), shall notify Governor Ernie Fletcher, Room 100, State Capitol, Frankfort, Kentucky 40601 and Wilburn Joe Brothers, 115 Connecticut Court, Elizabethtown, Kentucky 42701, in writing, of the General Assembly's action.

**Approved April 21, 2006.**

## CHAPTER 205

### (HCR 225)

A CONCURRENT RESOLUTION confirming the appointment of Jeanne H. Ferguson to the Kentucky Board of Education.

WHEREAS, pursuant to KRS 156.029, the Governor has appointed, by Executive Order 2006-200, Jeanne H. Ferguson as a member of the Kentucky Board of Education representing the Fourth Supreme Court District for a term expiring April 14, 2010; and

WHEREAS, by letter dated February 24, 2006, the Governor has delivered Jeanne H. Ferguson's name for confirmation as a member of the board, as required by KRS 11.160, to replace David B. Tachau, Louisville; and

WHEREAS, the House of Representatives and the Senate find that Jeanne H. Ferguson meets the requirements established in KRS 156.029 and 156.040 for membership on the Kentucky Board of Education;

NOW, THEREFORE,

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

Section 1. The House of Representatives and the Senate hereby confirm the appointment of Jeanne H. Ferguson to the Kentucky Board of Education for a term ending April 14, 2010.

Section 2. The Clerk of the House of Representatives, pursuant to KRS 11.160(2), shall notify Governor Ernie Fletcher, Room 100, State Capitol, Frankfort, Kentucky 40601 and Jeanne H. Ferguson, 102 Blankenbaker Lane, Louisville, Kentucky 40207, in writing, of the General Assembly's action.

**Approved April 21, 2006.**

## **CHAPTER 206**

**(SB 111)**

AN ACT relating to aerial imagery.

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

SECTION 1. A NEW SECTION OF KRS CHAPTER 11 IS CREATED TO READ AS FOLLOWS:

- (1) *All entities in Kentucky that create or purchase digital ortho-rectified aerial imagery, remotely sensed imagery, LiDAR, digital elevation models, or any other form of nonlicensed raster-based datasets of locations in Kentucky using public funds, in whole or in part, shall provide a copy of the information to the Commonwealth Office of Technology, Division of Geographic Information, without cost, in order to allow the Commonwealth Office of Technology to effectively discharge its statutory responsibility to maintain an accurate and complete central statewide geographic information clearinghouse for official state use. The imagery provided to the Commonwealth Office of Technology shall be added to Kentucky's secure Geospatial Data Warehouse for official government use only.*
- (2) *The provisions of subsection (1) of this section shall not apply to roads, land parcels, structure locations, or other vector-based datasets acquired with public funding.*
- (3) *The Commonwealth Office of Technology shall not disclose to the general public or make available for distribution, download, or purchase any data that an entity providing data under subsection (1) of this section has requested remain confidential.*

**Approved April 21, 2006.**

## **CHAPTER 207**

**(SB 120)**

AN ACT relating to fish and wildlife.

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

Section 1. KRS 48.315 is amended to read as follows:

- (1) The General Assembly may provide in a budget bill for the transfer to the general fund for the purpose of the general fund all or part of the agency funds, special funds, or other funds established under the provisions of KRS 15.430; 21.347; 21.540; 21.560; 42.500; 47.010; 48.010(13)(g); 56.100; 61.470; 64.345; 64.350; 64.355; 95A.220; 136.392; 138.510; ~~150.450;~~ 161.420; 161.430; 164A.020; 164A.110; 164A.800; 164A.810; 216A.110; 230.218; 230.400; 230.770; ~~235.330;~~ 248.540; 248.550; 278.130; 278.150; 287.485; 304.35-030; 311.450; 311.610; 312.019; 313.350; 314.161; 315.195; 316.210; 317.530; 317A.080; 319.131; 320.360; 321.320; 322.290; 322.330; 322.420; 323.080; 323.190; 323.210; 323A.060; 323A.190; 323A.210; 324.286; 324.410; 325.250; 326.120; 327.080; 330.050; 334.160; 334A.120; 335.140; 342.122; 342.480, etc.

- (2) The transfer of moneys from the agency funds, special funds, or other funds to the general fund provided for in subsection (1) of this section shall be for the period of time specified in the budget bill.
- (3) Any provisions of any statute in conflict with the provisions of subsections (1) and (2) of this section are hereby suspended or modified. Any suspension or modification shall not extend beyond the duration of the budget bill.

**Approved April 21, 2006.**

## CHAPTER 208

### (SB 239)

AN ACT relating to employment at the Kentucky School for the Blind and the Kentucky School for the Deaf.

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

Section 1. 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;
  - (ab) Employees of the Kentucky Commission on Community Volunteerism and Service;~~and~~
  - (ac) ***Persons employed in certified teaching positions at the Kentucky School for the Blind and the Kentucky School for the Deaf; and***
  - (ad) 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 2. KRS 163.032 is amended to read as follows:

- (1) The Kentucky Department of Education, with assistance from the Kentucky Personnel Cabinet, shall adopt a salary schedule for teachers in the Kentucky School for the Deaf and the Kentucky School for the Blind. The salary schedule shall be the same as salary schedules in effect in local school districts in counties containing a city of the first class and shall conform to the requirements for a single salary schedule as defined in KRS 157.320, ***except the salary schedule shall not limit the number of years of experience for a certified employee who transfers to the school.***
- (2)
  - (a) Certified teachers in the Kentucky School for the Deaf and the Kentucky School for the Blind shall have the same statutory employment status and benefits as certified teachers in the public schools.
  - (b) ***If a teacher qualifies for and requests a tribunal under Section 3 of this Act, the Attorney General shall appoint the members.***
- (3) The Kentucky Department of Education, with assistance from the Kentucky Personnel Cabinet, shall adopt a salary schedule for administrators at the Kentucky School for the Deaf and the Kentucky School for the Blind which will provide for equitable salaries between teachers and administrators. The salary schedule, which shall be computed prior to July 1 of each year, shall be based on two hundred sixty (260) days per year.
- (4) ***Once a teacher has been selected for hiring at the Kentucky School for the Blind or the Kentucky School for the Deaf, the Department of Education and the Personnel Cabinet shall complete the hiring process within two (2) weeks.***
- (5) ***A certified teacher employed at one (1) of the schools on the effective date of this Act whose job description does not include outreach responsibilities shall not be involuntarily assigned to work on a permanent basis outside the county in which the employing school is located.***
- (6) ***Nothing in Section 1 or Section 2 of this Act shall result in a loss of any leave accrued by a certified teacher employed prior to the effective date of this Act by one (1) of the schools. Accrued leave may be taken in accordance with the policy of the school.***

Section 3. KRS 161.790 is amended to read as follows:

- (1) The contract of a teacher shall remain in force during good behavior and efficient and competent service by the teacher and shall not be terminated except for any of the following causes:
  - (a) Insubordination, including but not limited to violation of the school laws of the state or administrative regulations adopted by the Kentucky Board of Education, the Education Professional Standards Board, or lawful rules and regulations established by the local board of education for the operation of schools, or refusal to recognize or obey the authority of the superintendent, principal, or any other supervisory personnel of the board in the performance of their duties;
  - (b) Immoral character or conduct unbecoming a teacher;
  - (c) Physical or mental disability; or

- (d) Inefficiency, incompetency, or neglect of duty, when a written statement identifying the problems or difficulties has been furnished the teacher or teachers involved.
- (2) Charges under subsections (1)(a) and (1)(d) of this section shall be supported by a written record of teacher performance by the superintendent, principal, or other supervisory personnel of the district, except when the charges are brought as a result of a recommendation made under KRS 158.6455.
- (3) No contract shall be terminated except upon notification of the board by the superintendent. Prior to notification of the board, the superintendent shall furnish the teacher with a written statement specifying in detail the charge against the teacher. The teacher may within ten (10) days after receiving the charge notify the commissioner of education and the superintendent of his intention to answer the charge, and upon failure of the teacher to give notice within ten (10) days, the dismissal shall be final.
- (4) ***Except as provided in Section 2 of this Act***, upon receiving the teacher's notice of his intention to answer the charge, the commissioner of education shall appoint a three (3) member tribunal, consisting of one (1) teacher, who may be retired, one (1) administrator, who may be retired, and one (1) lay person, none of whom reside in the district, to conduct an administrative hearing in accordance with KRS Chapter 13B within the district. Priority for selection as a tribunal member shall be from a pool of potential tribunal members who have been designated and trained to serve as tribunal members on a regular and ongoing basis, pursuant to administrative regulations promulgated by the Kentucky Board of Education. Funds appropriated to the Department of Education for professional development may be used to provide tribunal member training. The commissioner of education shall name the chairman and set the date and time for the hearing. The hearing shall begin no later than forty-five (45) days after the teacher files the notice of intent to answer the charge.
- (5) A hearing officer shall have final authority to rule on dispositive prehearing motions.
- (6) The hearing may be public or private at the discretion of the teacher. At the hearing, a hearing officer appointed by the commissioner of education shall preside with authority to rule on procedural matters, but the tribunal shall be the ultimate trier of fact. The local board shall pay each member of the tribunal a per diem of one hundred dollars (\$100) and travel expenses.
- (7) Upon hearing both sides of the case, the tribunal may by a majority vote render its decision or may defer its action for not more than five (5) days. Provisions of KRS Chapter 13B notwithstanding, the tribunal decision shall be a final order and may be rendered on the record.
- (8) The superintendent may suspend the teacher pending final action to terminate the contract, if, in his judgment, the character of the charge warrants the action. If after the hearing the decision of the tribunal is against termination of the contract, the suspended teacher shall be paid his full salary for any period of suspension.
- (9) The teacher shall have the right to make an appeal to the Circuit Court having jurisdiction in the county where the school district is located in accordance with KRS Chapter 13B. The review of the final order shall be conducted by the Circuit Court as required by KRS 13B.150.
- (10) As an alternative to termination of a teacher's contract, the superintendent upon notifying the board and providing written notification to the teacher of the charge may impose other sanctions, including suspension without pay, public reprimand, or private reprimand. The procedures set out in subsection (3) of this section shall apply if the teacher is suspended without pay or publicly reprimanded. The teacher may appeal the action of the superintendent if these sanctions are imposed in the same manner as established in subsections (4) to (9) of this section. Upon completion of a suspension period, the teacher may be reinstated.

**Approved April 21, 2006.**

## **CHAPTER 209**

### **(HB 289)**

AN ACT relating to computer-assisted hunting and wildlife harvesting.

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

**SECTION 1. A NEW SECTION OF KRS CHAPTER 150 IS CREATED TO READ AS FOLLOWS:**

- (1) *For purposes of this section, "computer-assisted remote hunting" means the use of a computer or any other device, equipment, or software to remotely control the aiming and discharge of a rifle, shotgun, handgun, bow and arrow, cross-bow, or any other implement to hunt or harvest wildlife in the Commonwealth.*
- (2) *It shall be unlawful for any person to hunt or harvest wildlife in the Commonwealth by means of computer-assisted remote hunting.*
- (3) *It shall be unlawful for any person to provide or operate a facility that allows others to engage in computer-assisted remote hunting of wildlife in the Commonwealth.*
- (4) *The provisions of this section shall not be construed to limit or prohibit the hunting rights or privileges provided to citizens with disabilities pursuant to KRS 150.025, the Americans with Disabilities Act, and Kentucky administrative regulations. Additionally, this section shall not be construed to prohibit a person who is physically impaired, to the degree that he or she cannot operate a device allowed for taking of game under Kentucky law, from taking game, subject to administrative regulations, with a device which is in the immediate vicinity of the permittee and which the permittee operates using remote-control technology other than the Internet.*

Section 2. KRS 150.990 is amended to read as follows:

- (1) Each bird, fish, or animal taken, possessed, bought, sold, or transported and each device used or possessed contrary to the provisions of this chapter or any administrative regulation promulgated by the commission thereunder shall constitute a separate offense. The penalties prescribed in this section shall be for each offense.
- (2) Any person who violates any of the provisions of this chapter or any administrative regulations promulgated by the commission thereunder may, in addition to the penalties provided in subsections (3), (4), (5), (6), (7), and (8) of this section, forfeit his license, or if that person is license exempt, may forfeit the privilege to perform the acts authorized by the license and shall not be permitted to purchase another license or exercise the privileges granted by a license during the same license year. No fines, penalty, or judgment assessed or rendered under this chapter shall be suspended, reduced, or remitted otherwise than expressly provided by law. Any person who violates any administrative regulation which has been or may be promulgated by the commission under any provisions of this chapter shall be subject to the same penalty as is provided for the violation of any provisions of this chapter under which the administrative regulation is promulgated.
- (3) Any person who violates any of the provisions of KRS 150.120, 150.170, 150.280, 150.320, 150.355, 150.362, 150.400, 150.410, 150.415, 150.416, 150.445, 150.450, 150.470, 150.603, 150.235(1), 150.330(2), or 150.470, or any of the provisions of this chapter or any administrative regulation promulgated by the commission for which no definite fine or imprisonment is fixed shall be fined not less than twenty-five dollars (\$25) nor more than two hundred dollars (\$200).
- (4) Any person who violates any of the provisions of KRS 150.290, 150.300, 150.340, 150.360, 150.362(1), 150.485, 150.600, 150.630, 150.660, the provisions of KRS 150.195(5) to (8), or KRS 150.660(3) shall be fined not less than twenty-five dollars (\$25) nor more than two hundred dollars (\$200) or be imprisoned for not more than six (6) months, or both. Also, any person violating the provisions of KRS 150.300 shall be assessed treble damages as provided in KRS 150.690 or 150.700. Damages assessed under this subsection shall be ordered to be paid directly to the department. The court shall not direct that the damages be paid through the circuit clerk.
- (5) Any person who violates any of the provisions of KRS 150.411, 150.412, or 150.417 shall be fined not less than one hundred dollars (\$100) nor more than five hundred dollars (\$500).
- (6) Any person who violates any of the provisions of KRS 150.183, 150.305, 150.365, 150.370, 150.330(1), ~~150.235(2), (3), or (4),~~ **or Section 1 of this Act** shall be fined not less than one hundred dollars (\$100) nor more than five hundred dollars (\$500) or imprisoned for not more than six (6) months, or both.
- (7) Any person who violates any of the provisions of KRS 150.460 shall be fined not less than one hundred dollars (\$100) nor more than five hundred dollars (\$500) or imprisoned for not more than six (6) months, or both, and in addition to these penalties shall be liable to the department in an amount not to exceed the replacement value of the fish and wildlife which has been killed or destroyed. Costs assessed for the restoration of wildlife under this subsection shall be ordered to be paid directly to the department. The court shall not direct that the costs be paid through the circuit clerk.

- (8) Any person who violates the provisions of KRS 150.180, 150.520, 150.525, or administrative regulations issued thereunder shall for the first offense be fined not less than one hundred dollars (\$100) nor more than one thousand dollars (\$1,000); and shall for a second offense be fined not less than five hundred dollars (\$500) nor more than one thousand five hundred dollars (\$1,500); and for any subsequent offense, be fined two thousand dollars (\$2,000).
- (9) Any person who violates the provisions of KRS 150.520 or administrative regulations issued thereunder shall, if the violation relates to methods of taking mussels, for a first offense be imprisoned in the county jail for no more than thirty (30) days; for a second offense be imprisoned in the county jail for no more than six (6) months; and for any subsequent offense be imprisoned in the county jail for no more than one (1) year. The penalties for violation of this subsection shall be in addition to the penalties for violation of subsection (8).
- (10) Any person who violates any of the provisions of KRS 150.4111, 150.640, or subsections (2) or (3) of KRS 150.450 shall be fined not less than one hundred dollars (\$100) nor more than one thousand dollars (\$1,000).
- (11) Any person who violates any of the provisions of KRS 150.390 or KRS 150.092(4) shall be fined not less than one hundred dollars (\$100) nor more than one thousand dollars (\$1,000) or imprisoned for not less than thirty (30) days nor more than one (1) year, or both. In addition to the penalties prescribed above, he shall forfeit his license or, if license exempt, the privilege to perform the acts authorized by the license for a period of one (1) to three (3) years and shall be liable to the department in an amount reasonably necessary to replace any deer, wild turkey, or bear taken in violation of KRS 150.390 and for violations of subsection (4) of KRS 150.092 shall be liable to the landowner or occupant for reasonable compensation for damages. Wildlife replacement costs assessed under this subsection shall be ordered to be paid directly to the department. The court shall not direct that the damages be paid through the circuit clerk. Damages assessed under this subsection shall be ordered to be paid directly to the landowner or occupant. The court shall not direct that the damages be paid through the circuit clerk. Any person who possesses, takes, or molests a wild elk in violation of KRS 150.390 or administrative regulations adopted under authority of that section shall be fined not less than one thousand dollars (\$1,000) nor more than five thousand dollars (\$5,000) or imprisoned for up to six (6) months, or both. In addition to these penalties, the person shall pay to the department an amount not to exceed the greater of the replacement cost of the wild elk or double any monetary gain realized from the illegal activity and shall forfeit his or her license, or if license exempt, the privilege to perform the acts authorized by the license for a period of one (1) to three (3) years.
- (12) Any person who violates any of the provisions of KRS 150.090 other than a criminal homicide or an assault against an officer enforcing the provisions of this chapter, KRS Chapter 235, or the administrative regulations issued thereunder shall be guilty of a Class A misdemeanor.
- (13) Any person who commits a criminal homicide or an assault against an officer enforcing the provisions of this chapter, KRS Chapter 235, or the administrative regulations issued thereunder shall be subject to the penalties specified for the offense under KRS Chapter 507 or 508, as appropriate.
- (14) A person shall be guilty of a Class B misdemeanor upon the first conviction for a violation of KRS 150.710. A subsequent conviction shall be a Class A misdemeanor.
- (15) Any person who violates the provisions of KRS 150.092 or the administrative regulations promulgated thereunder for which no other penalty is specified elsewhere in this section shall for the first offense be fined not less than one hundred dollars (\$100) nor more than three hundred dollars (\$300); for the second offense, be fined not less than three hundred dollars (\$300) nor more than one thousand dollars (\$1,000); and for subsequent offenses, shall forfeit the license, or if license-exempt, the privilege to perform the acts authorized by the license, for one (1) year and shall be fined not less than one thousand dollars (\$1,000) or be imprisoned in the county jail for up to one (1) year, or both. In addition to the penalties prescribed in this subsection, the violator shall be liable to the landowner or tenant for the replacement cost of any property which was damaged or destroyed by his actions. Damages assessed under this subsection shall be ordered to be paid directly to the landowner or the tenant. The court shall not direct that the damages be paid through the circuit clerk.

**Approved April 21, 2006.**

**CHAPTER 210****(SB 69)**

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 Educational Television.
  - (d) Kentucky Commission on the Deaf and Hard of Hearing.
  - (e) Operations and Development Office.
  - (f) Board of Directors for the Center for School Safety.
- 3. Environmental and Public Protection Cabinet:
  - (a) Office of the Secretary.
    - 1. Office of Legislative and Intergovernmental Affairs.
    - 2. Office of Communications and Public Outreach.
    - 3. Office of Regulatory Affairs.
    - 4. Office of Legal Services.
    - 5. Office of Administrative and Information Services.
    - 6. Office of Administrative Hearings.
    - 7. Office of Inspector General.
    - 8. Mine Safety Review Commission.
    - 9. Workers' Compensation Board.
    - 10. Kentucky State Nature Preserves Commission.
    - 11. Kentucky Environmental Quality Commission.
    - 12. Kentucky Occupational Safety and Health Review Commission.
  - (b) Department for Environmental Protection.
    - 1. Office of the Commissioner.
    - 2. Division of Air Quality.
    - 3. Division of Water.
    - 4. Division of Environmental Services.
    - 5. Division of Waste Management.
    - 6. Division of Enforcement.
    - 7. Division of Compliance Assistance.
  - (c) Department for Natural Resources.
    - 1. Office of the Commissioner.
    - 2. Office of Technical and Administrative Support.
    - 3. Division of Mine Permits.
    - 4. Division of Mine Reclamation and Enforcement.

5. Division of Abandoned Mine Lands.
6. Division of Oil and Gas Conservation.
7. Office of Mine Safety and Licensing.
8. Division of Forestry.
9. Division of Conservation.
- (d) Department of Public Protection.
  1. Office of the Commissioner.
  2. Division of Administrative Services.
  3. Crime Victims Compensation Board.
  4. Board of Claims.
  5. Board of Tax Appeals.
  6. Kentucky Boxing and Wrestling Authority.
  7. Kentucky Horse Racing Authority.
  8. Kentucky Public Service Commission.
  9. Office of Alcoholic Beverage Control.
  10. Office of Charitable Gaming.
  11. Office of Financial Institutions.
  12. Office of Housing, Buildings and Construction.
  13. Office of Insurance.
- (e) Department of Labor.
  1. Office of the Commissioner.
  2. Office of Occupational Safety and Health.
  3. Office of Labor Management Relations and Mediation.
  4. Office of Workplace Standards.
  5. Office of Workers' Claims.
  6. Workers' Compensation Funding Commission.
  7. Kentucky Labor Management Advisory Council.
  8. Occupational Safety and Health Standards Board.
  9. Prevailing Wage Review Board.
  10. Kentucky Employees Insurance Association.
  11. Apprenticeship and Training Council.
  12. State Labor Relations Board.
  13. Workers' Compensation Advisory Council.
  14. Workers' Compensation Nominating Commission.
  15. Employers' Mutual Insurance Authority.
  16. Division of Administrative Services.
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 Aviation.
- (e) Department of Intergovernmental Programs.
  1. Office of Transportation Enhancement Programs.
  2. Office of Rural and Secondary Roads.
- (f) Office of the Secretary.
  1. Office of Legislative and Intergovernmental Affairs.
  2. Office of Public Affairs.
  3. Office of Transportation Delivery.
  4. Office for Business and Occupational Development.
  5. Office of Budget and Fiscal Management.
  6. Office of Legal Services.
  7. Office of Inspector General.
  8. Office of the Transportation Operations Center.
  9. Office of Personnel Management.
5. Cabinet for Economic Development:
  - (a) Office of Administration and Support.
  - (b) Department for New Business Development.
  - (c) Department of Financial Incentives.
  - (d) Department for Existing Business Development.
  - ~~(e) Department for Regional Development.~~
  - ~~(f) Tobacco Research Board.~~
  - ~~(f)(e)~~ Kentucky Economic Development Finance Authority.
  - ~~(g)(h)~~ Office of Research and Information Technology.
  - ~~(h)(i)~~ Department of ~~Innovation and~~ Commercialization *and Innovation* ~~for a Knowledge Based Economy~~.
  - ~~(i)(j)~~ Office of Legal Services.
  - ~~(j)(k)~~ Commission on Small Business Advocacy.
6. Cabinet for Health and Family Services:
  - (a) Department for Public Health.
  - (b) Department for Medicaid Services.
  - (c) Department for Mental Health and Mental Retardation Services.
  - (d) Kentucky Commission for Children with Special Health Care Needs.



- (e) Office of Certificate of Need.
  - (f) Office of the Secretary.
  - (g) Office of Legal Services.
  - (h) Office of Inspector General.
  - (i) Office of Legislative and Public Affairs.
  - (j) Department for Community Based Services.
  - (k) Department for Disability Determination Services.
  - (l) Office of the Ombudsman.
  - (m) Department for Human Support Services.
  - (n) Kentucky Commission on Community Volunteerism and Service.
  - (o) Office of Fiscal Services.
  - (p) Office of Human Resource Management.
  - (q) Office of Technology.
  - (r) Office of Contract Oversight.
7. Finance and Administration Cabinet:
- (a) Office of General Counsel.
  - (b) Office of the Controller.
  - (c) Office of Administrative Services.
  - (d) Office of Public Information.
  - (e) Department for Facilities and Support Services.
  - (f) Department of Revenue.
  - (g) Commonwealth Office of Technology.
  - (h) State Property and Buildings Commission.
  - (i) Kentucky Savings Bond Authority.
  - (j) Office of Equal Employment Opportunity and Contract Compliance.
  - (k) County Officials Compensation Board.
  - (l) Kentucky Employees Retirement Systems.
  - (m) Commonwealth Credit Union.
  - (n) State Investment Commission.
  - (o) Kentucky Housing Corporation.
  - (p) Kentucky Local Correctional Facilities Construction Authority.
  - (q) Kentucky Turnpike Authority.
  - (r) Historic Properties Advisory Commission.
  - (s) Kentucky Tobacco Settlement Trust Corporation.
  - (t) Eastern Kentucky Exposition Center Corporation.
  - (u) State Board for Proprietary Education.
  - (v) Kentucky Higher Education Assistance Authority.
  - (w) Kentucky River Authority.

- (x) Kentucky Teachers' Retirement System Board of Trustees.
- 8. Commerce Cabinet:
  - (a) Department of Tourism.
    - (1) Division of Tourism Services.
    - (2) Division of Marketing and Advertising.
    - (3) Division of Parks Marketing.
  - (b) Kentucky Department of Parks.
    - (1) Division of Information Technology.
    - (2) Division of Personnel and Payroll.
    - (3) Division of Financial Operations.
    - (4) Division of Facilities Management.
    - (5) Division of Project Administration.
    - (6) Division of Customer Services.
    - (7) Division of Recreation.
    - (8) Division of Golf Courses.
    - (9) Division of Food Services.
    - (10) Division of Rangers.
    - (11) Division of Eastern Parks.
    - (12) Division of Southern Parks.
    - (13) Division of Western Parks.
  - (c) Department of Fish and Wildlife Resources.
    - (1) Division of Law Enforcement.
    - (2) Division of Administrative Services.
    - (3) Division of Engineering.
    - (4) Division of Fisheries.
    - (5) Division of Information and Education.
    - (6) Division of Wildlife.
    - (7) Division of Public Affairs.
  - (d) Kentucky Horse Park.
    - (1) Division of Support Services.
    - (2) Division of Buildings and Grounds.
    - (3) Division of Operational Services.
  - (e) Kentucky State Fair Board.
    - (1) Division of Expositions and Admission.
    - (2) Division of Kentucky Fair and Exposition Center Operations.
    - (3) Division of Commonwealth Convention Center.
    - (4) Division of Public Relations and Media.
    - (5) Division of Administrative Services.

- (6) Division of Personnel Management and Staff Development.
- (7) Division of Sales.
- (8) Division of Security and Traffic Control.
- (f) Office of the Secretary.
- (g) Office of Finance and Administration.
- (h) Office of Legal Affairs.
- (i) Office of Intergovernmental Affairs.
- (j) Office of Human Resources.
- (k) Office of Public Affairs and Constituent Services.
- (l) Office of Information Technology.
- (m) Office of Purchase and Procurement.
- (n) Office of Creative Services.
- (o) Office of Capital Plaza Operations.
- (p) Office of Energy Policy.
- (q) Coal Marketing and Export.
- (r) Kentucky Coal Council.
- (s) Kentucky Foundation for the Arts.
- (t) Kentucky Humanities Council.
- (u) Kentucky Heritage Council.
- (v) Kentucky Arts Council.
- (w) Kentucky Historical Society.
  - (1) Division of Museums.
  - (2) Division of Oral History and Educational Outreach.
  - (3) Division of Research and Publications.
  - (4) Division of Administration.
- (x) Kentucky Center for the Arts.
  - (1) Division of Governor's School for the Arts.
- (y) Kentucky Artisans Center at Berea.
- 9. 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.
10. Personnel Cabinet:
- (a) Office of the Secretary.
  - (b) Department for Personnel Administration.
  - (c) Office for Employee Relations.
  - (d) Kentucky Public Employees Deferred Compensation Authority.
  - (e) Office of Administrative Services.
  - (f) Office of Legal Services.
  - (g) Office of Government Training.
  - (h) Department for Employee 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. Education Professional Standards Board.
- 9. Office of Minority Empowerment.

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

- (1) (a) ~~[There is established within the Kentucky Economic Development Finance Authority]~~ A Local Government Economic Development Program *is established* to consist of a system of grants to counties to attract new industry. *Grants from funds provided for in KRS 42.4592(1)(a) and (b) shall be administered by the Department for Local Government. Grants from funds provided for in KRS 42.4592(1)(c) shall be administered by the Kentucky Economic Development Finance Authority.*
- (b) *All references in this section to the commissioner of the Department for Local Government relate only to the grants or industrial development projects funded through KRS 42.4592(1)(a) and (b). All references in this section to the Secretary of the Cabinet for Economic Development or the Kentucky Economic Development Finance Authority relate only to grants or industrial development projects funded through KRS 42.4592(1)(c).*
- (2) Grants obtained under this program shall be used for:
  - (a) Industrial development projects if an industrial firm has agreed with the local government, to the satisfaction of the Kentucky Economic Development Finance Authority *or the Department for Local Government*, to develop, in conjunction with the industrial development project, manufacturing, processing, assembling, or other facilities approved by the secretary of the Cabinet for Economic Development *or the commissioner of the Department for Local Government*;

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

- (c) The size, nature, and cost of the industrial development project, including the prospect of the industrial development project providing long-term jobs in enterprises consistent with the changing economies of the affected local units of government;
  - (d) The needs, and degree of needs, of the local units of government which will be affected by the industrial development project;
  - (e) The needs of any industrial firm benefiting from the industrial development project;
  - (f) The amount and kind of assistance, if any, available to an industrial firm from other government agencies through tax exemption or abatement, financing assistance through industrial development bonds, and otherwise, with respect to the industrial development project;
  - (g) The amount of capital made available to the facility by lenders and by the industrial firm; and
  - (h) The economic feasibility of the facility.
- (11) For purposes of this section:
- (a) "Industrial development project" includes the acquisition of any real estate and the construction, acquisition, and installation thereon and with respect thereto of improvements and facilities necessary and useful for the improvement of the real estate for conveyance to or lease to industrial firms to be used for manufacturing, processing, or assembling purposes, including surveys; site tests and inspections; subsurface site work; excavation, removal of structures, roadways, cemeteries, and other surface obstructions; filling, grading, and provision of drainage; storm water retention; installation of utilities, such as water, sewer, sewage treatment, gas, electricity, communication, and other similar facilities; off-site construction of utility extensions to the boundaries of the real estate; construction and installation on the real estate of the industrial firm of buildings, including buildings to be used for worker training and education; rail facilities; roads; sidewalks; curbs; other improvements to the real estate necessary to its manufacturing, processing, assembling, or other approved use by industrial entities; workforce training; and job development incentive grants;
  - (b) "Industrial firm" means any corporation, limited liability company, limited liability partnership, partnership, person, or other legal entity, whether domestic or foreign, which will itself or through its subsidiaries and affiliates construct and develop a manufacturing, processing, assembling, or other approved facility on the site of an industrial development project financed pursuant to this section;
  - (c) "Job development incentive grant" means an award to a county of funds from its account administered by the **Department for Local Government**~~[Kentucky Economic Development Finance Authority]~~ pursuant to KRS 42.4592(1)(a) and (b) for the use by the county to encourage job development for those industrial development projects located in that county which create at least twenty-five (25) new full-time jobs held by Kentucky residents who receive a minimum wage of at least one hundred thirty percent (130%) of the federal minimum wage. Each job development incentive grant shall be limited to five thousand dollars (\$5,000) for each job created which fulfills the requirements of this subsection. The industrial firm receiving the job development incentive grant shall pay its employees at the project site an average wage equal to or greater than one hundred fifty percent (150%) of the federal minimum wage and shall invest at least ten thousand dollars (\$10,000) per new job created. After a fiscal court has received authorization for the job development grant by the **Department for Local Government**~~[Kentucky Economic Development Finance Authority]~~, the county, the industrial firm, and the **Department for Local Government**~~[Kentucky Economic Development Finance Authority]~~ shall enter into an agreement committing the grant funds to be disbursed at such time as the industrial firm certifies the authenticity of the following information to be delivered to the county:
    1. The industrial firm has made at least the minimum investment required;
    2. At least twenty-five (25) new full-time Kentucky jobs have been created at the project site by the industrial firm;
    3. No employee at the project site is paid a salary by the industrial firm which is less than one hundred thirty percent (130%) of the federal minimum wage;
    4. The employees at the project site are paid an average wage by the industrial firm at least equal to one hundred fifty percent (150%) of the federal minimum wage;

5. Each employee hired for the project by the industrial firm shall have worked on a full-time basis at the minimum wages described in this section at least twelve (12) full consecutive months at the site prior to any grant funds disbursement; and
6. No job created by the industrial firm after twenty-four (24) months from the date of the first eligible hire at the project site shall be considered for the grant.

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

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

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

The Department for Local Government may promulgate administrative regulations to implement the provisions of KRS 42.4582, 42.4585, ~~or~~ 42.4592, *and Section 2 of this Act as it relates to KRS 42.4592(1)(a) and (b)*. The Cabinet for Economic Development or the Kentucky Economic Development Finance Authority may promulgate administrative regulations to implement the provisions of KRS 42.4588 *as it relates to KRS 42.4592(1)(c)*.

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

Except as provided in subsection (4)(b) of KRS 91A.040, any assistance granted under KRS 42.450 to 42.495 shall include an agreement that an independent annual audit shall be conducted and that the audit report shall include a certification that the funds were expended for the purpose intended. A copy of the audit and certification of compliance shall be forwarded to the Department for Local Government, in the case of assistance granted from the local government economic assistance fund *or the local government economic development fund as allocated in KRS 42.4592(1)(a) and (b)*, or to the Cabinet for Economic Development and the Kentucky Economic Development Finance Authority, in the case of assistance granted from the local government economic development fund, within eighteen (18) months after the end of the fiscal year.

Section 5. KRS 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, which shall be headed by a director appointed by the secretary pursuant to KRS 12.050.
- (3) Kentucky's representative development offices located in other states and countries shall be assigned to the Department for New Business Development.
- (4) *The Department for New Business Development shall:*

- (a) *Administer all coal severance funded programs administered by the Cabinet for Economic Development, including the Local Government Economic Development Program as set forth in Section 2 of this Act;*
- (b) *Develop new programs and identify opportunities to help diversify local economies by creating an environment more conducive to business activity; and*
- (c) *Administer all other programs, funds, obligations, and activities administered by the Department for Regional Development prior to the effective date of this Act.*

Section 6. 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 **and Innovation** ~~for a Knowledge Based Economy~~ in the Cabinet for Economic Development. The department shall be headed by a commissioner appointed by the Governor under KRS 12.040.
- (3) The duties of the Department of ~~Innovation and~~ Commercialization **and Innovation** ~~for a Knowledge Based 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 7. 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 **and Innovation** ~~for a Knowledge Based 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 **and Innovation** ~~for a Knowledge Based Economy~~; and
- (5) "Satellite" means an office of an affiliate in a region.

Section 8. 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 **and Innovation** ~~for a Knowledge Based 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 9. 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 *and Innovation* ~~[for a Knowledge Based 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 10. 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 **and Innovation**~~for a Knowledge-Based 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 11. 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 **and Innovation**~~for a Knowledge-Based 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~~ **and Innovation** ~~for a Knowledge Based 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 12. KRS 216.265 is amended to read as follows:

- (1) The Kentucky e-Health Network Board is created and is attached to the Cabinet for Health and Family Services for administrative and technical support purposes.
- (2) The board shall consist of the following voting members:
  - (a) President, or a designee, of the University of Kentucky, who shall serve as co-chair of the board;
  - (b) President, or a designee, of the University of Louisville, who shall serve as co-chair of the board;
  - (c) Commissioner, or a designee, of the Department for Public Health;
  - (d) Commissioner, or a designee, of the Department for Medicaid Services;
  - (e) Executive director, or a designee, of the Commonwealth Office of Technology; and
  - (f) Nine (9) at-large members appointed by the Governor as follows:
    1. One (1) member engaged in the business of large-scale e-strategy and computer information technology;
    2. One (1) member engaged in the business of health insurance who is employed by a company that has its headquarters in Kentucky;
    3. Two (2) members from a list of four (4) individuals recommended by the Kentucky Hospital Association, one (1) representing rural hospitals, and one (1) representing urban hospitals;
    4. Two (2) physicians actively engaged in the practice of medicine in the Commonwealth from a list of four (4) physicians recommended by the Kentucky Medical Association, or self-nominated;

5. One (1) member from a company with at least one thousand (1,000) employees selected from a list of four (4) individuals submitted by the Associated Industries of Kentucky;
  6. One (1) member with experience as a physician practice manager; and
  7. One (1) member at large.
- (3) The board shall consist of the following ex officio members who may vote, but shall not be counted toward a quorum:
- (a) Commissioner, or a designee, of the Department of ~~of Innovation and~~ Commercialization **and Innovation**~~[for a Knowledge Based Economy]~~;
  - (b) President, or a designee, of the Council on Postsecondary Education;
  - (c) Secretary, or a designee, of the Cabinet for Health and Family Services;
  - (d) Executive director, or a designee, of the Office of Insurance;
  - (e) Two (2) members of the Senate who are members of the Interim Joint Committee on Health and Welfare or the Interim Joint Committee on Banking and Insurance, appointed by the President of the Senate; and
  - (f) Two (2) members of the House of Representatives who are members of the Interim Joint Committee on Health and Welfare or the Interim Joint Committee on Banking and Insurance, appointed by the Speaker of the House.
- (4) Members of the board shall serve a term of four (4) years and may serve two (2) consecutive terms.
- (5) At the end of a term, a member of the board shall continue to serve until a successor is appointed. A member who is appointed after a term has begun shall serve the rest of the term and until a successor is appointed. A member of the board who serves two (2) consecutive full four (4) year terms shall not be reappointed for four (4) years after completion of those terms. Members designated in subsection (2)(a) to (e) of this section and members designated in subsection (3) of this section shall serve on the board only while holding their respective titles.
- (6) A majority of the full membership of the board shall constitute a quorum.
- (7) The board may employ staff or contract with consultants necessary for the performance of the duties of the board, subject to the appropriation of funds.
- (8) No member of the board shall be subject to any personal liability or accountability for any loss sustained or damage suffered on account of any action or inaction of the board.
- (9) Members of the board and all committees, except the advisory group created in KRS 216.267(2), shall be entitled to reimbursement for actual and necessary expenses when carrying out official duties of the board in accordance with state administrative regulations relating to travel reimbursements. The board shall meet at least monthly.
- (10) The board may appoint committees or subcommittees with the charge of investigating and making recommendations to the board on specific aspects of the Ke-HN, including but not limited to evidence-based clinical decision support, security of protected information, electronic data interchange, and clinical practice software packages, including the feasibility of developing a software purchasing alliance to decrease the cost of software and tax incentives to encourage members of the network to purchase software deemed by the board to meet the standards of KRS 216.267. The board may appoint the following committees:
- (a) Clinical Decision Support Committee;
  - (b) Privacy and Security of Protected Health Information Committee;
  - (c) Electronic Data Interchange Committee; and
  - (d) Clinical Software Review Committee.
- (11) The members of committees or subcommittees appointed by the board do not need to be members of the board. The chairs of committees or subcommittees shall be appointed by the board. The frequency of committee or subcommittee meetings shall be established by the board.
- (12) The Clinical Decision Support Committee membership shall include at least the following members:

- (a) One (1) physician with expertise in health informatics;
  - (b) Two (2) physicians actively engaged in the practice of medicine in this Commonwealth from a list of four (4) physicians recommended by the Kentucky Medical Association, or self-nominated;
  - (c) One (1) representative of a rural hospital and one (1) representative of an urban hospital;
  - (d) One (1) pharmacist;
  - (e) One (1) representative engaged in the business of health care information technology;
  - (f) Two (2) members with experience as physician practice managers, one (1) from a single-physician practice and one (1) from a multiphysician practice; and
  - (g) One (1) member engaged in the business of health insurance who is recommended by the Kentucky Association of Health Plans, Incorporated.
- (13) The Privacy and Security of Protected Health Information Committee shall include at least the following members:
- (a) One (1) physician actively engaged in the practice of medicine in this Commonwealth;
  - (b) Two (2) members with expertise in HIPAA regulations;
  - (c) Two (2) members engaged in the business of large-scale e-strategy and computer information technology;
  - (d) One (1) member who serves as a computer information officer within the health care industry;
  - (e) Two (2) members with experience as physician practice managers, one (1) from a single-physician practice and one (1) from a multiphysician practice;
  - (f) One (1) member engaged in the business of health insurance who is recommended by the Kentucky Association of Health Plans, Incorporated; and
  - (g) One (1) representative of a hospital.
- (14) The Electronic Data Interchange Committee shall include at least the following members:
- (a) Two (2) members engaged in the business of large-scale e-strategy and computer information technology;
  - (b) Two (2) members engaged in the business of health insurance who are recommended by the Kentucky Association of Health Plans, Incorporated;
  - (c) Chief information officer, or a designee, of the Office of Technology within the Cabinet for Health and Family Services;
  - (d) Two (2) members with experience as physician practice managers, one (1) from a single-physician practice and one (1) from a multiphysician practice; and
  - (e) One (1) representative of a hospital.
- (15) The Clinical Software Review Committee shall include at least the following members:
- (a) One (1) member from a company that develops computer software for physician practices;
  - (b) One (1) member engaged in the business of large-scale e-strategy and computer information technology;
  - (c) Three (3) physicians, with one (1) having experience in electronic information technology;
  - (d) Two (2) members with experience as physician practice managers, one (1) from a single-physician practice and one (1) from a multiphysician practice;
  - (e) One (1) member engaged in the business of health insurance who is recommended by the Kentucky Association of Health Plans, Incorporated or employed by a company which has its headquarters in Kentucky; and
  - (f) One (1) representative of a hospital.

- (16) The Governor of the Commonwealth of Kentucky may reorganize the Kentucky e-Health Network Board to include the Kentucky Telehealth Board and to reorganize the Telehealth Board under the Cabinet for Health and Family Services. If the Governor deems it appropriate, the reorganization shall create a new Telehealth Committee of the Ke-HN board with the membership and responsibilities as described under KRS 11.550 and shall be subject to confirmation by the General Assembly under the requirements of KRS 12.028.

Section 13. KRS 216.267 is amended to read as follows:

- (1) The duties and responsibilities of the board shall be to implement and oversee the operation of an electronic health network in this Commonwealth, to be known as the Ke-HN.
- (2) The board shall:
- (a) Exercise all of the administrative functions of the board;
  - (b) Appoint an advisory group that shall meet at least quarterly for the purpose of collaborating with health care providers and payors, computer technology companies, telecommunication companies, and other affected entities to ensure input into the implementation of the Ke-HN;
  - (c) Review models for an electronic health network;
  - (d) Oversee the development of comparative business cases for the models reviewed and choose a model to be implemented in this Commonwealth. In selecting a model for implementation, the board shall consider the following elements:
    - 1. Various models and configurations for Ke-HN, either as developed from the board's research or as recommended by public and private experts. Each model or configuration shall be capable of supporting administrative and clinical functions listed in subsection (4) of this section, including the capability to integrate with an electronic Medicaid management information system, provide immediate health alerts to health care providers across the state, and support health care provider education related to the identification and treatment of rare and unusual diseases. The model chosen may be implemented in phases, as determined by the board;
    - 2. Projected costs of the network, indicating those which would be allocated to state government, health care providers, insurers, or others;
    - 3. Options for financing the start-up, administrative, and maintenance costs, projected returns on investments, a timetable for realizing those returns, and any proposed subscription or transaction fees associated with the Ke-HN;
    - 4. Procedures intended to secure protected health information in accordance with HIPAA;
    - 5. Timetables for implementation of the Ke-HN, whether as a fully established network, in phases, or through the use of a pilot project or regional approach to the Ke-HN;
    - 6. Suggested incentives to promote the use of Ke-HN by health care providers and payors, and the Medicaid program; and
    - 7. Incentives, including but not limited to tax credits, low-interest loans, and grants, under Subchapters 22, 23, 24, 26, and 28 of KRS Chapter 154 for a company that develops or manufactures software necessary for the development of the Ke-HN, if the company meets all the eligibility requirements under the respective subchapter in KRS Chapter 154;
  - (e) Receive comments from the advisory group created in paragraph (b) of this subsection;
  - (f) Submit a description of the model chosen for implementation to the Legislative Research Commission for the opportunity for any comments;
  - (g) If state funds are required for implementation of the model chosen, seek funding through the appropriations process;
  - (h) Oversee the implementation of the model chosen subject to the appropriation of funds. Oversight shall include the following:
    - 1. Developing any central interchange, including any central server and software;
    - 2. Developing the Ke-HN of providers and payors who participate in the network, which shall be on a voluntary basis;



3. Making recommendations regarding the features and functions which shall be included in the distributed components of the network; and
  4. Performing an outcomes assessment of the benefits achieved by the network;
- (i) Identify and adopt standards for all computer systems communicating with the Ke-HN, including but not limited to:
    1. The HIPAA standards for electronic transactions as the federal regulations become final, or more stringent standards for content and networking as determined by the board;
    2. Medical lexicon for administrative billing and clinical purposes;
    3. Procedure and billing codes; and
    4. Prevalent health care industry standards for software and networking that ensure that applications work on all types of computer systems and equipment;
  - (j) Establish procedures to ensure that Ke-HN transactions are in compliance with HIPAA guidelines;
  - (k) Facilitate the implementation of the federal HIPAA guidelines, and identify any additional variables specific to Kentucky that are required to be in transactions within the HIPAA guidelines;
  - (l) Oversee the operations of the Ke-HN, including but not limited to making recommendations for financing the central interchange for the network and making recommendations to organizations about implementing the network in their respective organizations;
  - (m) Oversee the development of the central interchange that supports communication between components of the Medicaid management information system;
  - (n) Implement educational efforts about the Ke-HN;
  - (o) Develop incentives for providers and payors to use the Ke-HN;
  - (p) Identify options for, adopt, and implement approaches to various aspects of the Ke-HN necessary for its creation and operation, including but not limited to technology architecture, governance and oversight, development and implementation plans, and other areas identified by the board relating to its charge;
  - (q) Facilitate the development of private and public partnerships to build the Ke-HN;
  - (r) Assign priority in phasing in the network to geographical locations that are critical to homeland security and protection of the Commonwealth's energy production;
  - (s) Collaborate with federal agencies in the development and implementation of the Ke-HN as a demonstration model for the nation;
  - (t) Collaborate with the Kentucky Health Care Infrastructure Authority created under KRS 216.261;
  - (u) Assist with the securing of state, federal, or private funding for the Kentucky Health Care Infrastructure Authority created under KRS 216.261;
  - (v) Stimulate the development of state and local population health information capacities;
  - (w) Promulgate administrative regulations in accordance with KRS Chapter 13A necessary to carry out the responsibilities of the board;
  - (x) Receive and dispense funds appropriated for its use by the General Assembly or may solicit, apply for, and receive any funds, property, or services from any person, governmental agency, or organization to carry out its statutory responsibilities;
  - (y) Report to the Governor, secretary of the Cabinet for Health and Family Services, commissioner of the Department of ~~Innovation and~~ Commercialization *and Innovation* ~~[for a Knowledge Based Economy]~~, Legislative Research Commission, Interim Joint Committee on Health and Welfare, and Interim Joint Committee on Banking and Insurance annually on the development of the Ke-HN and the impact on quality and cost of health care; and
  - (z) Collaborate with the Telehealth Board to link functions of the telehealth network to the Ke-HN, as determined by the Telehealth Board.

- (3) The board may:
- (a) Use any software program or expand any Medicaid management information system or electronic provider and payor network developed by the Medicaid program to support electronic health transactions between payors, insurers, health care providers, and patients that are not Medicaid-related, unless prohibited by federal law or regulation;
  - (b) Contract, in accordance with KRS Chapter 45A, with an independent third party for any service necessary to carry out the responsibilities of the board subject to the appropriation of funds;
  - (c) Award grants to health care providers and payors to implement projects related to health informatics, with highest priority given to health care providers and payors that serve rural and inner-city areas of this Commonwealth; and
  - (d) Enter into an agreement with the University of Kentucky or the University of Louisville to develop comparative business models or implement any phase of the Ke-HN, using private or federal funds received by the university for the purpose designated in the agreement.
- (4) In its fully implemented form, the Kentucky e-Health Network is envisioned to support or encourage the following types of electronic transactions or activities that would be phased in over time:
- (a) Automatic drug-drug interaction and allergy alerts;
  - (b) Automatic preventive medicine alerts;
  - (c) Electronic access to the results of laboratory, X-ray, or other diagnostic examinations;
  - (d) Disease management;
  - (e) Disease surveillance and reporting;
  - (f) Educational offerings for health care providers;
  - (g) Health alert system and other applications related to homeland security;
  - (h) Links to drug formularies and cost information;
  - (i) Links to evidence-based medical practice;
  - (j) Links to patient educational materials;
  - (k) Medical record information transfer to other providers with the patient's consent;
  - (l) Physician order entry;
  - (m) Prescription drug tracking;
  - (n) Registries for vital statistics, cancer, case management, immunizations, and other public health registries;
  - (o) Secured electronic consultations between providers and patients;
  - (p) A single-source insurance credentialing system for health care providers; and
  - (q) The following transactions covered by HIPAA:
    - 1. Electronic health care claims submission;
    - 2. Electronic payment;
    - 3. Coordination of benefits;
    - 4. Health care claim status;
    - 5. Enrollment and disenrollment in a health plan;
    - 6. Eligibility for a health plan;
    - 7. Health plan premium payments;
    - 8. Referral certification and authorization;
    - 9. First report of injury; and

## 10. Health claims attachments.

Section 14. The following KRS section is repealed:

154.12-265 Department for Regional Development -- Purpose -- Appointment of commissioner.

Section 15. 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 16. Any other provision of law to the contrary notwithstanding, the General Assembly confirms Resolution 05-02 of the Kentucky Economic Development Partnership, relating to the Department for Regional Development, and Resolution 05-03 of the Kentucky Economic Development Partnership, relating to the Department for Innovation and Commercialization for a Knowledge Based Economy, to the extent these resolutions are not otherwise confirmed or superseded by this Act, these resolutions having been made by the Kentucky Economic Development Partnership under the authority granted to it by KRS 12.028 and 154.10-030.

**Approved April 21, 2006.**

## CHAPTER 211

### (SB 105)

AN ACT relating to reorganization.

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

Section 1. KRS 11.065 is amended to read as follows:

- (1) The secretaries of the Justice Cabinet, the Education~~[- Arts, and Humanities]~~ Cabinet, the Environmental and Public Protection Cabinet, the Transportation Cabinet, the Cabinet for Economic Development, the Cabinet for Health and Family Services, the Finance and Administration Cabinet, the Commerce 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 2. KRS 11.182 is amended to read as follows:

- (1) The membership of the commission shall consist of forty-seven (47) members who have the resources to accomplish the goals set forth in Kentucky's Appalachian Development Plan created under KRS 11.180(1).
  - (a) Ex-officio members shall be: the Governor; secretary of the Governor's Executive Cabinet; secretary of the Cabinet for Economic Development; secretary of the Transportation Cabinet; secretary of the Environmental and Public Protection Cabinet; secretary of the Commerce Cabinet; secretary of the Cabinet for Health and Family Services; ***the commissioner of the Department of Workforce Investment***~~secretary of the Cabinet for Workforce Development~~; secretary of the Education~~[- Arts, and Humanities]~~ Cabinet; commissioner of the Department of Agriculture; president of the Council on Postsecondary Education; president of the Kentucky Community and Technical College System; commissioner of the Department of Education; commissioner of the Department for Local Government;

executive director of the Kentucky Housing Corporation; Governor's alternate to the Appalachian Regional Commission; president of Morehead State University; executive director of the University of Kentucky Appalachian Center; director of the Center for Kentucky Rural Economic Development; state director of Rural Development of the United States Department of Agriculture; executive director of the East Kentucky Corporation; chair of the Kentucky Appalachian Advisory Council's steering committee; and two (2) vice chairs of the Kentucky Appalachian Advisory Council's Steering Committee.

(b) Members appointed by the Governor shall be:

1. A county judge/executive, mayor, executive director of an area development district, president of a community college, member of the House of Representatives, member of the Senate, and member of the state's judicial branch, all of whom shall be currently serving in the Appalachian region of the Commonwealth. The members who are a representative, a senator, and a representative of the judicial branch shall serve in a nonvoting capacity;
2. Nine (9) at-large members; and
3. One (1) member representing the Community Action Agencies of Appalachian Kentucky.

(c) Members appointed by and representing certain entities shall be: two (2) members of the Kentucky Appalachian Advisory Council; one (1) member of the University of Kentucky Office of Management and Budget; one (1) member from the Christian Appalachian Project; one (1) member appointed by the United States Representative from the Fifth Congressional District; and one (1) member appointed by the East Kentucky Leadership Foundation's board of directors.

- (2) Members listed in subsection (1)(a) and (b)1. of this section shall serve during their terms of office or appointment. Members listed in subsection (1)(b)2., (1)(b)3., and (1)(c) of this section shall serve four (4) year staggered terms and may be reappointed.
- (3) Members of the commission who are not state employees shall receive reimbursement for actual and necessary expenses incurred in the performance of their duties.
- (4) Each member of the commission may designate in writing over his signature an alternate with full authority, in the absence of the designating member for any reason, to attend any properly convened meeting of the commission and to participate in the consideration of any business and transactions of the commission. Any designation of an alternate may, in the discretion of the designating member, be limited to be effective only for a designated meeting or only for specified business. An alternate shall not be entitled to vote upon any business or transactions of the commission.

Section 3. 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) *Office of the Secretary.*
    - (b) *Office of Legal Services.*
      - 1. *Client Assistance Program.*
    - (c) *Office of Communication.*
    - (d) *Office of Legislative and Intergovernmental Affairs.*
    - (e) *Office of Budget and Administration.*
      - 1. *Division of Human Resources.*
      - 2. *Division of Administrative Services.*
      - 3. *Division of Technology Services.*
    - (f) *Board of Directors for the Center for School Safety.*
    - (g) *Council on Postsecondary Education.*
      - 1. *Foundation for Adult Education.*
    - (h) *Department of Education.*
      - 1. *Kentucky Board of Education.*
    - (i) *Department for Libraries and Archives.*
    - (j) *Department of Workforce Investment.*
      - 1. *Office for the Blind.*

2. *Office of Vocational Rehabilitation.*
3. *Office of Career and Technical Education.*
4. *Office of Employment and Training.*
- (k) *Foundation for Workforce Development.*
- (l) *Kentucky Office for the Blind State Rehabilitation Council.*
- (m) *Kentucky Technical Education Personnel Board.*
- (n) *Kentucky Workforce Investment Board.*
- (o) *Statewide Council for Vocational Rehabilitation.*
- (p) *Statewide Independent Living Council.*
- (q) *Unemployment Insurance Commission.*
- (r) *Education Professional Standards Board.*
  1. *Division of Educator Preparation.*
  2. *Division of Certification.*
  3. *Division of Professional Learning and Assessment.*
  4. *Division of Legal Services.*
- (s) *Kentucky Commission on the Deaf and Hard of Hearing.*
- (t) *Kentucky Educational Television.*
- (u) *Kentucky Environmental Education Council*~~[Department of Education.~~
  - ~~(1) — Kentucky Board of Education.~~
  - ~~(b) — Department for Libraries and Archives.~~
  - ~~(c) — Kentucky Educational Television.~~
  - ~~(d) — Kentucky Commission on the Deaf and Hard of Hearing.~~
  - ~~(e) — Operations and Development Office.~~
  - ~~(f) — Board of Directors for the Center for School Safety].~~
3. Environmental and Public Protection Cabinet:
  - (a) Office of the Secretary.
    1. Office of Legislative and Intergovernmental Affairs.
    2. Office of Communications and Public Outreach.
    3. Office of Regulatory Affairs.
    4. Office of Legal Services.
    5. Office of Administrative and Information Services.
    6. Office of Administrative Hearings.
    7. Office of Inspector General.
    8. Mine Safety Review Commission.
    9. Workers' Compensation Board.
    10. Kentucky State Nature Preserves Commission.
    11. Kentucky Environmental Quality Commission.
    12. Kentucky Occupational Safety and Health Review Commission.
  - (b) Department for Environmental Protection.

1. Office of the Commissioner.
  2. Division of Air Quality.
  3. Division of Water.
  4. Division of Environmental Services.
  5. Division of Waste Management.
  6. Division of Enforcement.
  7. Division of Compliance Assistance.
- (c) Department for Natural Resources.
1. Office of the Commissioner.
  2. Office of Technical and Administrative Support.
  3. Division of Mine Permits.
  4. Division of Mine Reclamation and Enforcement.
  5. Division of Abandoned Mine Lands.
  6. Division of Oil and Gas Conservation.
  7. Office of Mine Safety and Licensing.
  8. Division of Forestry.
  9. Division of Conservation.
- (d) Department of Public Protection.
1. Office of the Commissioner.
  2. Division of Administrative Services.
  3. Crime Victims Compensation Board.
  4. Board of Claims.
  5. Board of Tax Appeals.
  6. Kentucky Boxing and Wrestling Authority.
  7. Kentucky Horse Racing Authority.
  8. Kentucky Public Service Commission.
  9. Office of Alcoholic Beverage Control.
  10. Office of Charitable Gaming.
  11. Office of Financial Institutions.
  12. Office of Housing, Buildings and Construction.
  13. Office of Insurance.
- (e) Department of Labor.
1. Office of the Commissioner.
  2. Office of Occupational Safety and Health.
  3. Office of Labor Management Relations and Mediation.
  4. Office of Workplace Standards.
  5. Office of Workers' Claims.
  6. Workers' Compensation Funding Commission.

7. Kentucky Labor Management Advisory Council.
  8. Occupational Safety and Health Standards Board.
  9. Prevailing Wage Review Board.
  10. Kentucky Employees Insurance Association.
  11. Apprenticeship and Training Council.
  12. State Labor Relations Board.
  13. Workers' Compensation Advisory Council.
  14. Workers' Compensation Nominating Commission.
  15. Employers' Mutual Insurance Authority.
  16. Division of Administrative Services.
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 Aviation.
  - (e) Department of Intergovernmental Programs.
    1. Office of Transportation Enhancement Programs.
    2. Office of Rural and Secondary Roads.
  - (f) Office of the Secretary.
    1. Office of Legislative and Intergovernmental Affairs.
    2. Office of Public Affairs.
    3. Office of Transportation Delivery.
    4. Office for Business and Occupational Development.
    5. Office of Budget and Fiscal Management.
    6. Office of Legal Services.
    7. Office of Inspector General.
    8. Office of the Transportation Operations Center.
    9. Office of Personnel Management.
5. Cabinet for Economic Development:
- (a) Office of Administration and Support.
  - (b) Department for New Business Development.
  - (c) Department of Financial Incentives.
  - (d) Department for Existing Business 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.
  - (k) Commission on Small Business Advocacy.
6. Cabinet for Health and Family Services:
- (a) Department for Public Health.
  - (b) Department for Medicaid Services.
  - (c) Department for Mental Health and Mental Retardation Services.
  - (d) Kentucky Commission for Children with Special Health Care Needs.
  - (e) Office of Certificate of Need.
  - (f) Office of the Secretary.
  - (g) Office of Legal Services.
  - (h) Office of Inspector General.
  - (i) Office of Legislative and Public Affairs.
  - (j) Department for Community Based Services.
  - (k) Department for Disability Determination Services.
  - (l) Office of the Ombudsman.
  - (m) Department for Human Support Services.
  - (n) Kentucky Commission on Community Volunteerism and Service.
  - (o) Office of Fiscal Services.
  - (p) Office of Human Resource Management.
  - (q) Office of Technology.
  - (r) Office of Contract Oversight.
7. Finance and Administration Cabinet:
- (a) Office of General Counsel.
  - (b) Office of the Controller.
  - (c) Office of Administrative Services.
  - (d) Office of Public Information.
  - (e) Department for Facilities and Support Services.
  - (f) Department of Revenue.
  - (g) Commonwealth Office of Technology.
  - (h) State Property and Buildings Commission.
  - (i) Kentucky Savings Bond Authority.
  - (j) Office of Equal Employment Opportunity and Contract Compliance.
  - (k) County Officials Compensation Board.

- (l) Kentucky Employees Retirement Systems.
  - (m) Commonwealth Credit Union.
  - (n) State Investment Commission.
  - (o) Kentucky Housing Corporation.
  - (p) Kentucky Local Correctional Facilities Construction Authority.
  - (q) Kentucky Turnpike Authority.
  - (r) Historic Properties Advisory Commission.
  - (s) Kentucky Tobacco Settlement Trust Corporation.
  - (t) Eastern Kentucky Exposition Center Corporation.
  - (u) State Board for Proprietary Education.
  - (v) Kentucky Higher Education Assistance Authority.
  - (w) Kentucky River Authority.
  - (x) Kentucky Teachers' Retirement System Board of Trustees.
8. Commerce Cabinet:
- (a) Department of Tourism.
    - (1) Division of Tourism Services.
    - (2) Division of Marketing and Advertising.
    - (3) Division of Parks Marketing.
  - (b) Kentucky Department of Parks.
    - (1) Division of Information Technology.
    - (2) Division of Personnel and Payroll.
    - (3) Division of Financial Operations.
    - (4) Division of Facilities Management.
    - (5) Division of Project Administration.
    - (6) Division of Customer Services.
    - (7) Division of Recreation.
    - (8) Division of Golf Courses.
    - (9) Division of Food Services.
    - (10) Division of Rangers.
    - (11) Division of Eastern Parks.
    - (12) Division of Southern Parks.
    - (13) Division of Western Parks.
  - (c) Department of Fish and Wildlife Resources.
    - (1) Division of Law Enforcement.
    - (2) Division of Administrative Services.
    - (3) Division of Engineering.
    - (4) Division of Fisheries.
    - (5) Division of Information and Education.

- (6) Division of Wildlife.
- (7) Division of Public Affairs.
- (d) Kentucky Horse Park.
  - (1) Division of Support Services.
  - (2) Division of Buildings and Grounds.
  - (3) Division of Operational Services.
- (e) Kentucky State Fair Board.
  - (1) Division of Expositions and Admission.
  - (2) Division of Kentucky Fair and Exposition Center Operations.
  - (3) Division of Commonwealth Convention Center.
  - (4) Division of Public Relations and Media.
  - (5) Division of Administrative Services.
  - (6) Division of Personnel Management and Staff Development.
  - (7) Division of Sales.
  - (8) Division of Security and Traffic Control.
- (f) Office of the Secretary.
- (g) Office of Finance and Administration.
- (h) Office of Legal Affairs.
- (i) Office of Intergovernmental Affairs.
- (j) Office of Human Resources.
- (k) Office of Public Affairs and Constituent Services.
- (l) Office of Information Technology.
- (m) Office of Purchase and Procurement.
- (n) Office of Creative Services.
- (o) Office of Capital Plaza Operations.
- (p) Office of Energy Policy.
- (q) Coal Marketing and Export.
- (r) ***Kentucky African-American Heritage Commission.***
- (s) Kentucky Coal Council.
- ~~(t)~~~~(s)~~ Kentucky Foundation for the Arts.
- ~~(u)~~~~(t)~~ Kentucky Humanities Council.
- ~~(v)~~~~(u)~~ Kentucky Heritage Council.
- ~~(w)~~~~(v)~~ Kentucky Arts Council.
- ~~(x)~~~~(w)~~ Kentucky Historical Society.
  - (1) Division of Museums.
  - (2) Division of Oral History and Educational Outreach.
  - (3) Division of Research and Publications.
  - (4) Division of Administration.

- (y){(x)} Kentucky Center for the Arts.
- (1) Division of Governor's School for the Arts.
- (z){(y)} Kentucky Artisans Center at Berea.
- (aa) ***Martin Luther King Commission.***

9.~~{~~—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.

10.~~{~~ Personnel Cabinet:

- (a) Office of the Secretary.
- (b) Department for Personnel Administration.
- (c) Office for Employee Relations.
- (d) Kentucky Public Employees Deferred Compensation Authority.
- (e) Office of Administrative Services.
- (f) Office of Legal Services.
- (g) Office of Government Training.
- (h) Department for Employee Insurance.

III. Other departments headed by appointed officers:

- 1. Department of Military Affairs.
- 2.~~{~~—Council on Postsecondary Education.
- 3.~~{~~ Department for Local Government.
- 3.~~{4.~~ Kentucky Commission on Human Rights.
- 4.~~{5.~~ Kentucky Commission on Women.
- 5.~~{6.~~ Department of Veterans' Affairs.
- 6.~~{7.~~ Kentucky Commission on Military Affairs.

~~{8. — Education Professional Standards Board;}~~

7.~~{9.}~~ Office of Minority Empowerment.

Section 4. 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;
- (2)~~{(3)}~~ Department for Local Government;
- (3)~~{(4)}~~ Kentucky Commission on Human Rights;
- (4)~~{(5)}~~ Kentucky Commission on Women;
- (5)~~{(6)}~~ Kentucky Commission on Military Affairs;
- (6)~~{(7)}~~ Governor's Scholars Program;
- (7)~~{(8)}~~ Agricultural Development Board;
- ~~{(9) — Office of Early Childhood Development;}~~
- (8)~~{(10)}~~ Kentucky Agency for Substance Abuse Policy;
- ~~{(11) — Education Professional Standards Board;}~~
- (9)~~{(12)}~~ Kentucky Agricultural Finance Corporation; and
- (10)~~{(13)}~~ Office of Minority Empowerment.

Section 5. 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) Environmental and Public Protection Cabinet.
- (4) Transportation Cabinet.
- (5) Cabinet for Economic Development.
- (6) Cabinet for Health and Family Services.
- (7) Finance and Administration Cabinet.
- (8) Commerce Cabinet.
- (9)~~{ — Cabinet for Workforce Development.}~~
- ~~{(10)}~~ Personnel Cabinet.

Section 6. KRS 12.332 is amended to read as follows:

KY-ASAP shall:

- (1) Develop a strategic plan to reduce the prevalence of smoking and drug and alcohol abuse among both the youth and adult populations in Kentucky;
- (2) Monitor the data and issues related to youth alcohol and tobacco access, smoking cessation and prevention, and substance abuse policies, their impact on state and local programs, and their flexibility to adapt to the needs of local communities and service providers;
- (3) Make policy recommendations to be followed to the extent permitted by budgetary restrictions and federal law, by executive branch agencies that work with smoking cessation and prevention and alcohol and substance abuse issues to ensure the greatest efficiency in agencies and to ensure that a consistency in philosophy will be

applied to all efforts undertaken by the administration in initiatives related to smoking cessation and prevention and alcohol and substance abuse;

- (4) Identify existing resources in each community that advocate or implement programs for smoking cessation or prevention, or drug and alcohol abuse prevention, education, or treatment;
- (5) Encourage coordination among public and private, state and local, agencies, organizations, and service providers, and monitor related programs;
- (6) Act as the referral source of information, utilizing existing information clearinghouse resources within the Department for Public Health and CHAMPIONS for a Drug Free Kentucky Office, relating to youth tobacco access, smoking cessation and prevention, and substance abuse prevention, cessation, and treatment programs. KY-ASAP shall identify gaps in information referral sources;
- (7) Search for grant opportunities for existing programs within the Commonwealth;
- (8) Make recommendations to state and local agencies and local tobacco addiction and substance abuse advisory and coordination boards;
- (9) Observe programs from other states;
- (10) Coordinate services among local and state agencies, including, but not limited to, the Justice Cabinet, the Cabinet for Health and Family Services, the Department of Agriculture, the Environmental and Public Protection Cabinet, the Administrative Office of the Courts, and the Education[, Arts, and Humanities] Cabinet;
- (11) Assure the availability of training, technical assistance, and consultation to local service providers for programs funded by the Commonwealth that provide services related to tobacco addiction, smoking cessation or prevention, or alcohol or substance abuse;
- (12) Review existing research on programs related to smoking cessation and prevention and substance abuse prevention and treatment;
- (13) Comply with any federal mandate regarding smoking cessation and prevention and substance abuse, to the extent authorized by state statute;
- (14) Establish a mechanism to coordinate the distribution of funds to support any local prevention, treatment, and education program based on the strategic plan developed in subsection (1) of this section that could encourage smoking cessation and prevention through efficient, effective, and research-based strategies;
- (15) Oversee a school-based initiative that links schools with community-based agencies and health departments to implement School Programs to Prevent Tobacco Use, based upon the model recommended by the Centers for Disease Control and Prevention. To the extent permitted by resources, the initiative shall involve input by and services from each of the family resource and youth services centers, regional prevention centers, and existing school-based antidrug programs;
- (16) Work with community-based organizations to encourage them to work together to establish comprehensive tobacco addiction and substance abuse prevention education programs and carry out the strategic plan developed in this section. These organizations shall be encouraged to partner with district and local health departments and community mental health centers to plan and implement interventions to reach youths before tobacco addiction and substance abuse become a problem in their lives;
- (17) Coordinate media campaigns designed to demonstrate the negative impact of smoking and the increased risk of tobacco addiction, substance abuse, and the development of other disease in children, young people, and adults. To accomplish this objective, KY-ASAP shall work with local media to reach all segments of the community quickly and efficiently;
- (18) Certify to the Governor and the General Assembly during the budget request process established under KRS Chapter 48 the extent to which each entity receiving state funds has cooperated with KY-ASAP, coordinated with community resources, and vigorously pursued the philosophy of KY-ASAP;
- (19) Promulgate any administrative regulations necessary to implement KRS 12.330 to 12.334; and
- (20) Report to the Legislative Research Commission and Governor by October 1, 2000, regarding the proper organization of state government agencies that will provide the greatest coordination of services, and report semiannually to the Legislative Research Commission and Governor on the proper organization structure,

devising and implementing an accountability system to be designed to ensure efficiency and efficacy of services and grants, and on other matters as requested by the Legislative Research Commission and Governor.

Section 7. KRS 12.515 is amended to read as follows:

- (1) The following agencies shall designate a liaison to the Office for Faith-Based and Community Nonprofit Social Services:
  - (a) The Cabinet for Health and Family Services;
  - (b) The ***Department of Workforce Investment***~~[Workforce Development Cabinet]~~;
  - (c) The Education~~[, Arts, and Humanities]~~ Cabinet;
  - (d) The Department of Agriculture;
  - (e) The Kentucky Housing Corporation;
  - (f) The Environmental and Public Protection Cabinet; and
  - (g) The Economic Development Cabinet.
- (2) Each agency identified in subsection (1) of this section shall, in cooperation and coordination with the Office for Faith-Based and Community Nonprofit Social Services:
  - (a) Review and evaluate existing policies that affect government funding opportunities for faith-based and nonprofit community organizations and report to the office, within ninety (90) days of June 20, 2005, actions necessary to implement KRS 12.510; and
  - (b) Amend existing policies and administrative regulations or implement new policies or administrative regulations in accordance with KRS Chapter 13A consistent with the principles established in KRS 12.500 to 12.520.

Section 8. KRS 13B.020 is amended to read as follows:

- (1) The provisions of this chapter shall apply to all administrative hearings conducted by an agency, with the exception of those specifically exempted under this section. The provisions of this chapter shall supersede any other provisions of the Kentucky Revised Statutes and administrative regulations, unless exempted under this section, to the extent these other provisions are duplicative or in conflict. This chapter creates only procedural rights and shall not be construed to confer upon any person a right to hearing not expressly provided by law.
- (2) The provisions of this chapter shall not apply to:
  - (a) Investigations, hearings to determine probable cause, or any other type of information gathering or fact finding activities;
  - (b) Public hearings required in KRS Chapter 13A for the promulgation of administrative regulations;
  - (c) Any other public hearing conducted by an administrative agency which is nonadjudicatory in nature and the primary purpose of which is to seek public input on public policy making;
  - (d) Military adjudicatory proceedings conducted in accordance with KRS Chapter 35;
  - (e) Administrative hearings conducted by the legislative and judicial branches of state government;
  - (f) Administrative hearings conducted by any city, county, urban-county, charter county, or special district contained in KRS Chapters 65 to 109, or any other unit of local government operating strictly in a local jurisdictional capacity;
  - (g) Informal hearings which are part of a multilevel hearing process that affords an administrative hearing at some point in the hearing process if the procedures for informal hearings are approved and promulgated in accordance with subsections (4) and (5) of this section;
  - (h) Limited exemptions granted for specific hearing provisions and denoted by reference in the text of the applicable statutes or administrative regulations;
  - (i) Administrative hearings exempted pursuant to subsection (3) of this section;

- (j) Administrative hearings exempted, in whole or in part, pursuant to subsections (4) and (5) of this section; and
  - (k) Any administrative hearing which was commenced but not completed prior to July 15, 1996.
- (3) The following administrative hearings are exempt from application of this chapter in compliance with 1994 Ky. Acts ch. 382, sec. 19:
- (a) Finance and Administration Cabinet
    - 1. Higher Education Assistance Authority
      - a. Wage garnishment hearings conducted under authority of 20 U.S.C. sec. 1095a and 34 C.F.R. sec. 682.410
      - b. Offset hearings conducted under authority of 31 U.S.C. sec. 3720A and sec. 3716, and 34 C.F.R. sec. 30.33
  - (b) Cabinet for Health and Family Services
    - 1. Office of Certificate of Need
      - a. Certificate-of-need hearings and licensure conducted under authority of KRS Chapter 216B
      - b. Licensure revocation hearings conducted under authority of KRS Chapter 216B
    - 2. Department for Community Based Services
      - a. Supervised placement revocation hearings conducted under authority of KRS Chapter 630
    - 3. Department for Disability Determination Services
      - a. Disability determination hearings conducted under authority of 20 C.F.R. sec. 404
  - (c) Justice Cabinet
    - 1. Department of State Police
      - a. State Police Trial Board disciplinary hearings conducted under authority of KRS Chapter 16
    - 2. Department of Corrections
      - a. Parole Board hearings conducted under authority of KRS Chapter 439
      - b. Prison adjustment committee hearings conducted under authority of KRS Chapter 197
      - c. Prison grievance committee hearings conducted under authority of KRS Chapters 196 and 197
    - 3. Department of Juvenile Justice
      - a. Supervised placement revocation hearings conducted under KRS Chapter 635
  - (d) Environmental and Public Protection Cabinet
    - 1. Department for Natural Resources
      - a. Surface mining hearings conducted under authority of KRS Chapter 350
    - 2. Department for Environmental Protection
      - a. Wild River hearings conducted under authority of KRS Chapter 146
      - b. Water resources hearings conducted under authority of KRS Chapter 151
      - c. Water plant operator and water well driller hearings conducted under authority of KRS Chapter 223
      - d. Environmental protection hearings conducted under authority of KRS Chapter 224
      - e. Petroleum Storage Tank Environmental Assurance Fund hearings under authority of KRS Chapter 224



3. Office of Workers' Claims
  - a. Workers' compensation hearings conducted under authority of KRS Chapter 342
4. Kentucky Occupational Safety and Health Review Commission
  - a. Occupational safety and health hearings conducted under authority of KRS Chapter 338
5. Department of Public Protection
  - a. Board of Claims
    - i Liability hearings conducted under authority of KRS Chapter 44
  - b. Public Service Commission
    - i Utility hearings conducted under authority of KRS Chapters 74, 278, and 279
- (e) **Education Cabinet**~~[for Workforce Development]~~
  - 1.~~[Department for Employment Services]~~
    - a.~~[~~ Unemployment Insurance hearings conducted under authority of KRS Chapter 341
- (f) Secretary of State
  1. Registry of Election Finance
    - a. Campaign finance hearings conducted under authority of KRS Chapter 121
- (g) State universities and colleges
  1. Student suspension and expulsion hearings conducted under authority of KRS Chapter 164
  2. University presidents and faculty removal hearings conducted under authority of KRS Chapter 164
  3. Campus residency hearings conducted under authority of KRS Chapter 164
  4. Family Education Rights to Privacy Act hearings conducted under authority of 20 U.S.C. sec. 1232 and 34 C.F.R. sec. 99
  5. Federal Health Care Quality Improvement Act of 1986 hearings conducted under authority of 42 U.S.C. sec. 11101 to 11115 and KRS Chapter 311.
- (4) Any administrative hearing, or portion thereof, may be certified as exempt by the Attorney General based on the following criteria:
  - (a) The provisions of this chapter conflict with any provision of federal law or regulation with which the agency must comply, or with any federal law or regulation with which the agency must comply to permit the agency or persons within the Commonwealth to receive federal tax benefits or federal funds or other benefits;
  - (b) Conformity with the requirement of this chapter from which exemption is sought would be so unreasonable or so impractical as to deny due process because of undue delay in the conduct of administrative hearings; or
  - (c) The hearing procedures represent informal proceedings which are the preliminary stages or the review stages of a multilevel hearing process, if the provisions of this chapter or the provisions of a substantially equivalent hearing procedure exempted under subsection (3) of this section are applied at some level within the multilevel process.
- (5) The Attorney General shall not exempt an agency from any requirement of this chapter until the agency establishes alternative procedures by administrative regulation which, insofar as practical, shall be consistent with the intent and purpose of this chapter. When regulations for alternative procedures are submitted to the Administrative Regulation Review Subcommittee, they shall be accompanied by the request for exemption and the approval of exemption from the Attorney General. The decision of the Attorney General, whether affirmative or negative, shall be subject to judicial review in the Franklin Circuit Court within thirty (30) days

of the date of issuance. The court shall not overturn a decision of the Attorney General unless the decision was arbitrary or capricious or contrary to law.

- (6) Except to the extent precluded by another provision of law, a person may waive any procedural right conferred upon that person by this chapter.

Section 9. KRS 18A.450 is amended to read as follows:

Nothing in KRS 18A.400 to 18A.450 shall prohibit the **commissioner of the Department of Workforce Investment**~~[secretary of the Cabinet for Workforce Development]~~ or the commissioner of the Department of State Police from developing pilot programs consistent with the provisions of KRS 18A.400 to 18A.450. To the extent that pilot programs are approved by these agencies, in no event shall the total number employees participating in these programs statewide exceed twenty percent (20%) of the permanent, full-time state employees employed on July 15, 1994.

Section 10. KRS 42.4592 is amended to read as follows:

- (1) Moneys remaining in the local government economic development fund following the transfer of moneys to the local government economic assistance fund provided for in KRS 42.4585 and following the transfer of moneys to the secondary wood products development fund provided for in KRS 42.4586 shall be allocated as follows:
- (a) Thirty-three and one-third percent (33-1/3%) shall be allocated to each coal producing county on the basis of the ratio of total tax collected in the current and preceding four years on coal severed in each respective county to the total tax collected statewide in the current and four (4) preceding years.
  - (b) Thirty-three and one-third percent (33-1/3%) shall be allocated quarterly to each coal producing county on the basis of the following factors, which shall be computed for the current and four (4) preceding years, and which shall be equally weighted:
    1. Percentage of employment in mining in relation to total employment in the respective county;
    2. Percentage of earnings from mining in relation to total earnings in the respective county; and
    3. Surplus labor rate.
  - (c) Thirty-three and one-third percent (33-1/3%) shall be reserved for expenditure for industrial development projects benefiting two or more coal producing counties. For purposes of this paragraph, "coal producing county" shall mean a county which has produced coal in the current or any one of the four (4) preceding years.
- (2) (a) For purposes of paragraph (b) of subsection (1) of this section, "percentage of employment in mining" and "percentage of earnings from mining" shall be the percentages published for the latest available five (5) year period by the Bureau of Economic Analysis in the United States Department of Commerce; "surplus labor rate" shall be the rate published for the latest available five (5) year period by the **Office of Employment and Training**~~[Department of Employment Services]~~ in the **Education** Cabinet~~[for Workforce Development]~~, as provided in paragraph (b) of this subsection.
- (b) 1. Each year the **Office of Employment and Training**~~[Department of Employment Services]~~ shall estimate surplus labor for each county and for the Commonwealth, and shall annually publish an estimate of the surplus labor rate for each county and the Commonwealth.
  2. The estimate of surplus labor for each county and for the Commonwealth shall be made using the best practical method available at the time the estimates are made. In determining the method to be adopted, the **Office of Employment and Training**~~[Department of Employment Services]~~ may consult with knowledgeable individuals including, but not limited to, the Office of the United States Bureau of Labor Statistics, state and national researchers, state and local officials, and staff of the Legislative Research Commission. The description of the method used to estimate surplus labor shall be reported in each annual publication provided for in subparagraph 1. of this paragraph.
  3. For purposes of this section, "surplus labor" means the total number of residents who can be classified as unemployed or as discouraged workers, and "surplus labor rate" means the percentage of the potential civilian labor force which is surplus labor.
- (3) The funds allocated under the provisions of paragraphs (a) and (b) of subsection (1) of this section shall retain their identity with respect to the county to which they are attributable, and a separate accounting of available

moneys within the fund shall be maintained for the respective counties. Accounting for funds allocated under the provisions of this section shall be by the Department for Local Government.

Section 11. KRS 45A.470 is amended to read as follows:

- (1) All governmental bodies and political subdivisions of this state shall, when purchasing commodities or services, give first preference to the products made by the Department of Corrections, Division of Prison Industries, as required by KRS 197.210. Second preference shall be given to the Kentucky industries for the blind as described in KRS 163.450 to 163.470 through June 30, 2000, and thereafter to any products produced by Kentucky Industries for the Blind, Incorporated or any other nonprofit corporation with which the ~~Office~~~~Department~~ for the Blind contracts under KRS 163.480(2) to further the purposes of KRS Chapter 163 and agencies of individuals with severe disabilities as described in KRS 45A.465.
- (2) The Finance and Administration Cabinet shall make a list of commodities and services provided by these agencies and organizations available to all governmental bodies and political subdivisions. The list shall identify in detail the commodity or service the agency or organization may supply and the price.
- (3) The Finance and Administration Cabinet shall annually determine the current price range for the commodities and services offered from its experience in purchasing these commodities or services on the open market. The prices quoted by these agencies or organizations shall not exceed the current price range.
- (4) The ~~Office~~~~Department~~ for the Blind within the *Education* Cabinet ~~for Workforce Development~~ and qualified agencies for individuals with severe disabilities shall annually cause to be made available to the Finance and Administration Cabinet, lists of the products or services available.
- (5) If two (2) or more of the agencies or qualified nonprofit organizations wish to supply identical commodities or services, the Finance and Administration Cabinet shall conduct negotiations with the parties to determine which shall be awarded the contract. The decision of the Finance and Administration Cabinet shall be based upon quality of the commodity or service and the ability of the respective agencies to supply the commodity or service within the requested delivery time.

Section 12. 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 Commerce Cabinet;
  - (e) The secretary of the Education~~, Arts, and Humanities~~ Cabinet;
  - (f) The commissioner of the Department of Tourism;
  - (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 shall provide administrative support to the committee.

Section 13. KRS 61.525 is amended to read as follows:

Membership in the system shall consist of the following:

- (1) All persons who become employees of a participating department after the date such department first participates in the system, except a person who did not elect membership pursuant to KRS 61.545(3);
- (2)
  - (a) All persons who are employees of a department on the date the department first participates in the system, either in service or on authorized leave from service, and who elect within thirty (30) days following the department's participation, or in the case of persons on authorized leave, within thirty (30) days of their return to active service, to become members and thereby agree to make contributions as provided in KRS 61.515 to 61.705;
  - (b) All persons who are employees of a department who did not elect to participate within thirty (30) days of the date the department first participated in the system or within thirty (30) days of their return to active service and who subsequently elect to participate the first day of a month after the department's date of participation;
- (3) All persons who are employees of any credit union whose membership was initially limited to employees of state government and their families and which subsequently may have been extended to local government employees and their families;
- (4) All persons who were professional staff employees of the Council on Postsecondary Education or the Higher Education Assistance Authority and were contributing to the system on the effective date of Executive Order 74-762 or 75-964, respectively, and file a written election of their desire to continue in the system and all administrative and professional staff employees of the Higher Education Assistance Authority who, on or after January 1, 1993, are not participating in another retirement plan sponsored by the Higher Education Assistance Authority;
- (5) All persons who were professional staff employees of the Kentucky Authority for Educational Television on and after July 1, 1974;
- (6) All persons who are employees of the Teachers' Retirement System except employees who are required to participate under the Teachers' Retirement System under KRS 161.220(4)(d);
- (7) Membership in the system shall not include those employees who are simultaneously participating in another state-administered defined benefit plan within Kentucky other than those administered by the Kentucky Retirement Systems, except for employees who have ceased to contribute to one (1) of the state-administered retirement plans as provided in KRS 21.360; and
- (8) Effective January 1, 1998, employees of the Kentucky Community and Technical College System who were previously contributing members and are not required to participate in the Teachers' Retirement System as a member; employees who were previously contributing members transferred from the *former* Cabinet for Workforce Development as provided in KRS 164.5805(1)(a) and who have not exercised the option to participate in the new Kentucky Community and Technical College personnel system as provided in KRS 164.5805(1)(e); and new employees as of July 1, 1997, who are not eligible under the Teachers' Retirement System or who are not contributing to an optional retirement plan established by the board of regents for the Kentucky Community and Technical College System.

Section 14. KRS 62.160 is amended to read as follows:

- (1) The state officers elected by the voters of the state at large, except the Governor ~~and the Lieutenant Governor, and the Superintendent of Public Instruction,~~ the heads of departments, offices, and cabinets of the state government, the adjutant general, the members of the Public Service Commission, the members of the State Fair Board and Fish and Wildlife Resources Commission, and the members of the Kentucky Board of Tax Appeals and the Alcoholic Beverage Control Board, shall each give bond. The amounts of the bonds shall be fixed by the Governor, which amounts as to those offices set forth in subsection (2) of this section shall be not less than the amounts set forth for the respective offices. At any time when it appears to be to the interest of the Commonwealth, the Governor may increase the penal sum of any bond or require a renewal of the bond with other or additional surety.
- (2) The minimum sum of the bond for the following offices shall be as follows:

Secretary of State .....	\$10,000
Attorney General .....	10,000
State Treasurer .....	300,000
Secretary for economic development .....	10,000
Commissioner of Agriculture .....	10,000
Secretary for education, <del>arts, and humanities</del> .....	10,000
Auditor of Public Accounts .....	25,000
Adjutant general .....	10,000
Secretary of finance and administration .....	100,000
Commissioner of revenue .....	50,000
Secretary of transportation .....	50,000
Commissioner of highways .....	50,000
Secretary of justice .....	50,000
Secretary of corrections .....	25,000
Commissioner for public health services .....	10,000
Commissioner of labor .....	5,000
Commissioner for natural resources .....	50,000
State librarian .....	5,000
Executive director of alcoholic beverage control .....	10,000
Executive director of financial institutions .....	25,000
Secretary for environmental and public protection .....	10,000
Executive director of insurance .....	50,000
Commissioner of vehicle regulation .....	10,000
Commissioner of fish and wildlife resources .....	5,000
Secretary for health and family services .....	20,000
Commissioner of environmental protection .....	10,000
Commissioner of public protection and regulation .....	10,000
Secretary of commerce .....	25,000
Commissioner for community based services .....	20,000
Member of the Public Service Commission .....	10,000
Member of State Fair Board .....	10,000
Member of Fish and Wildlife Resources Commission .....	1,000
Member of Kentucky Board of Tax Appeals .....	10,000
Associate member of Alcoholic Beverage Control Board .....	5,000
Commissioner of local government .....	100,000

Section 15. KRS 96A.095 is amended to read as follows:

- (1) The Transportation Cabinet may receive and accept from the Commonwealth or any of its agencies, including the Cabinet for Health and Family Services and the *Department of Workforce Investment*, ~~Cabinet for~~

~~Workforce Development~~, and from federal agencies appropriations or grants to promote, develop, and provide capital and operating subsidies for mass transit services and human service transportation delivery in Kentucky, and to receive and accept aid or contributions from any source of either money, property, labor, or other things of value to promote mass transit services. Subject to the provisions of Section 230 of the Constitution of the Commonwealth of Kentucky, any of these funds, property, or things of value received by the Transportation Cabinet may be given directly to any of the following entities in order to accomplish the purposes of this section:

- (a) A local transit authority as created under this chapter;
  - (b) A city;
  - (c) A county;
  - (d) Other public mass transit providers;
  - (e) A nonprofit or public mass transit provider operating under 49 U.S.C. sec. 5310 or 5311; or
  - (f) An entity providing human service transportation delivery.
- (2) The Transportation Cabinet is authorized and directed to apply for any available federal funds for operating subsidies, either on a matching basis or otherwise and to make any of these funds received available to any of the following entities in order to accomplish the purposes of this section:
- (a) A local transit authority as created under this chapter;
  - (b) A city;
  - (c) A county;
  - (d) Other public mass transit providers;
  - (e) A nonprofit or public mass transit provider operating under 49 U.S.C. sec. 5310 or 5311; or
  - (f) An entity promoting or providing transit services such as safety, planning, research, coordination, or training activities.

In those cases where federal laws or regulations preclude the Transportation Cabinet from direct application for this type of federal funds, the cabinet is authorized and directed to provide assistance to any of the entities listed in this subsection as necessary to enable it to apply for and obtain this type of federal funds in order to accomplish the purposes of this section.

- (3) The Transportation Cabinet is authorized to assist cities and counties in the formation of local transit authorities in conformance with this chapter, but nothing in this chapter shall be construed as preventing the Transportation Cabinet from providing assistance as authorized in this chapter to cities or counties where local transit authorities do not exist.
- (4) The Transportation Cabinet is authorized to contract, in accordance with the provisions of KRS Chapters 45A and 281, with a broker to provide human service transportation delivery within a specific delivery area.

Section 16. KRS 132.193 is amended to read as follows:

- (1) Leased personal property exempt from taxation, when such property is held by a natural person, association, or corporation in connection with a business conducted for profit, shall be subject to taxation in the same amount and to the same extent as though the lessee were the owner of the property, except for personal property used in vending stands operated by blind persons under the auspices of the ~~Office~~~~Department~~ for the Blind.
- (2) Taxes shall be assessed to lessees of exempt personal property and collected in the same manner as taxes assessed to owners of other personal property, except that taxes due under this section shall not become a lien against the personal property. When due, such taxes shall constitute a debt due from the lessee to the state, county, school district, special district, city, or urban-county government for which the taxes were assessed and if unpaid shall be recoverable by the state as provided in KRS 134.500.

Section 17. KRS 132.195 is amended to read as follows:

- (1) When any real or personal property which for any reason is exempt from taxation is leased or possession otherwise transferred to a natural person, association, partnership, or corporation in connection with a business

conducted for profit, the leasehold or other interest in the property shall be subject to state and local taxation at the rate applicable to real or personal property levied by each taxing jurisdiction.

- (2) Subsection (1) of this section shall not apply to interests in:
  - (a) 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, the taxation of which is provided for under the provisions of KRS 132.020 and 132.200;
  - (b) Federal property for which payments are made in lieu of taxes in amounts equivalent to taxes which might otherwise be lawfully assessed;
  - (c) Property of any state-supported educational institution;
  - (d) Vending stand locations and facilities operated by blind persons under the auspices of the ~~Office~~~~Department~~ for the Blind, regardless of whether the property is owned by the federal, state, or a local government; or
  - (e) Property of any free public library.
- (3) Taxes shall be assessed to lessees of exempt real or personal property and collected in the same manner as taxes assessed to owners of other real or personal property, except that taxes due under this section shall not become a lien against the property. When due, such taxes shall constitute a debt due from the lessee to the state, county, school district, special district, or urban-county government for which the taxes were assessed and if unpaid shall be recoverable by the state as provided in KRS 134.500.

Section 18. KRS 146.654 is amended to read as follows:

- (1) The board of directors of the Kentucky Natural History Museum shall establish the Kentucky Natural History Museum. The board shall implement KRS 146.650 to 146.666 to the extent practical prior to operation of the museum. Working to achieve the public purposes that are the goals of implementation of KRS 146.650 to 146.666 shall not be dependent on the existence and operation of the museum in a physical place.
- (2) The board shall be administratively linked to the ~~Commerce~~~~Education, Arts, and Humanities~~ Cabinet.
- (3) To accomplish the purposes of KRS 146.650 to 146.666, the board is authorized to:
  - (a) Acquire and hold property by deed, gift, devise, bequest, lease, exchange, purchase, or transfer;
  - (b) Plan for, develop, construct, and maintain buildings;
  - (c) Enter into agreements with state, federal, or local agencies;
  - (d) Employ and contract with individuals, corporations, or other business entities to accomplish the purposes of KRS 146.650 to 146.666;
  - (e) Accept and administer appropriations, gifts, grants, devises, and bequests of money, securities, or other items of value; and
  - (f) Carry out any other functions necessary to accomplish the purposes of KRS 146.650 to 146.666.
- (4) To accomplish the purposes of KRS 146.650 to 146.666, the board may provide and administer grants to public and private entities.

Section 19. KRS 148.562 is amended to read as follows:

- (1) The authority shall be governed by a board of directors consisting of thirteen (13) members as follows:
  - (a) Secretary of the Commerce Cabinet, or his or her designee;
  - (b) Secretary of the Transportation Cabinet, or his or her designee;
  - (c) Secretary of the ~~Education, Arts, and Humanities~~ Cabinet, or his or her designee;
  - (d) Secretary of the Finance and Administration Cabinet, or his or her designee;
  - (e) Three (3) members appointed by the Governor, one (1) to be a representative of the Kentucky Arts Council, and two (2) to be at-large members; and

- (f) Six (6) members appointed by the mayor of the city of Berea to include two (2) representatives of Berea city government, two (2) representatives of Berea College recommended by the president of Berea College, one (1) representative of Eastern Kentucky University recommended by the president of Eastern Kentucky University, and one (1) at-large member.
- (2) Members shall serve for staggered terms of four (4) years beginning August 1, 2000, except that of the initial appointments:
  - (a) One (1) appointment by the Governor and two (2) appointments by the mayor of the city of Berea shall each serve a term of four (4) years;
  - (b) Two (2) appointments by the mayor of the city of Berea and one (1) appointment by the Governor shall each serve a term of three (3) years;
  - (c) One (1) appointment by the Governor and one (1) appointment by the mayor of the city of Berea shall each serve a term of two (2) years; and
  - (d) One (1) appointment by the mayor of the city of Berea shall serve a term of one (1) year.
- (3) The Governor shall appoint a chair from among the members of the board.
- (4) A quorum of the board shall consist of seven (7) members, with a majority of members present authorized to act upon any matter legally before the authority.
- (5) A member may be removed by the appointing authority only for neglect of duty, misfeasance, or malfeasance, and after being afforded an opportunity for a hearing in accordance with KRS Chapter 13B, relating to administrative hearings.

Section 20. KRS 151B.010 is amended to read as follows:

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

- (1) "Appointing authority" means the commissioner for the Department *of Workforce Investment*~~for Technical Education~~ or any person authorized by the commissioner to act on behalf of the *Office of Career and Technical Education*~~department~~ with respect to employee appointments, position establishments, payroll documents, reemployment lists, waiver requests, or other position actions. The designation shall be in writing and signed by both the commissioner and the designee.
- (2) "Base salary" means the compensation to which an employee is entitled under the salary schedule adopted pursuant to the provisions of KRS 151B.035(3)(h)~~(i)~~.
- (3) "Board" means the Kentucky Technical Education Personnel Board established in KRS 151B.097.
- (4) "Certified employees" means those employees who fill school or educational assignments requiring the issuance of a certificate. These employees in the *Office of Career and*~~Department for~~ Technical Education are subject to personnel administration under this chapter.
- (5) "Class" means a group of positions sufficiently similar as to the duties performed, scope of discretion and responsibility, minimum requirements of training, and other characteristics that the same title and the same schedule of compensation have been or may be applied to each position in the group.
- (6) "Classified" means status as merit system employees under the provisions of KRS Chapter 18A.
- (7) "Continuing status" means the acquisition of tenure with all rights and privileges granted by the provisions of this chapter which must be preceded by four (4) years of successful employment.
- (8) "Demotion" means a change in an employee's position to another class having less discretion or responsibility.
- (9) "Emergency appointment" means employment for a maximum period of sixty (60) days without regard to the certification process for any position in the *Office of Career and*~~Department for~~ Technical Education requiring certification or its equivalent.
- (10) "Employee" means a person regularly employed in a position in the *Office of Career and*~~Department for~~ Technical Education for which compensation is on a full-time or part-time basis.
- (11) "Equivalent employees" means those employees with educational backgrounds similar to certified personnel in the administration and conduct of educationally related services. These employees in the *Office of Career and*~~Department for~~ Technical Education shall be subject to personnel administration under this chapter.



- (12) "Hearing officer" means a member of the board, a person hired for this purpose by personal service contract, or an assistant Attorney General.
- (13) "Index" means the percentage add-on in a salary structure which compensates for the scope of discretion and responsibility of the position.
- (14) "Initial probation" means the one (1) year period following initial appointment of certified and equivalent employees under KRS 151B.070 which requires special observation and evaluation of a person's work and which must be passed successfully before eligibility for renewal of limited status.
- (15) "Limited status" means employment that is renewable on an annual basis.
- (16) "Penalization" means actions including demotion, dismissal, suspension, involuntary transfer, reduction in rank or pay, or the abridgement or denial of rights granted to state employees or other disciplinary actions.
- (17) "Position" means employment involving duties requiring the services of one (1) person.
- (18) "Promotion" means changing an employee from a position in one (1) class to a position in another class carrying a greater scope of discretion and responsibility.
- (19) "Promotional probation" means the twelve (12) month period of service following the promotion of an employee with continuing status which must be successfully completed in order for the employee to remain in the position.
- (20) "Reemployment" means the rehiring of an employee with continuing status who has been laid off.
- (21) "Reemployment list" means the separate list of names of persons who have been separated from certified or equivalent positions in the *Office of Career and*~~Department for~~ Technical Education by reason of layoff. Reemployment lists shall be used as provided by the provisions of KRS 151B.080.
- (22) "Reinstatement" means the restoration of a certified or equivalent employee who has resigned in good standing or who has been ordered reinstated by the board or a court to a position in the former class or to a position of like status and pay.
- (23) "Seasonal employees" means employees employed in a seasonal position. Seasonal position means a position that is temporary, and which coincides with a particular season or seasons of the year.
- (24) "Temporary employee" means an employee appointed to a temporary position. Temporary position means a position that is created for a definite period of time.
- (25) "Transfer" means a movement of any certified or equivalent employee from one position to another having the same salary range and the same level of responsibility.
- (26) "Unclassified employee" means any temporary or seasonal employee and any employee in a policymaking position who shall be exempt from the state service under KRS Chapter 18A and who is employed in the *Office of Career and*~~Department for~~ Technical Education under this chapter.

Section 21. KRS 151B.020 is amended to read as follows:

- (1) The *Education Cabinet*~~for Workforce Development~~ is hereby created, which shall constitute a cabinet of the state government within the meaning of KRS Chapter 12. The cabinet shall consist of a secretary and those administrative bodies and employees as provided by law.
- (2) The cabinet, subject to the provisions of KRS Chapter 12, shall be composed of the major organizational units listed below, *units listed in Section 3 of this Act*, and other departments, divisions, and sections as are from time to time deemed necessary for the proper and efficient operation of the cabinet:
  - (a) The Department of *Workforce Investment, which is hereby created and established within the Education Cabinet. The department shall be directed and managed by a commissioner who shall be appointed by the Governor under the provisions of KRS 12.040, and who shall report to the secretary of the Education Cabinet. The department shall be composed of the following offices*~~for Adult Education and Literacy, which is created by KRS 151B.023~~;

~~1. (b) The~~ *Office of Career and*~~Department for~~ Technical Education, which is created by KRS 151B.025;

2. ~~{(e)}~~ The *Office*~~{Department}~~ of Vocational Rehabilitation, which is created by KRS 151B.185;
  3. ~~{(d)}~~ The *Office*~~{Department}~~ for the Blind established by KRS 163.470;
  4. ~~{(e)}~~ The *Office of Employment and Training*~~{Department for Employment Services}~~, which is created by KRS 151B.280;
- (b)~~{(f)}~~ The Kentucky Technical Education Personnel Board established in KRS 151B.097; *and*
- ~~{(g)}~~ The Foundation for Adult Education established by KRS 151B.130;
- (c)~~{(h)}~~ The Unemployment Insurance Commission established by KRS 341.110; *and*
- ~~{(i)}~~ The Department for Training and Reemployment created in KRS 151B.260.
- (3) The executive officer of the cabinet shall be the secretary of the *Education* Cabinet~~{for Workforce Development}~~. The secretary shall be appointed by the Governor pursuant to KRS 12.255~~{12.040}~~ and shall serve at the pleasure of the Governor. The secretary shall have general supervision and direction over all activities and functions of the cabinet and its employees and shall be responsible for carrying out the programs and policies of the cabinet. The secretary shall be the chief executive officer of the cabinet and shall have authority to enter into contracts, subject to the approval of the secretary of the Finance and Administration Cabinet, when the contracts are deemed necessary to implement and carry out the programs of the cabinet. The secretary shall have the authority to require coordination and nonduplication of services provided under the Federal Workforce Investment Act of 1998, 20 U.S.C. secs. 9201 et seq. The secretary shall have the authority to mandate fiscal responsibility dispute resolution procedures among state organizational units for services provided under the Federal Workforce Investment Act of 1998, 20 U.S.C. secs. 9201 et seq. ~~{The Office of the Secretary of the Cabinet for Workforce Development shall consist of the Offices of General Counsel, Communication Services, Workforce Partnerships, Workforce Analysis and Research, Budget and Administrative Services, Quality and Human Resource Services, and Technology Services. The Office of Budget and Administrative Services shall contain the Division of Fiscal Services. The division shall be headed by a director appointed by the secretary of the Cabinet for Workforce Development pursuant to KRS 12.050.}~~
  - (4) The secretary of the *Education* Cabinet~~{for Workforce Development}~~ and the secretary's designated representatives, in the discharge of the duties of the secretary, may administer oaths and affirmations, take depositions, certify official acts, and issue subpoenas to compel the attendance of witnesses and production of books, papers, correspondence, memoranda, and other records considered necessary and relevant as evidence at hearings held in connection with the administration of the cabinet.
  - (5) The secretary of the *Education* Cabinet~~{for Workforce Development}~~ may delegate any duties of the secretary's office to employees of the cabinet as he or she deems necessary and appropriate, unless otherwise prohibited by statute.
  - (6) The secretary of the *Education* Cabinet~~{for Workforce Development}~~ shall promulgate, administer, and enforce administrative regulations that are necessary to implement programs mandated by federal law, or to qualify for the receipt of federal funds, and that are necessary to cooperate with other state and federal agencies for the proper administration of the cabinet and its programs *except for programs and federal funds within the authority of the Council on Postsecondary Education, the Department of Education, the Kentucky Board of Education, and the Education Professional Standards Board.*

Section 22. KRS 151B.025 is amended to read as follows:

- (1) The *Office of Career and*~~{Department for}~~ Technical Education is hereby created *within*~~{and shall be attached to}~~ the *Education* Cabinet~~{for Workforce Development}~~. The *office*~~{department}~~ shall consist of *an executive director*~~{a commissioner}~~ and those administrative bodies and employees provided *by* or appointed pursuant to law.
- (2) The chief executive officer of the *office*~~{department}~~ shall be the *executive director*~~{commissioner}~~ of the *Office of Career and*~~{Department for}~~ Technical Education. The *executive director*~~{commissioner}~~ shall be appointed to the unclassified service by the secretary of the *Education* Cabinet~~{for Workforce Development}~~ with the approval of the Governor pursuant to KRS 12.050. The *executive director*~~{commissioner}~~ shall have general supervision and direction over all functions of the *office*~~{department}~~ and its employees, and shall be responsible for carrying out the programs and policies of the *office*~~{department}~~. The *executive director*~~{commissioner}~~ may delegate authority to deputies who may then act on his or her behalf in performing the duties assigned in this subsection.

- (3) The ***office***~~[department]~~ shall have the responsibility for all administrative functions of the state in relation to the management, control, and operation of state-operated secondary area vocational education and technology centers. When appropriate, the ***office***~~[department]~~ shall provide education training programs through contracts with private business and industries. These programs may be on a shared cost basis or on a total cost recovery basis.
- (4) The ***executive director***~~[commissioner]~~ of the ***Office of Career and***~~[Department for]~~ Technical Education shall have the authority to enter into agreements or contracts with other government or education agencies, including local school districts, in order to carry out services under the ***office's***~~[department's]~~ jurisdiction.
- (5) Secondary area vocational education and technology centers shall be operated in compliance with program standards established by the Kentucky Board of Education. Principals, counselors, and teaching staff shall meet the qualifications and certification standards for all secondary vocational personnel as established by the Educational Professional Standards Board. In addition to direct appropriations, funds appropriated to support the cost of operating area vocational education and technology centers shall be transferred annually from the secondary funds administered by the Kentucky Department of Education for that purpose.
- (6) The ***Office of Career and***~~[Department for]~~ Technical Education, in the operation and management of its schools and the programs at those schools, shall meet all required federal and state standards relating to facilities and personnel qualification; provided, however, that no license or license fee shall be required for any school or program operated by the ***Office of Career and***~~[Department for]~~ Technical Education.
- (7) The ***Office of Career and***~~[Department for]~~ Technical Education shall be the education agency solely designated for the purpose of developing and approving state plans required by state or federal laws and regulations as prerequisites to receiving federal funds for vocational-technical or technology education. The ***office***~~[department]~~ shall involve representatives from all eligible recipient categories in the development of the required plans.
- (8) The ***office***~~[department]~~ shall be permitted to enter into memorandums of agreement with individuals on a year to year basis to fill positions in hard-to-find teaching specialties. The agreements and compensation for hard-to-find teaching specialties shall be approved by the ***executive director***~~[commissioner]~~ and shall not be subject to the provisions of KRS Chapter 45A. All agreements shall be filed with the secretary of the Finance and Administration Cabinet.
- (9) The ***executive director***~~[commissioner]~~ of the ***Office of Career and***~~[Department for]~~ Technical Education shall, from time to time, prepare or cause to be prepared any bulletins, programs, outlines of courses, placards, and courses of study deemed useful in the promotion of the interests of technical and vocational education.
- (10) The ***executive director of the Office of Career and Technical Education***~~[commissioner of the department]~~ shall be responsible for the preparation of a biennial budget request, which shall be forwarded to the ***executive director of the Office of Budget and Administration within the Education Cabinet for preliminary review and approval. Final approval shall be given by the secretary of the Education Cabinet or his or her designee***~~[secretary of the Cabinet for Workforce Development for review and modification]~~.

Section 23. KRS 151B.030 is amended to read as follows:

The ***Office of Career and***~~[Department for]~~ Technical Education shall ~~have~~**have**~~be divided according to~~ the following organizational structure:

- (1) The ***secretary***~~[commissioner]~~ of the~~[ Department for Technical]~~ Education ***Cabinet*** shall appoint ***an executive director of career and***~~[a deputy commissioner for]~~ technical education pursuant to KRS 12.050 and assign duties as appropriate.
- ~~(2) There is hereby created a Division of Administrative Services within the Department for Technical Education. The division shall be headed by a director appointed by the commissioner of the Department for Technical Education pursuant to KRS 12.050. The division shall be composed of organizational entities as deemed appropriate by the commissioner of the Department for Technical Education as set forth by administrative order.~~
- ~~(3)~~ There is hereby created a Division of ***Secondary Education and Technical Training***~~[School Services]~~ within the ***Office of Career and***~~[Department for]~~ Technical Education. The division~~[of School Services]~~ shall be headed by a director appointed by the ***secretary of the Education Cabinet***~~[commissioner of the Department for]~~

~~Technical Education~~ under KRS 12.050. The Division~~[of School Services]~~ shall be composed of organizational entities as deemed appropriate by the secretary of the **Education** Cabinet~~[for Workforce Development as set forth by administrative order]~~.

(3)~~(4)~~ The **appointing authority**~~[commissioner]~~ shall appoint an ombudsman **pursuant to KRS 12.050** and specify his **or her** functions and duties.

(4)~~(5)~~ The Kentucky Technical Education Personnel Board, pursuant to KRS 151B.097, shall be attached to the **Office of Career and Technical Education**~~[department]~~ for administrative purposes.

Section 24. KRS 151B.035 is amended to read as follows:

- (1) The **executive director**~~[commissioner]~~ of the **Office of Career and**~~[Department for]~~ Technical Education shall promulgate, by administrative regulations, personnel policies and procedures for all full-time and part-time unclassified employees, certified and equivalent staff, including administrative, teaching, and supervisory staff in the **Office of Career and**~~[Department for]~~ Technical Education central office and state-operated vocational facilities. All other staff shall remain under the authority of the Kentucky Personnel Cabinet and KRS Chapter 18A. Employees who transfer to or from the KRS Chapter 18A personnel system shall transfer accrued annual, compensatory, and sick leave.
- (2) As provided in this chapter, the **executive director**~~[commissioner]~~ of the **Office of Career and**~~[Department for]~~ Technical Education shall promulgate comprehensive administrative regulations for the administration of a personnel system in the **Office of Career and**~~[Department for]~~ Technical Education which are consistent with the provisions of this chapter and with federal standards for state government agencies receiving federal grants.
- (3) The **executive director**~~[commissioner]~~ of the **Office of Career and**~~[Department for]~~ Technical Education shall promulgate comprehensive administrative regulations for full-time and part-time certified and equivalent staff governing:
  - (a) Establishment and abolishment of positions;
  - (b) Applications;
  - (c) ~~Certification;~~
  - ~~(d)~~ Classification and compensation plans;
  - ~~(d)~~~~(e)~~ Incentive programs;
  - ~~(e)~~~~(f)~~ Selection of employees;
  - ~~(f)~~~~(g)~~ Types of appointments;
  - ~~(g)~~~~(h)~~ Attendance, including hours of work, compensatory time, and annual, court, military, sick, voting, and special leaves of absence;
  - ~~(h)~~~~(i)~~ Preparation, maintenance, and revision of a position classification plan and an equitable salary schedule for certified and equivalent staff based on qualifications, experience, and responsibilities;
  - ~~(i)~~~~(j)~~ Extent and duration of the state-operated area vocational education and technology centers' school term, use of school days, and extended employment;
  - ~~(j)~~~~(k)~~ Employee evaluations;
  - ~~(k)~~~~(l)~~ Programs to improve the work effectiveness of employees including staff development;
  - ~~(l)~~~~(m)~~ Demotion;
  - ~~(m)~~~~(n)~~ Dismissal;
  - ~~(n)~~~~(o)~~ Layoffs;
  - ~~(o)~~~~(p)~~ Suspensions and other disciplinary measures;
  - ~~(p)~~~~(q)~~ Probationary periods, limited employment status, and continuing employment status;
  - ~~(q)~~~~(r)~~ Promotion;
  - ~~(r)~~~~(s)~~ Transfer;

- (s)~~(t)~~ Appeals; and
  - (t)~~(u)~~ Employee grievances and complaints.
- (4) (a) Administrative regulations promulgated by the *executive director*~~commissioner~~ of the *Office of Career and*~~Department for~~ Technical Education shall comply with the provisions of this chapter and KRS Chapter 13A and shall have the force and effect of law, when approved by the commissioner *of the Department of Workforce Investment* and after compliance with the provisions of KRS Chapter 13A.
  - (b) Administrative regulations promulgated by the *executive director*~~commissioner~~ of the *Office of Career and*~~Department for~~ Technical Education shall not expand or restrict rights granted to, or duties imposed upon, employees and administrative bodies by the provisions of this chapter.
  - (c) No administrative body other than the *executive director*~~commissioner~~ of the *Office of Career and*~~Department for~~ Technical Education shall promulgate administrative regulations governing the subject matters specified in this section.
  - (d) Policies and procedures for the implementation of administrative regulations shall be developed by the *Office of Career and*~~Department for~~ Technical Education.
  - (5) The commissioner for *the Department of Workforce Investment*~~Technical Education~~ shall be the appointing authority with respect to all personnel actions for the *Office of Career and Technical Education*~~department~~. The commissioner may authorize a designee to act on behalf of the agency with respect to employee appointments, position establishments, payroll documents, reemployment lists, waiver requests, or other position actions. Any personnel designation shall be in writing. Authority to employ personnel may be delegated to the vocational school management by the commissioner. Any recommendation for employment from the local level shall be based on guidelines promulgated by the *executive director*~~commissioner~~ and shall be contingent upon confirmation by the *executive director*~~commissioner and the board~~.
  - (6) The *executive director*~~commissioner~~ of the *Office of Career and*~~Department for~~ Technical Education shall promulgate other administrative regulations to govern proceedings which relate to certified and equivalent employees and which shall provide for:
    - (a) The procedures to be utilized by the Kentucky Technical Education Personnel Board in the conduct of hearings, consistent with KRS Chapter 13B;
    - (b) Discharge, as provided by this section;
    - (c) Imposition, as a disciplinary measure, of a suspension from service without pay for up to thirty (30) working days and, in accordance with the provisions of KRS 151B.055, for the manner of notification of the employee of the discipline and right of appeal;
    - (d) Promotions which shall give appropriate consideration to the applicant's qualifications, record of performance, and conduct;
    - (e) Supplementary information for the salary schedule for certified and equivalent staff including teachers, counselors, administrators, managers, and educational consultants in state-operated vocational technical facilities, field offices, and central office in the *Office of Career and*~~Department for~~ Technical Education that shall provide uniformity, recognition of education, teaching, and supervisory experience and use as a base the average salary paid to beginning classroom teachers by all public schools in the state for personnel with comparable qualifications and experience. Indexes may be incorporated in the compensation plan for administrative responsibilities. The salary schedule shall be computed annually, and shall be submitted to and approved by the Governor;
    - (f) Reemployment of laid-off employees in accordance with the provisions of this chapter;
    - (g) Establishment of a plan for resolving employee grievances and complaints. The plan shall not restrict rights granted employees by the provisions of this chapter; and
    - (h) Any other administrative regulations not inconsistent with this chapter and KRS Chapter 13A proper and necessary for its enforcement.
  - (7) The *executive director*~~commissioner~~ of the *Office of Career and*~~Department for~~ Technical Education shall make investigations, either on petition of a citizen, taxpayer, interested party, or as deemed necessary by the

*executive director*~~[commissioner]~~, concerning the enforcement and effect of KRS 151B.035 to 151B.090, shall require observance of the provisions and the administrative regulations promulgated pursuant to the provisions of this chapter and KRS Chapter 13A, and shall make investigation as requested by the General Assembly or the Governor and to report thereon.

- (8) The *executive director*~~[commissioner]~~ of the *Office of Career and*~~[Department for]~~ Technical Education shall promulgate administrative regulations, pursuant to KRS Chapter 13A, for an appeal system for aggrieved certified or equivalent employees.
- (9) The Kentucky Technical Education Personnel Board shall hear appeals from applicants for positions or from certified, equivalent, and unclassified employees who have been dismissed, demoted, suspended, or otherwise penalized for cause. Effective August 15, 2000, appeals from assistants and secretaries in the *Office of Career and*~~[Department for]~~ Technical Education~~[and the Department for Adult Education and Literacy]~~ attached to policymaking positions shall be governed by KRS 18A.095. The State Personnel Board, established in KRS 18A.045, shall hear appeals that are pending as of August 15, 2000, from assistants and secretaries attached to policymaking positions in the *Office of Career and*~~[Department for]~~ Technical Education~~[and personnel in the Department for Adult Education and Literacy]~~.
- (10) The Kentucky Technical Education Personnel Board may, any statute to the contrary notwithstanding, delegate the conduct of the hearing and the rendition of a recommended order to the full board, to a panel of the board, or to a hearing officer, relative to any hearing appeal, or decision, judicial or quasi-judicial in nature, which the board is empowered or directed, by this or any other chapter, to conduct, hear, or make; provided, however, that the full board as provided by statute, makes the final order, based upon the evidence submitted.
- (11) The *executive director*~~[commissioner]~~ of the *Office of Career and*~~[Department for]~~ Technical Education shall promulgate administrative regulations, pursuant to KRS Chapter 13A, governing the unclassified service including the preparation and maintenance of a salary schedule and other administrative regulations authorized by this chapter.
- (12) The annual percentage salary increment for all certified and equivalent employees subject to the personnel system established under this chapter shall be at least equal to that funded and provided for other elementary and secondary teachers.
- (13) The positions of employees who are transferred, effective July 1, 1998, from the *former* Cabinet for Workforce Development to the Kentucky Community and Technical College System shall be abolished and the employees' names removed from the roster of state employees. Employees who are transferred, effective July 1, 1998, to the Kentucky Community and Technical College System under KRS Chapter 164 shall have the same benefits and rights as they had under KRS Chapter 18A and have under KRS 164.5805; however, they shall have no guaranteed reemployment rights in the KRS Chapter 151B or KRS Chapter 18A personnel systems. An employee who seeks reemployment in a state position under KRS Chapter 151B or KRS Chapter 18A shall have years of service in the Kentucky Community and Technical College System counted toward years of experience for calculating benefits and compensation.

Section 25. KRS 151B.040 is amended to read as follows:

- (1) All certified, equivalent, and unclassified employees in the *Office of Career and*~~[Department for]~~ Technical Education shall be:
  - (a) Provided the same health insurance coverage as all other state government employees provided in KRS 18A.225;
  - (b) Eligible to participate in the deferred compensation system provided for all state government employees by KRS 18A.250 to 18A.265;
  - (c) Provided the same life insurance coverage provided all state employees pursuant to KRS 18A.205 to 18A.215;
  - (d) Reimbursed for all reasonable and necessary travel expenses and disbursements incurred or made pursuant to KRS 45.101 in the performance of their official duties; no part of the reimbursement shall be included in or accounted as a part of their salaries;
  - (e) Ensured equal employment opportunity regardless of race, color, religion, national origin, disability, sex, or age; and
  - (f) Given those holidays and rights granted state employees pursuant to KRS 18A.190.

- (2) Employees under the jurisdiction of the **former** Department for Technical Education who are members of a state retirement system as of June 30, 1990, shall remain in their respective retirement systems. All new certified and equivalent employees hired by the **office**~~[departments]~~ shall be placed in the Kentucky **Teachers'**~~[Teacher's]~~ Retirement System.

Section 26. KRS 151B.045 is amended to read as follows:

- (1) The records of the **Office of Career and**~~[Department for]~~ Technical Education shall be public records and shall be open to public inspection, as provided in KRS 61.870 to 61.884.
- (2)
  - (a) A personnel file shall be maintained by the **Education Cabinet**~~[departments]~~ for each employee. The files maintained by the **Education Cabinet**~~[departments]~~ shall be the official personnel file for the employees.
  - (b) Each file shall include, but not be limited to, the employee's name, address, title of positions held, classifications, rates of compensation, all changes in status including evaluations, promotions, demotions, layoffs, transfers, disciplinary actions, commendations, and awards. Each file shall contain the complete record and supporting documentation for each personnel action.
  - (c) When an employee is reprimanded for misconduct, other infraction, or failure to perform duties in a proper or adequate manner, the supervising employee taking the action shall document the action in detail, and shall provide the employee with a copy of the documentation. The supervising employee shall inform the employee of his or her right to prepare a written response to the action taken after the employee has reviewed the written documentation prepared by the supervising employee. The employee's response shall be attached to the documentation prepared by the supervising employee. The supervising employee shall place a copy of the documentation and response in the employee's personnel file and shall transmit a copy to be placed in the central office personnel file of the employee. The supervising employee shall notify the employee that copies of the documentation and the response provided for in this subsection have been placed in the employee's personnel files.
- (3) Upon written request, an employee shall have the right to examine his or her personnel file. An employee may comment in writing on any item in the file. The comments shall be made a part of the file and shall be attached to the specific record or document to which they pertain.
- (4) No public agency, as defined by KRS 61.870, and no officer or employee shall deny, abridge, or impede the exercise of the rights granted in any manner by this section and by KRS 61.878.

Section 27. KRS 151B.050 is amended to read as follows:

Except as provided by the provisions of this chapter, the **appointing authority or designee for the Office of Career and**~~[commissioner for adult education and literacy, and the commissioner for]~~ Technical Education may refuse to consider an applicant for a certified or equivalent position, or, after consideration, may disqualify the applicant or may remove an employee already appointed if:

- (1) It is found that the person did not maintain certification or that certification has been revoked for the position;
- (2) The person is unable to perform the duties of the position;
- (3) The person made a false statement of material fact in the application;
- (4) The application was not submitted correctly or within the prescribed time limits;
- (5) The person has been convicted of a felony within the preceding five (5) years and has not had civil rights restored or has not been pardoned by the Governor;
- (6) The person has been convicted of a job related misdemeanor, except that convictions for violations of traffic regulations shall not constitute grounds for disqualification;
- (7) The person has previously been dismissed from a position in his department for cause or has resigned while charges for dismissal for cause of which the person had knowledge were pending; or
- (8) The person has otherwise violated the provisions of this chapter.

Section 28. KRS 151B.055 is amended to read as follows:

- (1) All certified and equivalent employees who previously held merit status under KRS Chapter 18A shall become continuing status employees in the *Office of Career and*~~Department for~~ Technical Education.
- (2) Prior to dismissal, an employee with continuing status shall be notified in writing of the intent to dismiss. The notice shall also state:
  - (a) The specific reasons for dismissal including:
    1. The statutory or regulatory violation;
    2. The specific action or activity on which the intent to dismiss is based;
    3. The date, time, and place of the action or activity; and
    4. The name of the parties involved; and
  - (b) That the employee has the right to appear personally, or with counsel if counsel has been retained, to reply to the *appointing authority*~~commissioner~~ or a designee.
- (3) The *Office of Career and*~~Department for~~ Technical Education shall prescribe and distribute a form to be completed and forwarded by an employee who wishes to appear before the *appointing authority*~~commissioner~~ or a designee. The form shall be attached to every notice of intent to dismiss, and shall contain written instructions explaining:
  - (a) The right granted an employee under the provisions of this section relating to pretermination hearings; and
  - (b) The time limits and procedures to be followed by all parties in pretermination hearings.
- (4) No later than five (5) working days after receipt of the notice of intent to dismiss, excluding the day of receipt of notice, the employee may request to appear, personally or with counsel if counsel is retained, to reply to the *appointing authority*~~commissioner of the Department for Technical Education~~ or a designee.
- (5) The appearance shall be held six (6) working days after receipt of an employee's request to appear before the *appointing authority*~~commissioner~~ or a designee, excluding the day the employee's request is received, unless the employee and the *appointing authority*~~commissioner~~ or a designee agree to a later date.
- (6) No later than five (5) working days after the employee appears before the *appointing authority*~~commissioner~~ or a designee, excluding the day of the appearance, the *appointing authority*~~commissioner~~ or a designee shall:
  - (a) Determine whether to dismiss the employee or to alter, modify, or rescind the intent to dismiss; and
  - (b) Notify the employee in writing of the decision.
- (7) If the *appointing authority*~~commissioner~~ or a designee determines that the employee shall be dismissed, the employee shall be notified in writing of:
  - (a) The effective date of dismissal or other penalization;
  - (b) The specific reason for the action, including:
    1. The statutory or regulatory violation;
    2. The specific action or activity on which the dismissal is based;
    3. The date, time, and place of the action or activities; and
    4. The names of the parties involved; and
  - (c) That the employee may appeal the dismissal to the Kentucky Technical Education Personnel Board within thirty (30) days after receipt of this notification, excluding the day the notice is received.
- (8) A certified or equivalent employee with continuing status who is demoted or suspended shall be notified in writing of:
  - (a) The demotion or suspension;
  - (b) The effective date of the demotion or suspension;
  - (c) The specific reason for the action including:



1. The statutory or regulatory violation;
  2. The specific action or activity on which the demotion or suspension is based;
  3. The date, time, and place of the action or activity; and
  4. The name of the parties involved; and
- (d) That the employee has the right to appeal to the Kentucky Technical Education Personnel Board within thirty (30) days, excluding the day of receipt of notification.
- (9) Any employee or applicant for employment may appeal to the board on the grounds that the right to inspect or copy records, including preliminary and other supporting documentation, relating to the employee has been denied, abridged, or impeded. The board shall conduct a hearing to determine if the records related to the employee or applicant, and if the right to inspect or copy was denied, abridged, or impeded. If the board determines that the records related to the employee and that the right to inspect or copy the records has been denied, abridged, or impeded, the board shall order that the records be made available for inspection and copying.
- (10) Any certified, equivalent, or unclassified employee may appeal an action alleged to be based on discrimination due to race, color, religion, national origin, sex, disability, or age to the board. Nothing in this section shall be construed to preclude any employee from filing with the Kentucky Commission on Human Rights a complaint alleging discrimination on the basis of race, color, religion, national origin, sex, disability, or age in accordance with KRS Chapter 344.
- (11) (a) Appeals to the Kentucky Technical Education Personnel Board shall be in writing on an appeal form prescribed by the ***Office of Career and Department for*** Technical Education. Appeal forms shall be available at the employee's place of work. The ***Office of Career and Department for*** Technical Education shall be responsible for the distribution of the forms.
- (b) The appeal form shall be attached to any notice, or copy of the notice, of dismissal, demotion, suspension, involuntary transfer, or other penalization, or notice of any other action an employee may appeal under the provisions of this section.
- (c) Upon receipt of the appeal by the board, the ***appointing authority or a designee***~~commissioner~~ shall be notified, and the board shall schedule a hearing that shall be conducted in accordance with KRS Chapter 13B.
- (12) (a) Except as provided in this section, an appeal shall be decided by the board only after a hearing. The board shall not deny, reject, or sustain an appeal, or make any other determination relating to an appeal, except after a hearing is conducted pursuant to the provisions of this section and KRS Chapter 13B.
- (b) The board may deny a hearing to an employee who has failed to file an appeal over which the board has jurisdiction or within the time prescribed by this section and to an unclassified employee who has failed to state the cause for dismissal. The board shall notify the employee of its denial in writing and shall inform the employee of his or her right to appeal the denial under the provisions of KRS 151B.060.
- (c) Any investigation by the board of any matter related to an appeal filed by an employee shall be conducted only upon notice to the employee, the employee's counsel, and the appointing authority. All parties to the appeal shall have access to information produced by the investigations and the information shall be presented at the hearing. Any party to the hearing shall be permitted an adequate opportunity to rebut or comment upon the information.
- (13) Each appeal shall be decided individually, unless otherwise agreed by the parties and the board. The board shall not:
- (a) Employ class action procedures; or
  - (b) Conduct test representative cases.
- (14) Board members shall abstain from public comment about a pending or impending proceeding before the board. This shall not prohibit board members from making public statements in the course of their official duties or from explaining for public information the procedures of the board.

- (15) (a) If the board finds that the action complained of was taken by the appointing authority *or designee* in violation of laws prohibiting favor for, or discrimination against, or bias with respect to political or religious opinions or affiliations or ethnic origin, or in violation of laws prohibiting discrimination because of the individual's sex, age, or disability, the *appointing authority or designee*~~[commissioner]~~ shall immediately reinstate the employee to his or her former position or a position of like status and pay, without loss of pay for the period of penalization, or otherwise make the employee whole;
- (b) If the board finds that the action complained of was taken without just cause, the board shall order the immediate reinstatement of the employee to his or her former position or a position of like status and pay, without loss of pay for the period of penalization, or otherwise make the employee whole;
- (c) If the board finds that the action taken by the appointing authority was excessive or erroneous in view of all the surrounding circumstances, the board shall alter, modify, or rescind the disciplinary action; and
- (d) In all other cases, the board shall rescind the action taken or grant other relief to which the employee is entitled.
- (16) If a final order of the board is appealed, a court shall award reasonable attorney's fees to an employee who prevails by a final adjudication on the merits as provided by KRS 453.260. The award shall not include attorney's fees attributable to the hearing before the board.

Section 29. KRS 151B.065 is amended to read as follows:

- (1) (a) When a certified, equivalent, or unclassified employee has been finally ordered reinstated without loss of pay, pursuant to the provisions of KRS 151B.060, the board shall forward a certified copy of the order to the *Office of Career and*~~[Department for]~~ Technical Education. The *office*~~[department]~~ shall process proper payment to the employee for the period of suspension, the payment to be made out of the agency's appropriations. If no funds or insufficient funds are available in the agency's appropriations, then payment shall be made out of the judgments section of the general fund of the biennial state budget.
- (b) Gross moneys which are earned by the employee from other sources during the period of suspension shall set off against the gross sum due the employee, to the extent that the moneys were earned in a number of hours comparable to the length of time the employee would have worked in the previous job where dismissal occurred. The *executive director*~~[commissioner]~~ of the *Office of Career and*~~[Department for]~~ Technical Education shall by regulation provide an administrative procedure for determining reasonable earnings to be set off.
- (c) All other deductions shall be deducted as required by law or by other state regulation.
- (2) (a) Both the employee's and employer's contributions to the Kentucky Teachers' Retirement System or the Kentucky Employees Retirement System shall be based upon the gross amount due the employee, before set-off or deduction, except for set-off caused by earnings on which employee and employer contributions to the Kentucky Teachers' Retirement System or the Kentucky Employees Retirement System have been paid.
- (b) Member and employer contributions paid into the system in which the employee participated after dismissal shall be transferred to the system in which the employee participated prior to illegal dismissal. In the event of a difference in member or employer contribution rates between the retirement system under which the member was covered prior to dismissal and the retirement system of participation before reinstatement by the board, the member and employer shall pay or receive a refund in order to adjust their respective contribution to the appropriate rate for the system under which the employee would have participated if dismissal had not occurred.

Section 30. KRS 151B.075 is amended to read as follows:

- (1) The *executive director*~~[commissioner]~~ of the *Office of Career and*~~[Department for]~~ Technical Education shall adopt written evaluation procedures for all certified and equivalent employees. The procedures shall be based upon recommendations received from a committee composed of equal numbers of teachers, counselors, and administrators.
- (2) Evaluations shall be in writing. An evaluator shall follow all statutory and regulatory provisions for evaluation and shall present and explain all documentation affecting an employee's evaluation, as well as discuss every aspect of performance with the employee at each evaluation. The evaluator shall solicit the employee's opinions and suggestions and shall advise the employee of the measures needed to improve performance.

- (3) Each full-time employee who has completed initial probation, and each part-time employee who works over one hundred (100) hours each month and who has completed initial probation shall be evaluated.
- (4)
  - (a) The first-line supervisor of an employee shall be the evaluator, providing the period of supervision has been for a period of at least ninety (90) calendar days.
  - (b) If the evaluator has supervised an employee for at least ninety (90) calendar days and ceases to be the employee's first-line supervisor after such period of time, the evaluation of the employee shall be at least five (5) working days prior to the day when the responsibility for supervision ceases.
  - (c) If the first-line supervisor ceases to be the supervisor of an employee due to the suspension, demotion, or dismissal of the first-line supervisor, paragraph (b) of this subsection shall not apply.
  - (d) If the first-line supervisor ceases to be an employee's supervisor because the employee transfers, the first-line supervisor shall evaluate the employee prior to transfer, if the period of supervision of the employee is not less than ninety (90) calendar days prior to notification of transfer.
- (5) Teachers and administrators in the state-operated secondary area vocational education and technology centers shall be evaluated in the following categories and appropriate criteria for each category shall be described in the written evaluation procedure:
  - (a) School or classroom management, as appropriate;
  - (b) Job knowledge and skills;
  - (c) Instructional management;
  - (d) Employee conduct; and
  - (e) Professional responsibility.
- (6) All other certified and equivalent staff in the field and in the central office shall be evaluated in the following categories with appropriate criteria described in written evaluation procedures:
  - (a) Job knowledge and skills;
  - (b) Quality of work;
  - (c) Employee conduct; and
  - (d) Professional responsibility.
- (7) There shall be established by the *executive director*~~[commissioner]~~ an evaluation appeals procedure for certified or equivalent personnel in the *Office of Career and*~~[Department for]~~ Technical Education.
- (8)
  - (a) Within five (5) working days of an evaluation, an employee may request reconsideration of the evaluation by the evaluator.
  - (b) Within five (5) working days of the reconsideration, an employee may:
    - 1. Submit a written response to any evaluation which shall be attached to the evaluation; and
    - 2. Submit a written request for reconsideration of any evaluation to the second-line supervisor.
  - (c) No later than fifteen (15) working days after receipt of the request, the second-line supervisor shall inform the employee and the evaluator in writing of the decision after the second-line supervisor has:
    - 1. Obtained written statements from both the employee and the evaluator; or
    - 2. Met with the employee and the evaluator; and
    - 3. Reviewed the evaluation process according to statutory or regulatory requirements as well as the ratings.
- (9) Within thirty (30) days after the employee has received the written decision of the second-line supervisor, the employee may appeal an evaluation to the next level. For the state-operated secondary area vocational education and technology centers, this appeal shall go to the ombudsman for mediation. If not resolved at this level, the employee may file an appeal with the *appointing authority or designee*~~[commissioner]~~ of the *Office of Career and*~~[Department for]~~ Technical Education who shall make a final ruling. For other employees in the

*Office of Career and*~~Department for~~ Technical Education, this appeal shall go to the appropriate office head and then to the *appointing authority or designee*~~commissioner~~.

- (10) If an employee receives an overall unsatisfactory evaluation rating on two (2) successive evaluations, the employee shall be:

- (a) Demoted to a position commensurate with abilities; or
- (b) Terminated.

Section 31. KRS 151B.080 is amended to read as follows:

- (1) It shall be unlawful to coerce certified and equivalent employees who may be or who are subject to layoff to resign or retire in lieu of layoff. Dismissals shall comply with applicable statutes and layoffs shall not be utilized as a method of dismissal.
- (2) In the same *office*~~department~~, county, and job classification, temporary, emergency, limited status, and probationary employees shall be laid off before permanent full-time or permanent part-time employees with continuing status. The *Office of Career and*~~Department for~~ Technical Education shall not transfer positions, including vacant positions, in order to circumvent the provisions of this section.
- (3) If two (2) or more employees subject to layoff in a layoff plan submitted to the *executive director*~~commissioner~~ have the same qualifications and similar performance evaluations, the employee with the lesser seniority shall be laid off first.
- (4) An employee who is laid off shall be placed on a reemployment list for the class of position from which laid off and for any class for which such employee is qualified.
- (5) For a period of three (3) years, laid-off employees shall be considered before any applicant from outside the *Office of Career and*~~Department for~~ Technical Education, except another laid-off employee with more seniority who is already on the list.
- (6) For a period of three (3) years, a laid-off employee shall not be removed from the list unless:
  - (a) The laid-off employee notifies the *office*~~department~~ in writing that he or she no longer wishes to be considered for a position on the list;
  - (b) Two (2) written offers of appointment are declined, the offers to be for a position of the same classification and salary, and located in the same county or contiguous counties, as the position from which laid off;
  - (c) Two (2) written offers to schedule an interview are made and the laid-off employee fails to respond to a certified letter requesting the laid-off employee to schedule an interview within ten (10) working days;
  - (d) The laid-off employee fails to report for an interview after notification in writing at least ten (10) calendar days prior to the date of the interview;
  - (e) The laid-off employee cannot be located by postal authorities at the last address provided; or
  - (f) The laid-off employee has willfully violated the provisions of this chapter.
- (7) When a laid-off employee has accepted a bona fide offer of appointment to any position, effective on a specified date, the employee's name may be removed from the list for all classes for which the maximum salary is the same as or less than that of the class of appointment.
- (8) When a laid-off employee is removed from the reemployment list, the employee shall be notified in writing and shall be notified of the right to appeal to the board under provisions of KRS 151B.055.

Section 32. KRS 151B.085 is amended to read as follows:

- (1) A layoff of an employee with continuing status in the *Office of Career and*~~Department for~~ Technical Education due to the abolition of a position, lack of funds, or economic or employment trends resulting in a lack of work or a material change in duties or organization shall comply with the provisions of this section.
- (2) Prior to the notification of layoff and prior to the layoff of an employee, the *office*~~department~~ shall prepare a layoff plan. The plan shall contain the name of the employee and the reasons, in detail, for the layoff. Upon approval of the plan by the *appointing authority or designee*~~commissioner~~, the employee shall be notified of the pending layoff, and of:

- (a) The reason for the layoff;
  - (b) The procedures established by the provisions of KRS 151B.080, and this section for the layoff of employees; and
  - (c) The rights granted employees subject to layoff and to laid-off employees.
- (3) (a) An employee subject to layoff shall be considered for a vacant position within the *office*~~[department]~~ of the same pay grade, level of duties, and responsibilities for which the employee is qualified.
- (b) If a vacancy does not exist, the employee shall be considered for any vacant position within his *office*~~[department]~~ for which qualifications are held.
- (4) If no position is available to an employee subject to layoff under the procedure established by subsection (3) of this section, the employee shall be notified of the layoff in writing at least thirty (30) days prior to implementation of the layoff.

Section 33. KRS 151B.097 is amended to read as follows:

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

Section 34. KRS 151B.112 is amended to read as follows:

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

Section 35. KRS 151B.120 is amended to read as follows:

- (1) The **vice president of the Kentucky Adult Education Program in the Council on Postsecondary Education**~~commissioner of the Department for Adult Education and Literacy~~ and the **executive director**~~commissioner~~ of the **Office of Career and**~~Department for~~ Technical Education may enter into agreements to train workers for new manufacturing jobs in new or expanding industries characterized by one (1) or more of the following criteria: a high average skill, a high average wage, rapid national growth, or jobs feasible and desirable for location in rural regions. Such agreements shall be subject to review and approval by the secretary of the **Education**~~Workforce Development~~ Cabinet and shall not be subject to the requirements of KRS 45A.045 and KRS 45A.690 to 45A.725 when awarded on the basis of a detailed training plan approved by the appropriate **agency head**~~commissioner~~. Reimbursement to the industry shall be made upon submission of documents validating actual training expenditure not to exceed the amount approved by the training plan.
- (2) **The vice president and the executive director**~~Each commissioner~~ may approve authorization for his **or her** **agency**~~department~~ to enter into **agreements**~~agreement~~ with industries whereby the industry may be reimbursed directly for the following services:
  - (a) The cost of instructors' salaries when the instructor is an employee of the industry to be served;
  - (b) Cost of only those supplies, materials, and equipment used exclusively in the training program; and
  - (c) Cost of leasing a training facility should a vocational education school or the industrial plant not be available.

Section 36. KRS 151B.125 is amended to read as follows:

- (1) For purposes of any public employment, a high school equivalency diploma or a regular high school diploma obtained through participation in the external diploma program shall be considered equal to a high school diploma issued under the provisions of KRS 158.140.
  - (a) A high school equivalency diploma shall be issued without charge upon successfully passing the test given by the **Kentucky Adult Education Program's**~~Department for Adult Education and Literacy~~ approved testing centers in conformance with requirements of the General Educational Development Testing Service of the American Council on Education. A fee may be assessed by the **Kentucky Adult Education Program**~~Department for Adult Education and Literacy~~ for the issuance of a duplicate high school equivalency diploma and for issuance of a duplicate score report. All fees collected for duplicate diplomas and score reports shall be used to support the adult education program.
  - (b) As an alternative to receiving a high school equivalency diploma, persons who are twenty-five (25) years or older may obtain a high school diploma through participation in the external diploma program. The diploma shall be issued upon achieving one hundred percent (100%) mastery on the competencies established by the American Council on Education. The **Kentucky Adult Education Program**~~Department for Adult Education and Literacy~~ may enter into agreements with local school districts to confer the high school diploma on successful participants in the external diploma program.
- (2) The **Kentucky Adult Education Program**~~Department for Adult Education and Literacy~~ is authorized to contract annually with an institution of higher education or other appropriate agency or entity for scoring the GED examination essay.

Section 37. KRS 151B.127 is amended to read as follows:

The General Assembly recognizes the critical condition of the educational level of Kentucky's adult population and seeks to stimulate the attendance at, and successful completion of, programs that provide a high school equivalency diploma. Incentives shall be provided to full-time employees who complete a high school equivalency diploma program within one (1) year and their employers. For purposes of this section "equivalent diploma" means a high school equivalency diploma issued after successful completion of the General Educational Development tests.

- (1) The **Kentucky Adult Education Program** ~~within the Department for Adult Education and Literacy in conjunction with the Council on Postsecondary Education~~ shall promulgate administrative regulations to establish the operational procedures for this section. The administrative regulations shall include, but not be limited to, the criteria for:
  - (a) A learning contract that includes the process to develop a learning contract between the student and the adult education instructor with the employer's agreement to participate and support the student;
  - (b) Attendance reports that validate that the student is studying for the high school equivalency diploma during the release time from work;
  - (c) Final reports that qualify the student for the tuition discounts under subsection (2)(a) of this section and that qualify the employer for tax credits under subsection (3) of the section.
- (2)
  - (a) An individual who has been out of secondary school for at least three (3) years, develops and successfully completes a learning contract that requires a minimum of five (5) hours per week to study for the high school equivalency diploma tests, and passes the tests shall earn a tuition discount of two hundred fifty dollars (\$250) per semester for a maximum of four (4) semesters at one (1) of Kentucky's public postsecondary institutions.
  - (b) The **program** ~~department, with the cooperation of the Council on Postsecondary Education,~~ shall work with the postsecondary institutions to establish notification procedures for students who qualify for the tuition discount.
- (3) An employer who assists an individual to complete his or her learning contract under the provisions of this section shall receive a state income tax credit for a portion of the released time given to the employee to study for the tests. The application for the tax credit shall be supported with attendance documentation provided by the **Kentucky Adult Education Program** ~~Department for Adult Education and Literacy~~ and calculated by multiplying fifty percent (50%) of the hours released for study by the student's hourly salary, and not to exceed a credit of one thousand two hundred fifty dollars (\$1250).

Section 38. KRS 151B.130 is amended to read as follows:

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

Section 39. KRS 151B.150 is amended to read as follows:

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

Section 40. KRS 151B.155 is amended to read as follows:

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

Section 41. KRS 151B.165 is amended to read as follows:

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

Section 42. KRS 151B.170 is amended to read as follows:

The *executive director*~~commissioner~~ of the *Office of Career and*~~Department for~~ Technical Education may provide liability insurance for licensed and nonlicensed motor vehicles owned or operated by the *Office of Career and*~~Department for~~ Technical Education in vocational schools and centers. If the transportation of members of the student bodies is let out under contract, the contract shall require the contractor to carry an indemnity bond or liability insurance against negligence in such amounts as the *executive director*~~commissioner~~ of the *Office of Career and*~~Department for~~ Technical Education designates. In either case, the indemnity bond or insurance policy shall be issued by a surety or insurance company authorized to transact business in this state, and shall bind the company to pay any final judgment not to exceed the limits of the policy rendered against the insured for loss or damage to property of any student or other person, or death or injury of any student or other person.

Section 43. KRS 151B.175 is amended to read as follows:

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

Section 44. KRS 151B.185 is amended to read as follows:

- (1) The *Office*~~Department~~ of Vocational Rehabilitation is hereby created ~~within~~~~and shall be attached to~~ the *Education Cabinet, Department of Workforce Investment*~~for Workforce Development~~. The *office*~~department~~ shall consist of *an executive director*~~a commissioner~~ and those administrative bodies and employees provided or appointed pursuant to law. The *office*~~department~~ shall be composed of *the Division of Divisions of Administrative Management, Program Planning and Development*~~Program Services~~, and the *Division of the Carl D. Perkins*~~Comprehensive~~ Rehabilitation Center. Each division shall be headed by a director appointed by the *secretary of the Education Cabinet under the provisions of KRS 12.050*~~commissioner of the Department of Vocational Rehabilitation~~, and shall be composed of organizational entities as deemed appropriate by the *secretary of the Education Cabinet*~~commissioner of the Department of Vocational Rehabilitation, as set forth by administrative order~~.
- (2) The *Office*~~Department~~ of Vocational Rehabilitation shall have such powers and duties as contained in KRS 151B.180 to 151B.210 and such other functions as may be established by administrative regulation.



- (3) The ~~office~~~~[department]~~ shall be the sole state agency for the purpose of developing and approving state plans required by state or federal laws and regulations as prerequisites to receiving federal funds for vocational rehabilitation.
- (4) The chief executive officer of the ~~office~~~~[department]~~ shall be the *executive director*~~[commissioner]~~ of the ~~Office~~~~[Department]~~ of Vocational Rehabilitation. The *executive director*~~[commissioner]~~ shall be appointed by the secretary of the *Education Cabinet under the provisions of KRS 12.050*~~[Cabinet for Workforce Development]~~. The *executive director*~~[commissioner]~~ shall have experience in vocational rehabilitation and supervision and shall have general supervision and direction over all functions of the ~~office~~~~[department]~~ and its employees, and shall be responsible for carrying out the programs and policies of the ~~office~~~~[department]~~.
- (5) Except as otherwise provided, the ~~office~~~~[department]~~ shall be the state agency responsible for all rehabilitation services and for other services as deemed necessary. The ~~office~~~~[department]~~ shall be the agency authorized to expend all state and federal funds designated for rehabilitation services. The Office of the Secretary of the *Education Cabinet*~~[for Workforce Development]~~ is authorized as the state agency to receive all state and federal funds and gifts and bequests for the benefit of rehabilitation services.
- (6) Employees under the jurisdiction of the ~~Office~~~~[Department]~~ of Vocational Rehabilitation who are members of a state retirement system as of June 30, 1990, shall remain in their respective retirement systems.

Section 45. KRS 151B.195 is amended to read as follows:

- (1) The *executive director*~~[commissioner]~~ of the ~~Office~~~~[Department]~~ of Vocational Rehabilitation shall prescribe administrative regulations governing the services, personnel, and administration of the State Vocational Rehabilitation Agency; may enter into reciprocal agreements with other states to provide for the vocational rehabilitation of residents of the states concerned; may establish and supervise the operation of small businesses established pursuant to KRS 151B.180 to 151B.210 to be conducted by eligible individuals with severe disabilities; and may establish state funded special programs for vocational rehabilitation in the state vocational rehabilitation agency.
- (2) Except as provided in KRS 151B.190, the *executive director*~~[commissioner]~~ may prescribe administrative regulations to establish fees for services provided to individuals or entities, public or private.
- (3) The *executive director*~~[commissioner]~~ is authorized to provide liability insurance or an indemnity bond against the negligence of drivers of motor vehicles owned or operated by the ~~office~~~~[department]~~ for the transportation of applicants or clients of the ~~office~~~~[department]~~. If the transportation is let out under contract, the contract shall require the contractor to carry an indemnity bond or liability insurance against negligence to such amounts as the *executive director*~~[commissioner]~~ designates. In either case, the indemnity bond or insurance policy shall be issued by a surety or insurance company authorized to transact business in this state, and shall bind the company to pay any final judgment not to exceed the limits of the policy rendered against the insured for loss or damage to property of any applicant or client or other person, or death or injury of any applicant or client or other person.
- (4) The provisions of any other statute notwithstanding, the *executive director*~~[commissioner]~~ is authorized to use receipt of funds from the Social Security reimbursement program for a direct service delivery staff incentive program. Incentives may be awarded if case service costs are reimbursed for job placement of Social Security or Supplemental Security Income recipients at the Substantial Gainful Activity (SGA) level for nine (9) months pursuant to 42 U.S.C. sec. 422 and under those conditions and criteria as are established by the federal reimbursement program.

Section 46. KRS 151B.205 is amended to read as follows:

The State Treasurer is hereby designated as the custodian of all funds. The State Treasurer shall make disbursements for vocational rehabilitation purposes upon certification by the *executive director*~~[commissioner]~~ of the ~~Office~~~~[Department]~~ of Vocational Rehabilitation.

Section 47. KRS 151B.210 is amended to read as follows:

The *executive director*~~[commissioner]~~ of the ~~Office~~~~[Department]~~ of Vocational Rehabilitation may~~[,]~~ accept and use gifts made by will or otherwise for carrying out the purposes of KRS 151B.180 to 151B.210. Gifts made under such conditions as in the judgment of the *executive director*~~[commissioner]~~ of the ~~Office~~~~[Department]~~ of Vocational

Rehabilitation are proper and consistent with the provisions of KRS 151B.180 to 151B.210 may be so accepted and shall be held, invested, reinvested, and used in accordance with the provisions of KRS 151B.180 to 151B.210.

Section 48. KRS 151B.225 is amended to read as follows:

- (1) There is hereby created a Client Assistance Program which is assigned for administrative purposes to the Office of ~~*Legal*~~~~[Budget and Administrative]~~ Services within the *Education*~~[office of the secretary of the]~~ Cabinet~~[for Workforce Development]~~.
- (2) The Client Assistance Program shall pursue legal, administrative, and other appropriate remedies to ensure the protection of rights of individuals with disabilities who are receiving treatment, services, or rehabilitation under the Rehabilitation Act of 1973, as amended. If additional resources are required to perform the duties and responsibilities of the Client Assistance Program, the cabinet, on behalf of the Client Assistance Program, may contract with other state agencies to obtain necessary legal or other professional services.
- (3) The Office of ~~*Legal*~~~~[Budget and Administrative]~~ Services shall serve as the agency in charge of all personnel, equipment, records, files, and funds pertaining to the Client Assistance Program as provided for in the Rehabilitation Act of 1973, as amended.

Section 49. KRS 151B.230 is amended to read as follows:

- (1) There is hereby established a nonprofit foundation to be known as the "Foundation for Workforce Development." The purpose of the foundation shall be to supplement public funding for technical education programs in order to expand existing skills training programs.
- (2) Funding for the foundation shall be obtained through contributions by the private sector. The foundation shall be empowered to solicit and accept funds from the private sector to be used to fund technical education programs especially designed for business and industry. Contributors may specify that contributed funds be used to improve the technical skill level of their employees.
- (3) The foundation shall be governed by a board of trustees to be appointed by the secretary of the *Education* Cabinet~~[for Workforce Development]~~ based on recommendations from business, industry, labor, education, and interested citizens. Staff assistance for the board of trustees shall be provided by the *Office of Career and*~~[Department for]~~ Technical Education.
- (4) The foundation shall be attached to~~[the office of the secretary of]~~ the *Education* Cabinet~~[for Workforce Development]~~ for administrative purposes.
- (5) The foundation shall report its finances consistent with statutes and regulations promulgated by the Finance and Administration Cabinet. An annual report shall be made to the Interim Joint Committee on Appropriations and Revenue. This report shall follow generally accepted accounting procedures and shall include a detail reporting on all moneys acquired and expended.

Section 50. KRS 151B.240 is amended to read as follows:

- (1) The Statewide Independent Living Council is hereby created and attached to the *Office*~~[Department]~~ of Vocational Rehabilitation for administrative purposes to accomplish the purposes enumerated in 29 U.S.C. sec. 796d (Title VII, Part A, Section 705 of the Rehabilitation Act Amendments of 1998). Members of the council shall be appointed by the Governor from recommendations submitted by the *Office*~~[Department]~~ of Vocational Rehabilitation consistent with the federal mandate to include a majority of individuals with disabilities representing geographical and disability diversity, as well as representatives from identified service providers and other entities. The composition, qualifications, and terms of service of the council shall conform to the federal law.
- (2)
  - (a) Except as provided in paragraph (b) of this subsection, any vacancy occurring in the membership of the Statewide Independent Living Council shall be filled in the same manner as the original appointment. The vacancy shall not affect the power of the remaining members of the council.
  - (b) The Governor may delegate the authority to fill a vacancy to the remaining voting members of the council.
- (3) Each member of the Statewide Independent Living Council may receive a per diem of one hundred dollars (\$100), not to exceed six hundred dollars (\$600) annually, for each regular or special meeting attended if the member is not employed or must forfeit wages from other employment. Each member may have travel expenses approved at the established state rate and expenses reimbursed at the established state agency rate for

services such as personal assistance, child care, and drivers for attendance at council meetings, and in the performance of duties authorized by the Statewide Independent Living Council. The per diem and expenses shall be paid out of the federal funds appropriated under Title VII, Chapter 1, Part A, and Title VII, Chapter 1, Part C of the Rehabilitation Act Amendments of 1998, Pub. L. 105-220.

Section 51. KRS 151B.245 is amended to read as follows:

- (1) The Statewide Council for Vocational Rehabilitation is hereby created within the ~~Office~~~~[Department]~~ of Vocational Rehabilitation to accomplish the purposes and functions enumerated in 29 U.S.C. sec. 725 (Title I, Part A, Section 105 of the Rehabilitation Act Amendments of 1998). Members of the council shall be appointed by the Governor from recommendations submitted by the ~~Office~~~~[Department]~~ of Vocational Rehabilitation consistent with the federal mandate to include a majority of individuals with disabilities not employed by the ~~office~~~~[department]~~ as well as representatives of specified organizations, service providers, and advocacy groups. The compensation, qualifications, and terms of service of the council shall conform to the federal law.
- (2)
  - (a) Except as provided in paragraph (b) of this subsection, any vacancy occurring in the membership of the Statewide Council for Vocational Rehabilitation shall be filled in the same manner as the original appointment. The vacancy shall not affect the power of the remaining members of the council.
  - (b) The Governor may delegate the authority to fill a vacancy to the remaining voting members of the council.
- (3) Each member of the Statewide Council for Vocational Rehabilitation may receive a per diem of one hundred dollars (\$100), not to exceed six hundred dollars (\$600) annually, for each regular or special meeting attended if the member is not employed or must forfeit wages from other employment. Each member may have travel expenses approved at the established state rate and expenses reimbursed at the established state agency rate for services such as personal assistance, child care, and drivers for attendance at council meetings, and in the performance of duties authorized by the Statewide Council for Vocational Rehabilitation. The per diem and expenses shall be paid out of the federal funds appropriated under Title I, Part A, of the Rehabilitation Act Amendments of 1998, Pub. L. 105-220.

Section 52. KRS 151B.250 is amended to read as follows:

- (1) It is the intent of the General Assembly to create and support a School-to-Careers System that involves business, labor, education, and government to prepare students for careers in an ever-changing economy.
- (2) The ~~Office of Career and~~~~[Department for]~~ Technical Education within the ~~Education~~ Cabinet~~[for Workforce Development]~~ shall coordinate the School-to-Work effort with the Kentucky Department of Education. As the School-to-Work effort is a federally supported program that fits within the overall mission of the School-to-Careers System, it is critical that collaboration and coordination occur. The following elements shall be coordinated when possible:
  - (a) Planning and partner involvement of business, labor, education, government, community-based organizations, employers, parents, and students;
  - (b) Career awareness, exploration, preparation, and guidance incorporated in the school curriculum;
  - (c) A comprehensive system approach from the primary through postsecondary levels with all students having the opportunity to participate;
  - (d) Applied learning experiences;
  - (e) Integration of academic and occupational education;
  - (f) Performance assessment;
  - (g) Actual or simulated learning at the school or the worksite;
  - (h) Curriculum based on skill standards representing all aspects of an industry;
  - (i) Secondary to postsecondary articulation;
  - (j) Postsecondary articulation; and
  - (k) Professional development opportunities for all partners.

- (3) The *Office of Career and*~~Department for~~ Technical Education may promulgate administrative regulations establishing policy for the development and implementation of a school-to-work transition system.
- (4) The *Office of Career and*~~Department for~~ Technical Education shall comply with the provisions of the federal School-to-Work Opportunities Act, Pub.L. 103-239 as it is amended from time to time.

Section 53. KRS 151B.280 is amended to read as follows:

- (1) The *Office of*~~Department for~~ Employment *and Training*~~Services~~ is created and *established within the Department of Workforce Investment within*~~shall be attached to~~ the *Education* Cabinet ~~for Workforce Development~~. The *Office of*~~Department for~~ Employment *and Training*~~Services~~ shall develop and operate employment development and placement programs, including job recruitment and business liaison functions, employability development and training programs, and job counseling and placement programs of the cabinet. In addition, the *office*~~department~~ shall develop and operate all programs relating to the unemployment insurance laws of the Commonwealth, including responsibilities relating to hearing and judging unemployment insurance benefit appeals.
- (2) The *Office of*~~Department for~~ Employment *and Training*~~Services~~ shall be headed by *an executive director*~~a commissioner~~ appointed by the secretary with the approval of the Governor, in accordance with KRS 12.050. The *executive director*~~commissioner~~ for employment *and training*~~services~~ shall be a person who, by experience and training in administration and management, is qualified to perform the duties of the office. The *executive director*~~commissioner~~ of employment *and training*~~services~~ shall exercise authority over the *Office of*~~Department for~~ Employment *and Training*~~Services~~ under the direction of the *commissioner of the Department of Workforce Investment*~~secretary~~, and shall fulfill only the responsibilities delegated by the *commissioner*~~secretary~~.
- (3) (a) The secretary of the *Education* Cabinet ~~for Workforce Development~~ shall develop and promulgate administrative regulations which protect the confidential nature of all records and reports of the *Office of*~~Department for~~ Employment *and Training*~~Services~~ which directly or indirectly identify a client or former client and which insure that these records are not disclosed to or by any person except and insofar as:
  1. The person identified shall give his consent; or
  2. Disclosure may be permitted under state or federal law.
- (b) Notwithstanding any other state statute or administrative regulation to the contrary, any information concerning individual clients or applicants in the possession of the *Office of*~~Department for~~ Employment *and Training*~~Services~~ may be shared with any authorized representative of any other state or local governmental agency, if the agency has a direct, tangible, and legitimate interest in the individual. The agency receiving the information shall assure the confidentiality of all information received. The *Office of*~~Department for~~ Employment *and Training*~~Services~~ may share information concerning a client or applicant with any private or quasi-private agency if:
  1. The agency has an agreement with the cabinet assuring the confidentiality of the information; and
  2. The agency has a direct, tangible, and legitimate interest in the individual.

Section 54. KRS 151B.285 is amended to read as follows:

The *Education* Cabinet ~~for Workforce Development~~ shall administer and supervise state employment offices and perform any other duties within the Act of Congress entitled "An Act to provide for the establishment of a National Employment Service and for Cooperation with the State in the Promotion of Such System and for Other Purposes," approved June 6, 1933 (48 Stat. 113, U.S.C., Title 29, sec. 49(c)), as amended, and known as the Wagner-Peyser Act. All duties and powers relating to the establishment, maintenance, and operation of free public employment offices are vested in the *Education* Cabinet ~~for Workforce Development~~. The provisions of the Wagner-Peyser Act, as amended, are accepted by this state, in conformity with Section 4 of that Act, and this state will observe and comply with the requirements of that Act. The *Education* Cabinet ~~for Workforce Development~~ is designated and constituted the agency of this state for the purposes of the Wagner-Peyser Act.

Section 55. KRS 151B.410 is amended to read as follows:

- (1) The *Kentucky Adult Education Program*~~Department for Adult Education and Literacy~~ shall promulgate necessary administrative regulations and administer a statewide adult education and literacy system throughout

the state. The adult education and literacy system shall include diverse educational services provided by credentialed professionals, based on the learners' current needs and a commitment to life-long learning.

- (a) Services shall be provided at multiple sites appropriate for adult learning including vocational and technical colleges, community colleges, regional universities, adult education centers, public schools, libraries, family resource centers, adult correctional facilities, other institutions, and through the Kentucky Commonwealth Virtual University. Services shall be targeted to communities with the greatest need based on the number of adults at literacy levels I and II as defined by the 1997 Kentucky Adult Literacy Survey and other indicators of need.
  - (b) Access and referral services shall be initiated at multiple points including businesses, educational institutions, labor organizations, employment offices, and government offices.
  - (c) Multiple funding sources, program support, and partnerships to administer the adult education and literacy system may include student scholarship and grants; fees for services rendered; and other general, agency, local, state, federal, and private funds.
- (2) Services included as part of the adult education and literacy system shall include, but not be limited to functionally-contexted workplace essential skills training based on employers' needs, leading to a competency-based certificate indicating proficiency in critical thinking, computing, reading, writing, communicating, problem-solving, team-building, and use of technology at various worksites regarding basic skills.
- (3) In administering an adult education and literacy system, the ***Kentucky Adult Education Program***~~{Department for Adult Education and Literacy}~~ shall:
- (a) Assist providers with the development of quality job-specific and workplace essential skills instruction for workers in business and industry, literacy and adult basic education, adult secondary education, including high school equivalency diploma preparation, the external diploma program, English as a second language, and family literacy programs, in cooperation with local business, labor, economic development, educational, employment, and service support entities;
  - (b) Provide assessments of each student's skill and competency level allowing assessments to be shared with other educational and employment entities when necessary for providing additional educational programs, taking into consideration student confidentiality;
  - (c) Assist adult educators to meet professional standards;
  - (d) Create an awareness program in cooperation with the Administrative Office of the Courts to ensure that District and Circuit Court Judges are aware of the provisions of KRS 533.200 and the methods to access adult education and literacy programs for persons sentenced under the statute;
  - (e) Develop administrative regulations including those for business and industry service participation and mechanisms for service funding through all appropriate federal, state, local, and private resources;
  - (f) Require and monitor compliance with the ***program's***~~{department's}~~ administrative regulations and policies; and
  - (g) Develop and implement performance measures and benchmarks.

Section 56. KRS 151B.450 is amended to read as follows:

As used in KRS 151B.450 to 151B.475, unless the context requires otherwise:

- (1) "Assistive technology" means any item, piece of equipment, or device that enables an individual with a disability to improve his or her independence and quality of life.
- (2) "Board" means the board of directors of the Kentucky Assistive Technology Loan Corporation.
- (3) "Cabinet" means the ***Education*** Cabinet~~{for Workforce Development}~~.
- (4) "Corporation" means the Kentucky Assistive Technology Loan Corporation created under KRS 151B.455.
- (5) "Fund" means the Kentucky assistive technology loan fund created under KRS 151B.470.
- (6) "Qualified borrower" means an individual with a disability that affects a major life activity such as mobility, sensory and cognitive communications, or self-care, a parent or legal guardian of an individual with a

disability, or a nonprofit organization that provides assistive technology to individuals with disabilities who meet the criteria for participating in the Kentucky assistive technology loan fund.

- (7) "Qualified lender" means a financial lending institution or other qualified organization contracted with by the corporation to provide loans for the purchase of assistive technology.

Section 57. KRS 151B.455 is amended to read as follows:

- (1) The Kentucky Assistive Technology Loan Corporation is created and established as an independent de jure municipal corporation and political subdivision of the Commonwealth of Kentucky to perform essential governmental and public functions for the purpose of improving the quality of life for disabled persons who are residents of the Commonwealth of Kentucky by providing the ability to obtain low-interest loans to qualified borrowers for the acquisition of assistive technology.
- (2) The corporation shall be governed by a board of directors consisting of seven (7) members as follows:
  - (a) The secretary of the **Education** Cabinet ~~for Workforce Development~~ or the secretary's designated representative;
  - (b) One (1) attorney with lending expertise;
  - (c) One (1) representative of a financial lending institution; and
  - (d) Four (4) public members with a knowledge of assistive technology representing a range of disabilities.
- (3) All board members shall be residents of the Commonwealth of Kentucky and all, with the exception of the secretary or the secretary's designee, shall be appointed by the Governor. Each public member shall be an individual with a disability, a parent of an individual with a disability, or a legal representative of an individual with a disability. In making appointments the Governor shall seek recommendations from disability-related associations and organizations representing the categories of disabilities for which appointments are being made.
- (4) For initial appointments to the board, two (2) public members shall be appointed for terms of four (4) years each, two (2) public members for terms of three (3) years each, the attorney member for a term of two (2) years, and the member representing a financial lending institution for a term of one (1) year. All succeeding terms shall be for a period of four (4) years each, and each appointee shall serve for the appointed term and until a successor has been appointed and has duly qualified. No person shall serve more than two (2) successive full terms.
- (5) If a vacancy on the board occurs, the Governor shall appoint a replacement who shall hold office during the remainder of the term vacated.
- (6) The Governor may remove any board member in case of incompetency, neglect of duties, gross immorality, or malfeasance in office, and may upon removal declare the position vacant and appoint a person to fill the vacancy as provided in other cases of vacancy. If a board member is so removed, he or she may appeal. Upon appeal an administrative hearing shall be conducted in accordance with KRS Chapter 13B.

Section 58. KRS 151B.460 is amended to read as follows:

- (1) At the first board meeting following initial appointment of all board members, the board shall elect a chair from its membership, and a chair shall be elected annually thereafter.
- (2) A majority of the board of directors of the corporation shall constitute a quorum for the purpose of conducting its business and exercising its powers and for all other purposes, notwithstanding the existence of any vacancies on the board of directors.
- (3) The board of directors shall meet at least once a quarter, and may meet at other times upon call of the chair or at the request of a majority of board members, and with a minimum of seven (7) days' notice.
- (4) Board members shall receive no compensation for their services but may be entitled to payment of any reasonable and necessary expense actually incurred in discharging their duties under KRS 151B.450 to 151B.475, subject to the availability of funding.
- (5) If any board member has a direct or indirect interest in any qualified lender or any organization serving as a qualified borrower, the interest shall be disclosed and set forth in the minutes of the board, and the board member having the interest shall not participate in any action involving the organization in which he or she has the interest.

- (6) The ***Education*** Cabinet~~[for Workforce Development]~~ shall provide technical, clerical, and administrative assistance to the board, together with necessary office space and personnel, and shall provide any other services and support necessary for the board to perform its functions. The cabinet shall keep a record of the proceedings of the board and shall be custodian of all books, documents, and papers which constitute the official records of the corporation. The board may enter into a contract with the cabinet as may be proper and appropriate for the provision of these services.

Section 59. KRS 151B.470 is amended to read as follows:

- (1) There is established in the State Treasury a permanent and perpetual fund to be known as the assistive technology loan fund, consisting of moneys that may be appropriated by the General Assembly, gifts, bequests, endowments, or grants from the United States government, its agencies and instrumentalities, and any other available sources of funds, public and private. Any fund balance at the close of a fiscal year shall not lapse but shall be carried forward to the next fiscal year, and moneys in the fund shall be continuously appropriated only for the purposes specified in this section. Interest and income earned from the investment of funds shall remain in the fund and be credited to it.
- (2) The fund shall be used to provide loans to qualified borrowers within the Commonwealth for the purpose of acquiring assistive technology designed to help individuals with disabilities become more independent. Loans shall be made to qualified borrowers through qualified lenders with the fund being used as appropriate to negotiate reduced interest rates, to buy down interest rates, and to provide loan guarantees.
- (3) The fund shall be under the administrative control of the board.
- (4) If the corporation is dissolved, any unencumbered moneys appropriated by the General Assembly remaining in the fund shall revert to the general fund, and any other unencumbered moneys shall be transferred to the ***Education*** Cabinet~~[for Workforce Development]~~ to be expended for programs and services for Kentuckians with disabilities.

Section 60. KRS 153.220 is amended to read as follows:

The duties and functions of the arts council shall be to:

- (1) Stimulate and encourage throughout the state the study and presentation of the arts, and foster public interest and participation therein;
- (2) Encourage public interest in the cultural heritage of our state and expand the state's cultural resources;
- (3) Encourage and assist freedom of artistic expression essential for the well-being of the arts;
- (4) Serve as the sole agency in the Commonwealth for administration of a state arts plan developed in coordination with the ***Commerce***~~[Education, Arts, and Humanities]~~ Cabinet;
- (5) Establish standards and procedures and advisory committees as necessary to advise the Governor on the selection of the Kentucky poet laureate or writer laureate;
- (6) Advise the Governor on matters pertaining to the arts;
- (7) Adopt and promulgate regulations for the performance of its duties and functions provided in KRS 153.210 to 153.235;
- (8) Receive federal grants, and other money and property of any nature whatsoever which may be given, donated, conveyed, bequeathed, devised, or otherwise transferred, without condition or restriction, except that provided by law, other than that it be used for some purpose of the council as permitted by KRS 153.210 to 153.235;
- (9) Contract from time to time, as appropriate, with experts and consultants who may be utilized as deemed necessary, and make other necessary purchases and expenditures, all in accordance with the state plan approved by the secretary of the ***Commerce***~~[Education, Arts, and Humanities]~~ Cabinet and with the state purchasing provisions of KRS Chapters 45 and 45A;
- (10) Hold public and private hearings for the purpose of furthering the objectives of the council's programs; and
- (11) Make and sign any agreements, subject to the provisions of KRS Chapters 45 and 45A, and do and perform any acts that may be necessary to carry out the purposes of KRS 153.210 to 153.235.

Section 61. KRS 153.620 is amended to read as follows:

- (1) April 24 of each year is declared to be "Kentucky Writers' Day."
- (2) The ~~Commerce~~~~[Education, Arts, and Humanities]~~ Cabinet may plan and direct a yearly event on April 24 honoring Kentucky writers. These plans may include designing programs for schools and civic or business organizations.

Section 62. KRS 154.10-050 is amended to read as follows:

- (1) The secretary shall be the chief executive officer of the Cabinet for Economic Development and shall possess the professional qualifications appropriate for that office as determined by the board.
- (2) The board shall set the salary of the secretary, which shall be exempt from state employee salary limitations as set forth in KRS 64.640.
- (3) The secretary shall be responsible for the day-to-day operations of the cabinet and shall report and submit on an annual basis implementation plans to the board as provided in KRS 154.10-060; submit the strategic plan for economic development to the board in accordance with the provisions of KRS 154.10-120 and 154.10-125; submit program evaluation reports to the board in accordance with the provisions of KRS 154.10-140; carry out policy and program directives of the board; coordinate programs of the cabinet with all other agencies of state government having economic development responsibilities; hire all other personnel of the cabinet consistent with state law; and carry out all other duties and responsibilities assigned by state law.
- (4) The secretary shall prepare and submit the proposed budget of the cabinet to the chairman who shall present it to the board for final approval. Upon approval, the board shall submit the proposed budget to the Governor's Office for Policy and Management.
- (5) The secretary shall be reimbursed for all actual and necessary expenses incurred in the performance of all assigned duties and responsibilities.
- (6) The secretary shall, in carrying out the duties and responsibilities of the office and in administering the programs in KRS 154.12-216 to 154.12-278, give highest priority consideration in marketing, targeting, and recruiting new businesses, in expanding existing businesses, and in recommending state economic development loans, grants, and incentive programs administered by the authority, to Kentucky counties which have had an average countywide rate of unemployment of fifteen percent (15%) or greater in the most recent twelve (12) consecutive months for which unemployment figures are available, on the basis of the final unemployment figures calculated by the ~~Office of~~~~[Department for]~~ Employment ~~and Training~~~~[Services]~~ within the ***Department of Workforce Investment within the Education*** Cabinet~~[for Workforce Development]~~.

Section 63. KRS 154.12-203 is amended to read as follows:

- (1) There is created the Kentucky Commission on Military Affairs. The commission shall be a separate administrative body of state government within the meaning of KRS Chapter 12.
- (2) It shall be the purpose of the Kentucky Commission on Military Affairs to:
  - (a) Address matters of military significance to Kentucky;
  - (b) Maintain a cooperative and constructive relationship between state agencies and the military entities in Kentucky, as necessary to ensure coordination and implementation of unified, comprehensive, statewide strategies involved with, or affected by, the military;
  - (c) Advise the Governor, the General Assembly, the Kentucky congressional delegation, and other appropriate government officials on all matters in which the military services and the Commonwealth have mutual interests, needs, and concerns;
  - (d) Take action to promote and optimize state and Department of Defense initiatives that will improve the military value of Kentucky's National Guard, active, and reserve military force structure and installations, and improve the quality of life for military personnel residing in the Commonwealth;
  - (e) Coordinate, as necessary, the state's interest in future Department of Defense base closure and restructuring activities;
  - (f) Recommend state, federal, and local economic development projects which would promote, foster, and support economic progress through military presence in the Commonwealth;



- (g) Promote and assist the private sector in developing spin-off investments, employment, and educational opportunities associated with high-technology programs and activities at Kentucky's military installations;
  - (h) Recommend to the Kentucky Economic Development Partnership the long-range options and potential for the defense facilities located in Kentucky;
  - (i) Develop strategies to encourage military personnel to retire and relocate in Kentucky and promote those leaving the military as a viable quality workforce for economic development and industrial recruitment; and
  - (j) Allocate available grant money to qualified applicants to further the purposes of paragraphs (a) to (i) of this subsection.
- (3) The Kentucky Commission on Military Affairs shall consist of:
- (a) The Governor, or his designated representative;
  - (b) The secretary of the Cabinet for Economic Development, or his designated representative;
  - (c) The adjutant general of the Commonwealth, or his designated representative;
  - (d) The executive director of the Kentucky Long-Term Policy Research Center, or his designated representative;
  - (e) The executive director of the Office of Homeland Security, or his designated representative;
  - (f) The secretaries of the following cabinets, or their designees:
    - 1. Finance and Administration;
    - 2. Justice;
    - 3. Environmental and Public Protection;
    - 4. Transportation;
    - 5. ~~Workforce Development;~~
    - 6. ~~Education, Arts, and Humanities;~~
    - 6. ~~7.~~ Health and Family Services; and
    - 7. ~~8.~~ Personnel.
  - (g) The Attorney General, or his designee;
  - (h) The commissioner of the Department of Veterans' Affairs or a designee;
  - (i) The executive director of the Kentucky Commission on Military Affairs or a designee;
  - (j) Kentucky's Civilian Aides to the Secretary of the United States Army;
  - (k) Two (2) members of the Kentucky General Assembly, with experience in or an interest in military and defense-related issues, one (1) member to be appointed by the President of the Senate, and one (1) member to be appointed by the Speaker of the House;
  - (l) The commander or the designee of the commander of each of the following as nonvoting, ex officio members:
    - 1. Fort Campbell;
    - 2. Fort Knox;
    - 3. United States Army Recruiting Command;
    - 4. Bluegrass Army Depot;
    - 5. Louisville District of the United States Army Corps of Engineers;
    - 6. The One Hundredth Training Division;

7. Naval Surface Warfare Center - Port Hueneme Division, Louisville Detachment; and
8. Any other installation or organization, including but not limited to the United States Coast Guard, Air Force, Navy, and Marine Corps, with a military mission in the Commonwealth; and
- (m) Five (5) at-large members appointed by the Governor who shall be residents of counties significantly impacted by military installations.
- (4) The terms of the five (5) at-large members shall be staggered so that two (2) appointments shall expire at two (2) years, one (1) appointment shall expire at three (3) years, and two (2) appointments shall expire at four (4) years, from the dates of initial appointment.
- (5) (a) The commission shall establish an executive committee consisting of the secretary of the Cabinet for Economic Development, the adjutant general of the Commonwealth, the commissioner of the Department of Veterans' Affairs, the executive director of the Kentucky Commission on Military Affairs, and the five (5) at-large members. The chair and vice chair of the Kentucky Commission on Military Affairs shall be appointed by the Governor from among the members of the executive committee.
- (b) The chair and vice chair of the commission shall also serve as chair and vice chair of the executive committee.
- (c) The executive committee shall serve as the search committee for an executive director of the commission and shall have any other authority the commission delegates to it.
- (6) The commission shall meet two (2) times each year, and may meet at other times on call of the chair, to establish the commission's goals and to review issues identified and recommendations made by the executive committee. A majority of the members shall constitute a quorum for the transaction of the commission's business. Members' designees shall have voting privileges at commission meetings.
- (7) 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.
- (8) The commission may establish committees or work groups composed of commission members and citizens as necessary to advise the commission in carrying out its responsibilities, duties, and powers. Citizen members of committees or work groups shall not have a vote.
- (9) The commission may promulgate necessary administrative regulations as prescribed by KRS Chapter 13A.
- (10) The commission may adopt bylaws and operating policies necessary for its efficient and effective operation.
- (11) There shall be an executive director, who shall be the administrative head and chief executive officer of the commission, recommended by the executive committee, approved 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.
- (12) The Kentucky Commission on Military Affairs and its executive committee shall be an independent agency attached to the Office of the Governor.

Section 64. KRS 154.12-205 is amended to read as follows:

- (1) There is hereby created an independent, de jure corporation of the Commonwealth with all the general corporate powers incidental thereto which shall be known as the "Bluegrass State Skills Corporation." The corporation shall be a political subdivision of the state and shall be attached to the Cabinet for Economic Development.
- (2) The corporation is created and established to improve and promote the employment opportunities of the citizens of the Commonwealth by creating and expanding programs of skills training and education which meet the needs of business and industry.
- (3) The corporation shall be governed by a board of directors consisting of eighteen (18) members, including the following six (6) ex officio members: the commissioner of the Department of **Workforce Investment or his or her designee** ~~[Employment Services]~~, the secretary of the Cabinet for Economic Development, the commissioner of the Department of Labor, the president of the Council on Postsecondary Education, the secretary of the **Education** Cabinet, ~~[for Workforce Development]~~ and the president of the Kentucky

Community and Technical College System. The twelve (12) other members shall be appointed by the Governor, including persons having knowledge and experience in business and industry, skills training, education, and minority employment; and at least one (1) of the twelve (12) members shall be appointed to represent labor organizations. Each member appointed by the Governor shall serve for a term of four (4) years, except that in making the initial appointments, the Governor shall appoint three (3) members to serve for one (1) year, three (3) members to serve for two (2) years, three (3) members to serve for three (3) years, and three (3) members to serve for four (4) years. All succeeding appointments shall be for a term of four (4) years.

- (4) In the event of a vacancy, the Governor may appoint a replacement member who shall hold office during the remainder of the term so vacated.
- (5) Any member may be removed from his appointment by the Governor for cause.
- (6) The Governor shall designate a member of the board as its chairman.
- (7) Members of the board of directors of the corporation, except for ex officio members, shall be entitled to compensation for their services in the amount of one hundred dollars (\$100) for each regular or special called meeting of the corporation, and all members shall be entitled to reimbursement for any actual and necessary expenses incurred in the performance of their duties.
- (8) The board of directors of the corporation shall annually elect a vice chairman, a secretary, and a treasurer. The secretary shall keep a record of the proceedings of the corporation and shall be custodian of all books, documents, and papers filed with the corporation, and its official seal.
- (9) The secretary of the Cabinet for Economic Development shall hire an executive director and establish his salary. The executive director shall be the chief administrative and operational officer of the corporation and shall direct and supervise its administrative affairs and general management subject to the policies, control, and direction of the board.
- (10) All officers and employees of the corporation having access to its funding shall give bond to the corporation, at its expense, in the amount and with the surety as the board may prescribe.

Section 65. KRS 154.12-207 is amended to read as follows:

- (1) The corporation may, subject to appropriation from the General Assembly or from funds made available to the corporation from any other public or private source, provide grants-in-aid to educational institutions, and business and industry, not in excess of two hundred thousand dollars (\$200,000) per grant-in-aid. Such grants-in-aid shall be used exclusively for programs which are consistent with the provisions of this chapter.
- (2) To qualify for a grant-in-aid in which an educational institution will provide training, an educational institution and a business or industry shall submit a joint application to the corporation that contains a proposal for a program of skills training and education; a description of the program; the type of skills training or education to be provided; a statement of the total cost of the program and breakdown of the costs associated with equipment, personnel, facilities, and materials; and with respect to educational institutions only, a statement of the technical assistance and financial support for the program received or pledged from business and industry. To qualify for a grant-in-aid in which a provider other than an educational institution will provide training, the business or industry may independently submit a proposal to the corporation containing the same information as set forth in this subsection.
- (3) Approval of the grant-in-aid application by the board shall be based upon the following criteria:
  - (a) The program must be within the scope of KRS 154.12-204 to 154.12-208;
  - (b) Participants in the program must be limited to a Kentucky resident, as the term is defined in KRS 141.010;
  - (c) The program must involve an area of skills training and education which is needed by business and industry and for which a shortage of qualified individuals exists within the Commonwealth;
  - (d) The grant-in-aid must be essential to the success of the program as the resources of the educational institution are inadequate to attract the technical assistance and financial support necessary from business and industry;
  - (e) The educational institution must have obtained a firm commitment from business and industry for the information, technical assistance, and financial support which, together with the grant-in-aid, the

resources of the applicant, and support from any other source, is sufficient to ensure the success of the program. In addition, the commitment of financial support from business and industry shall be equal to or greater than the amount of the requested grant-in-aid;

- (f) The educational institution must have established adequate auditing procedures and reporting methods for the submission of information and data as required by the corporation; and
- (g) Ninety percent (90%) of the participants receive a base hourly wage which is one hundred fifty percent (150%) of the federal minimum wage plus employee benefits equal to at least fifteen percent (15%) of the applicable base hourly wage, if the business and industry is located in a county of Kentucky which has had an average countywide rate of unemployment of fifteen percent (15%) or greater in the most recent twelve (12) consecutive months for which unemployment figures are available, on the basis of the final unemployment figures calculated by the ~~Office of Department for~~ **Employment and Training Services** within the **Department of Workforce Investment within the Education Cabinet** ~~for Workforce Development~~.

Section 66. KRS 154.12-2084 is amended to read as follows:

As used in KRS 154.12-2084 to 154.12-2089, unless the context requires otherwise:

- (1) "Approved company" means any qualified company seeking to sponsor an occupational upgrade training program or skills upgrade training program for the benefit of one (1) or more of its employees, which is approved by the authority to receive skills training investment credits in accordance with KRS 154.12-2084 to 154.12-2089;
- (2) "Approved costs" means:
  - (a) Fees or salaries required to be paid to instructors who are employees of the approved company, instructors who are full-time, part-time, or adjunct instructors with an educational institution, and instructors who are consultants on contract with an approved company in connection with an occupational upgrade training program or skills upgrade training program sponsored by an approved company;
  - (b) Administrative fees charged by educational institutions in connection with an occupational upgrade training program or skills upgrade training program sponsored by an approved company and specifically approved by the Bluegrass State Skills Corporation;
  - (c) The cost of supplies, materials, and equipment used exclusively in an occupational upgrade training program or skills upgrade training program sponsored by an approved company;
  - (d) The cost of leasing a training facility where space is unavailable at an educational institution or at the premises of an approved company in connection with an occupational upgrade training program or skills upgrade training program sponsored by an approved company;
  - (e) Employee wages to be paid in connection with an occupational upgrade training program or skills upgrade training program sponsored by an approved company; and
  - (f) All other costs of a nature comparable to those described in this subsection;
- (3) "Bluegrass State Skills Corporation" means the Bluegrass State Skills Corporation created by KRS 154.12-205;
- (4) "Commonwealth" means the Commonwealth of Kentucky;
- (5) "Educational institution" means a public or nonpublic secondary or postsecondary institution or an independent provider within the Commonwealth authorized by law to provide a program of skills training or education beyond the secondary school level or to adult persons without a high school diploma or its equivalent;
- (6) "Employee" means any person:
  - (a) Who is currently a permanent full-time employee of the qualified company;
  - (b) Who has been employed by the qualified company for the last twelve (12) calendar months immediately preceding the filing of the application for skills training investment credits by the qualified company;
  - (c) Who is a Kentucky resident, as that term is defined in KRS 141.010; and

- (d) Who receives a base hourly wage which is one hundred fifty percent (150%) of the federal minimum wage plus employee benefits equal to at least fifteen percent (15%) of the applicable base hourly wage, if the qualified company is located in a county of Kentucky which has had an average countywide rate of unemployment of fifteen percent (15%) or greater in the most recent twelve (12) consecutive months for which unemployment figures are available, on the basis of the final unemployment figures calculated by the ~~Office of Department for~~ **Employment and Training** ~~Services~~ within the **Department of Workforce Investment in the Education** ~~Cabinet for Workforce Development~~.

For purposes of this subsection, a "full-time employee" means an employee who has been employed by the qualified company for a minimum of thirty-five (35) hours per week for more than two hundred fifty (250) work days during the most recently ended calendar year and is subject to the tax imposed by KRS 141.020;

- (7) "Occupational upgrade training" means employee training sponsored by a qualified company that is designed to qualify the employee for a promotional opportunity with the qualified company;
- (8) "Preliminarily approved company" means a qualified company seeking to sponsor an occupational upgrade training program or skills upgrade training program, which has received preliminarily approval from the authority under KRS 154.12-2088 to receive a certain maximum amount of skills training investment credits;
- (9) "Qualified company" means any person, corporation, limited liability company, partnership, limited partnership, registered limited liability partnership, sole proprietorship, firm, enterprise, franchise, association, organization, holding company, joint stock company, professional service corporation, or any other legal entity through which business is conducted that has been actively engaged in any of the following qualified activities within the Commonwealth for not less than three (3) consecutive years: manufacturing, including the processing, assembling, production, or warehousing of any property; processing of agricultural and forestry products; telecommunications; health care; product research and engineering; tool and die and machine technology; mining; tourism and operation of facilities to be used in the entertainment, recreation, and convention industry; and transportation in support of manufacturing. Notwithstanding the provisions of this subsection, any company whose primary purpose is the sale of goods at retail shall not constitute a qualified company;
- (10) "Skills upgrade training" means employee training sponsored by a qualified company that is designed to provide the employee with new skills necessary to enhance productivity, improve performance, or retain employment, including but not limited to technical and interpersonal skills training, and training that is designed to enhance the computer skills, communication skills, problem solving, reading, writing, or math skills of employees who are unable to function effectively on the job due to deficiencies in these areas, are unable to advance on the job, or who risk displacement because their skill deficiencies inhibit their training potential for new technology; and
- (11) "Skills training investment credit" means the credit against Kentucky income tax imposed by KRS 141.020 or 141.040, as provided in KRS 154.12-2086(1).

Section 67. KRS 154.20-150 is amended to read as follows:

- (1) On or before October 1, 1992, and on or before the first day of every third month thereafter, the authority shall provide a written project status report to the Legislative Research Commission, and the authority shall be compelled to send a representative to testify on the project status report and the authority shall provide additional information on any projects upon request by the Legislative Research Commission. The written project status report shall include, but is not limited to:
- (a) The current status of each project under consideration by the authority, the proposed cost of a project, for each project under consideration, including any proposed financial obligations of the authority, the number of jobs to be created or retained by each project under consideration, and a description of the applicants with respect to each project under consideration; and
- (b) The current status of each project, along with an updated cost for each project in progress, including any financial obligations of the authority and a description of the principals with respect to each project in progress.
- (2) On or before the first day of each fiscal year, the authority shall submit an overview report to the Legislative Research Commission, on the success or failure of each completed project, in order to determine the effectiveness of the Kentucky Economic Development Finance Authority.

- (3) In addition to the project status report, all construction, reconstruction, or alteration, financed or facilitated in whole or in part by the authority shall be reported to the *Office of*~~[Kentucky Department for]~~ Employment *and Training within the Department of Workforce Investment in the Education*~~[Services,]~~ Cabinet~~[for Workforce Development,]~~ and to the Kentucky Legislative Research Commission not later than fifteen (15) days following the end of the month in which the agreement or contract facilitating or permitting such activity was executed. This construction activity report shall be subject to public information requests as provided by KRS 61.878. Reports shall list subject construction activity by location of project site, and shall specify the type of construction, project owner, estimated cost of project, and estimated starting and completion dates if known.

Section 68. KRS 154.20-170 is amended to read as follows:

- (1) Industrial entities, agricultural business entities, business enterprises, or private sector firms which are members of a business network within the meaning of KRS 154.01-010 in a targeted industrial sector as set forth in the state strategic plan for economic development as prescribed in KRS 154.10-120, and businesses that compose the secondary wood products industry as defined in KRS 154.47-005(10), shall be given priority consideration under state economic development loan, grant, and incentive programs administered by the Kentucky Economic Development Finance Authority.
- (2) Notwithstanding the provisions of subsection (1) of this section, highest priority consideration under state economic development loan, grant, and incentive programs administered by the authority shall be given to those projects that are located in counties of Kentucky which have had an average countywide rate of unemployment of fifteen percent (15%) or greater in the most recent twelve (12) consecutive months for which unemployment figures are available, on the basis of the final unemployment figures calculated by the *Office of*~~[Department for]~~ Employment *and Training*~~[Services]~~ within the *Department of Workforce Investment in the Education* Cabinet~~[for Workforce Development]~~.

Section 69. KRS 154.22-010 is amended to read as follows:

The following words and terms as used in KRS 154.22-010 to 154.22-080, unless the context clearly indicates a different meaning, shall have the following meanings:

- (1) "Activation date" means a date selected by an approved company in the tax incentive agreement at any time within a two (2) year period after the date of final approval of the tax incentive agreement by the authority;
- (2) "Affiliate" means the following:
- (a) Members of a family, including only brothers and sisters of the whole or half blood, spouse, ancestors, and lineal descendants of an individual;
  - (b) An individual, and a corporation more than fifty percent (50%) in value of the outstanding stock of which is owned, directly or indirectly, by or for that individual;
  - (c) An individual, and a limited liability company of which more than fifty percent (50%) of the capital interest or profits are owned or controlled, directly or indirectly, by or for that individual;
  - (d) Two (2) corporations which are members of the same controlled group, which includes and is limited to:
    - 1. One (1) or more chains of corporations connected through stock ownership with a common parent corporation if:
      - a. Stock possessing more than fifty percent (50%) of the total combined voting power of all classes of stock entitled to vote or more than fifty percent (50%) of the total value of shares of all classes of stock of each of the corporations, except the common parent corporation, is owned by one (1) or more of the other corporations; and
      - b. The common parent corporation owns stock possessing more than fifty percent (50%) of the total combined voting power of all classes of stock entitled to vote or more than fifty percent (50%) of the total value of shares of all classes of stock of at least one (1) of the other corporations, excluding, in computing the voting power or value, stock owned directly by the other corporations; or
    - 2. Two (2) or more corporations if five (5) or fewer persons who are individuals, estates, or trusts own stock possessing more than fifty percent (50%) of the total combined voting power of all classes of stock entitled to vote or more than fifty percent (50%) of the total value of shares of all

classes of stock of each corporation, taking into account the stock ownership of each person only to the extent the stock ownership is identical with respect to each corporation;

- (e) A grantor and a fiduciary of any trust;
  - (f) A fiduciary of a trust and a fiduciary of another trust, if the same person is a grantor of both trusts;
  - (g) A fiduciary of a trust and a beneficiary of that trust;
  - (h) A fiduciary of a trust and a beneficiary of another trust, if the same person is a grantor of both trusts;
  - (i) A fiduciary of a trust and a corporation more than fifty percent (50%) in value of the outstanding stock of which is owned, directly or indirectly, by or for the trust or by or for a person who is a grantor of the trust;
  - (j) A fiduciary of a trust and a limited liability company more than fifty percent (50%) of the capital interest, or the interest in profits, of which is owned directly or indirectly, by or for the trust or by or for a person who is a grantor of the trust;
  - (k) A corporation and a partnership, including a registered limited liability partnership, if the same persons own:
    - 1. More than fifty percent (50%) in value of the outstanding stock of the corporation; and
    - 2. More than fifty percent (50%) of the capital interest, or the profits interest, in the partnership, including a registered limited liability partnership;
  - (l) A corporation and a limited liability company if the same persons own:
    - 1. More than fifty percent (50%) in value of the outstanding stock of the corporation; and
    - 2. More than fifty percent (50%) of the capital interest or the profits in the limited liability company;
  - (m) A partnership, including a registered limited liability partnership, and a limited liability company if the same persons own:
    - 1. More than fifty percent (50%) of the capital interest or profits in the partnership, including a registered limited liability partnership; and
    - 2. More than fifty percent (50%) of the capital interest or the profits in the limited liability company;
  - (n) An S corporation and another S corporation if the same persons own more than fifty percent (50%) in value of the outstanding stock of each corporation, S corporation designation being the same as that designation under the Internal Revenue Code of 1986, as amended; or
  - (o) An S corporation and a C corporation, if the same persons own more than fifty percent (50%) in value of the outstanding stock of each corporation; S and C corporation designations being the same as those designations under the Internal Revenue Code of 1986, as amended;
- (3) "Agribusiness" means any activity involving the processing of raw agricultural products, including timber, or the providing of value-added functions with regard to raw agricultural products;
- (4) "Approved company" means any eligible company seeking to locate an economic development project in a qualified county, which eligible company is approved by the authority pursuant to KRS 154.22-010 to 154.22-080;
- (5) "Approved costs" means:
- (a) Obligations incurred for labor and to contractors, subcontractors, builders, and materialmen in connection with the acquisition, construction, installation, equipping, and rehabilitation of an economic development project;
  - (b) The cost of acquiring land or rights in land and any cost incidental thereto, including recording fees;

- (c) The cost of contract bonds and of insurance of all kinds that may be required or necessary during the course of acquisition, construction, installation, equipping, and rehabilitation of an economic development project which is not paid by the contractor or contractors or otherwise provided for;
  - (d) All costs of architectural and engineering services, including test borings, surveys, estimates, plans and specifications, preliminary investigations, and supervision of construction, as well as for the performance of all the duties required by or consequent upon the acquisition, construction, installation, equipping, and rehabilitation of an economic development project;
  - (e) All costs which shall be required to be paid under the terms of any contract or contracts for the acquisition, construction, installation, equipping, and rehabilitation of an economic development project; and
  - (f) All other costs of a nature comparable to those described above;
- (6) "Assessment" means the job development assessment fee authorized by KRS 154.22-010 to 154.22-080;
- (7) "Authority" means the Kentucky Economic Development Finance Authority as created in KRS 154.20-010;
- (8) "Average hourly wage" means the wage and employment data published by the ***Office of Employment and Training within the Department of Workforce Investment in the Education Cabinet***~~[Department for Employment Services in the Kentucky Cabinet for Workforce Development]~~ collectively translated into wages per hour based on a two thousand eighty (2,080) hour work year for the following sectors:
- (a) Manufacturing;
  - (b) Transportation, communications and public utilities;
  - (c) Wholesale and retail trade;
  - (d) Finance, insurance, and real estate; and
  - (e) Services;
- (9) "Commonwealth" means the Commonwealth of Kentucky;
- (10) (a) "Economic development project" means and includes:
- 1. The acquisition of ownership in any real estate in a qualified county by the authority, the approved manufacturing or agribusiness company, or its affiliate;
  - 2. The present ownership of real estate in a qualified county by the approved manufacturing or agribusiness company or its affiliate;
  - 3. The acquisition or present ownership of improvements or facilities, as described in paragraph (b) of this subsection, on land which is possessed or is to be possessed by the approved manufacturing or agribusiness company pursuant to a ground lease having a term of sixty (60) years or more; and
  - 4. The new construction of an electric generation facility;
- (b) For purposes of subparagraphs 1. and 2. of paragraph (a) of this subsection, ownership of real estate shall only include fee ownership of real estate and possession of real estate pursuant to a capital lease as determined in accordance with Statement of Financial Accounting Standards No. 13, Accounting for Leases, issued by the Financial Accounting Standards Board, November 1976. With respect to subparagraphs 1., 2., and 3. of paragraph (a) or paragraph (b) of this subsection, the construction, installation, equipping, and rehabilitation of improvements, including fixtures and equipment, and facilities necessary or desirable for improvement of the real estate, including surveys; site tests and inspections; subsurface site work; excavation; removal of structures, roadways, cemeteries, and other surface obstructions; filling, grading, and provision of drainage, storm water retention, installation of utilities such as water, sewer, sewage treatment, gas, electricity, communications, and similar facilities; off-site construction of utility extensions to the boundaries of the real estate; and the acquisition, installation, equipping, and rehabilitation of manufacturing facilities on the real estate, for use and occupancy by the approved company or its affiliates for manufacturing purposes, electric generation, or for agribusiness purposes. Pursuant to subparagraph 3. of paragraph (a) of this subsection, an economic development project shall not include lease payments made pursuant to a ground lease for purposes of the tax credits provided under the provisions of KRS 154.22-010 to 154.22-080;



- (11) "Electric generation" means the generation of electricity for resale by means of combusting at least fifty percent (50%) of the total fuel used to generate electricity from coal or from gas derived from coal;
- (12) "Eligible company" means any corporation, limited liability company, partnership, registered limited liability partnership, sole proprietorship, business trust, or any other entity engaged in manufacturing, electric generation, or in agribusiness;
- (13) "Employee benefits" means nonmandated costs paid by an eligible company for its full-time employees for health insurance, life insurance, dental insurance, vision insurance, defined benefits, 401(k) or similar plans;
- (14) "Final approval" means the action taken by the authority authorizing the eligible company to receive inducements under this subchapter;
- (15) "Full-time employee" means a person employed by an approved company for a minimum of thirty-five (35) hours per week and subject to the state income tax imposed by KRS 141.020;
- (16) "Inducements" means the assessment and the income tax credits allowed by KRS 154.22-060;
- (17) "Manufacturing" means any activity involving the manufacturing, processing, assembling, or production of any property, including the processing resulting in a change in the conditions of the property and any activity related to it, together with the storage, warehousing, distribution, and related office facilities; however, "manufacturing" shall not include mining, coal or mineral processing, or extraction of minerals;
- (18) "Preliminary approval" means the action taken by the authority conditioning final approval by the authority upon satisfaction by the eligible company of the requirements under this subchapter;
- (19) "Qualified county" means any county certified as such by the authority pursuant to KRS 154.22-010 to 154.22-080;
- (20) "Revenues" shall not be considered state funds;
- (21) "State agency" shall have the meaning assigned to the term in KRS 56.440(8); and
- (22) "Tax incentive agreement" means the agreement entered into, pursuant to KRS 154.22-050, between the authority and an approved company with respect to an economic development project.

Section 70. KRS 154.22-040 is amended to read as follows:

- (1) Each year the authority shall under its Rural Economic Development Assistance Program, on the basis of the final unemployment figures calculated by the ***Office of Employment and Training within the Department of Workforce Investment in the Education Cabinet***~~[Department for Employment Services within the Cabinet for Workforce Development]~~, determine which counties have had a countywide rate of unemployment exceeding the statewide unemployment rate of the Commonwealth in the most recent five (5) consecutive calendar years, or which have had an average countywide rate of unemployment exceeding the statewide unemployment rate of the Commonwealth by two hundred percent (200%) in the most recent calendar year, and shall certify those counties as qualified counties. A county not certified on the basis of final unemployment figures may also be certified as a qualified county if the authority determines the county is one (1) of the sixty (60) most distressed counties in the Commonwealth based on the following criteria with equal weight given to each criterion:
  - (a) The average countywide rate of unemployment in the most recent three (3) consecutive calendar years, on the basis of final unemployment figures calculated by the ***Office of Employment and Training within the Department of Workforce Investment in the Education Cabinet***~~[Department for Employment Services within the Cabinet for Workforce Development]~~;
  - (b) In each county the percentage of adults twenty-five (25) years of age and older who have attained at least a high school education or equivalent, on the basis of the most recent data available from the United States Department of Commerce, Bureau of the Census; and
  - (c) Road quality, as quantified by the access within a county to roads ranked in descending order from best quality to worst quality as follows: two (2) or more interstate highways, one (1) interstate highway, a state four (4) lane parkway, four (4) lane principal arterial access to an interstate highway, state two (2) lane parkway and none of the preceding road types, as certified by the Kentucky Transportation Cabinet to the authority.

If the authority determines that a county which has previously been certified as a qualified county no longer meets the criteria of this subsection, the authority shall decertify that county. The authority shall not provide inducements for any facilities in that county and an approved company shall not be eligible for the inducements offered by KRS 154.22-010 to 154.22-070 unless the tax incentive agreements required herein are entered into by all parties prior to July 1 of the year following the calendar year in which the authority decertified that county. In addition, the authority shall certify coal-producing counties, not otherwise certified as qualified counties in this subsection, for economic development projects involving the new construction of electric generation facilities. A coal producing county shall mean a county in the Commonwealth of Kentucky that has produced coal upon which the tax imposed under KRS 143.020 was paid at any time. For economic development projects undertaken in a regional industrial park, as defined in KRS 42.4588, or in an industrial park created pursuant to an interlocal agreement in which revenues are shared as provided in KRS 65.245, where the physical boundaries of the industrial park lie within two (2) or more counties of which at least one (1) of the counties is a qualified county under this section, an eligible company undertaking an economic development project within the physical boundaries of the industrial park may be approved for the inducements under KRS 154.22-010 to 154.22-080.

- (2) The authority shall establish the procedures and standards for the determination and approval of eligible companies and their economic development projects by the promulgation of administrative regulations in accordance with KRS Chapter 13A. The criteria for approval of eligible companies and economic development projects shall include but not be limited to the creditworthiness of eligible companies; the number of new jobs to be provided by an economic development project to residents of the Commonwealth; and the likelihood of the economic success of the economic development project.
- (3) The economic development project shall involve a minimum investment of one hundred thousand dollars (\$100,000) by the eligible company and shall result in the creation by the eligible company, within two (2) years from the date of the final approval authorizing the economic development project, of a minimum of fifteen (15) new full-time jobs at the site of the economic development project for Kentucky residents to be employed by the eligible company and to be held by persons subject to the personal income tax of the Commonwealth. The authority may extend this two (2) year period upon the written application of an eligible company requesting an extension.
- (4)
  - (a) Within six (6) months after the activation date, the approved company shall compensate a minimum of ninety percent (90%) of its full-time employees whose jobs were created with base hourly wages equal to either:
    1. Seventy-five percent (75%) of the average hourly wage for the Commonwealth; or
    2. Seventy-five percent (75%) of the average hourly wage for the county in which the project is to be undertaken.
  - (b) If the base hourly wage calculated in subparagraph (a)1. or (a)2. of this subsection is less than one hundred fifty percent (150%) of the federal minimum wage, then the base hourly wage shall be one hundred fifty percent (150%) of the federal minimum wage. In addition to the applicable base hourly wage calculated above, the eligible company shall provide employee benefits equal to at least fifteen percent (15%) of the applicable base hourly wage; however, if the eligible company does not provide employee benefits equal to at least fifteen percent (15%) of the applicable base hourly wage, the eligible company may qualify under this section if it provides the employees hired by the eligible company as a result of the economic development project total hourly compensation equal to or greater than one hundred fifteen percent (115%) of the applicable base hourly wage through increased hourly wages combined with employee benefits.
  - (c) The requirements of this subsection shall not apply to eligible companies which are nonprofit corporations established under KRS 273.163 to 273.387 and whose employees are handicapped and sheltered workshop workers employed at less than the established minimum wage as authorized by KRS 337.295.

For an eligible company, within a regional industrial park which lies within two (2) or more counties, the calculation of the wage and benefit requirement shall be determined by averaging the average county hourly wage for all counties within the regional industrial park.

- (5) No economic development project which will result in the replacement of agribusiness, manufacturing, or electric generation facilities existing in the state shall be approved by the authority; however, the authority may approve an economic development project that:
- (a) Rehabilitates an agribusiness, manufacturing, or electric generation facility:
    - 1. Which has not been in operation for a period of ninety (90) or more consecutive days; or
    - 2. For which the current occupant of the facility has published a notice of closure so long as the eligible company intending to acquire the facility is not an affiliate of the current occupant; or
    - 3. The title to which is vested in other than the eligible company or an affiliate of the eligible company and that is sold or transferred pursuant to a foreclosure ordered by a court of competent jurisdiction or an order of a bankruptcy court of competent jurisdiction;
  - (b) Replaces an agribusiness, manufacturing, or electric generation facility existing in the Commonwealth:
    - 1. The title to which shall have been taken under the exercise of the power of eminent domain, or the title to which shall be the subject of a nonappealable judgment granting the authority to exercise the power of eminent domain, in either event to the extent that normal operations cannot be resumed at the facility within twelve (12) months; or
    - 2. Which has been damaged or destroyed by fire or other casualty to the extent that normal operations cannot be resumed at the facility within twelve (12) months; or
  - (c) Replaces an existing agribusiness, manufacturing, or electric generation facility located in the same qualified county, and the existing agribusiness, manufacturing, or electric generation facility to be replaced cannot be expanded due to the unavailability of real estate at or adjacent to the agribusiness, manufacturing, or electric generation facility to be replaced. Any economic development project satisfying the requirements of this subsection shall only be eligible for inducements to the extent of the expansion, and no inducements shall be available for the equivalent of the agribusiness, manufacturing, or electric generation facility to be replaced. No economic development project otherwise satisfying the requirements of this subsection shall be approved by the authority which results in a lease abandonment or lease termination by the approved company without the consent of the lessor.
- (6) With respect to each eligible company making an application to the authority for inducements, and with respect to the economic development project described in the application, the authority shall request materials and make inquiries of the applicant as necessary or appropriate. Upon review of the application and completion of initial inquiries, the authority may, by resolution, give its preliminary approval by designating an eligible company as a preliminarily approved company and authorizing the undertaking of the economic development project. After preliminary approval, the authority may by final approval designate an eligible company to be an approved company.

Section 71. KRS 154.23-010 is amended to read as follows:

As used in KRS 154.23-005 to 154.23-079, unless the context clearly indicates otherwise:

- (1) "Approved company" means an eligible company that locates an economic development project in a qualified zone, as provided for in KRS 154.23-030;
- (2) "Approved costs" means:
  - (a) For an approved company that establishes a new manufacturing facility or expands an existing manufacturing facility, the following obligations incurred in its economic development project, including rent under leases subject to subsection (6)(b)4. of this section:
    - 1. The cost of labor, contractors, subcontractors, builders, and material workers in connection with the acquisition, construction, installation, equipping, and rehabilitation of an economic development project;
    - 2. The cost of acquiring real estate or rights in land and any cost incidental thereto, including recording fees;

3. The cost of contract bonds and insurance of all kinds that may be required or necessary during the course of acquisition, construction, installation, equipping, and rehabilitation of an economic development project that is not paid by the contractor or contractors or otherwise provided for;
  4. The cost of architectural and engineering services, including test borings, surveys, estimates, plans and specifications, preliminary investigations, and supervision of construction, as well as for the performance of all duties required by or consequent to the acquisition, construction, installation, equipping, and rehabilitation of an economic development project;
  5. All costs required to be paid under the terms of any contract for the acquisition, construction, installation, equipping, and rehabilitation of an economic development project; and
  6. All other costs of a nature comparable to those described above; or
- (b) For an approved company that establishes a new service or technology business or expands existing service or technology operations, up to a maximum of fifty percent (50%) of the total start-up costs during the term of the service and technology agreement, plus up to a maximum of fifty percent (50%) of the annual rent for each elapsed year of the service and technology agreement;
- (3) "Assessment" means the job development assessment fee authorized by KRS 154.23-055;
- (4) "Authority" means the Kentucky Economic Development Finance Authority, as created in KRS 154.20-010;
- (5) "Average hourly wage" means the wage and employment data published by the ~~Office of Department for~~ **Employment and Training within the Department of Workforce Investment within** ~~Services in~~ the ~~Kentucky Education Cabinet for Workforce Development~~ collectively translated into wages per hour based on a two thousand eighty (2,080) hour work year for the following sectors:
- (a) Manufacturing;
  - (b) Transportation, communications, and public utilities;
  - (c) Wholesale and retail trade;
  - (d) Finance, insurance, and real estate; and
  - (e) Services;
- (6) "Commonwealth" means the Commonwealth of Kentucky;
- (7) "Economic development project" or "project" means:
- (a) A new or expanded service or technology activity conducted at a new or expanded site by:
    1. An approved company; or
    2. An approved company and its affiliate or affiliates; or
  - (b) Any of the following activities of an approved company engaged in manufacturing:
    1. The acquisition of or present ownership in any real estate in a qualified zone for the purposes described in KRS 154.23-005 to 154.23-079, which ownership shall include only fee simple ownership of real estate and possession of real estate according to a capital lease as determined in accordance with Statement of Financial Accounting Standards No. 13, Accounting for Leases, issued by the Financial Accounting Standards Board, November 1976;
    2. The acquisition or present ownership of improvements or facilities on land that is possessed or is to be possessed by the approved company in a ground lease having a term of sixty (60) years or more; provided, however, that this project shall not include lease payments made under a ground lease for purposes of calculating the tax credits offered under KRS 154.23-005 to 154.23-079;
    3. The construction, installation, equipping, and rehabilitation of improvements, fixtures, equipment, and facilities necessary or desirable for improvement of the real estate owned, used, or occupied by the approved company for manufacturing purposes. Construction activities include surveys; site tests and inspections; subsurface site work; excavation; removal of structures, roadways, cemeteries, and other surface obstructions; filling, grading, and providing drainage and storm water retention; installation of utilities such as water, sewer, sewage treatment, gas, electric, communications, and similar facilities; off-site construction of utility

extensions to the boundaries of the real estate; or similar activities as the authority may determine necessary for construction; and

4. The leasing of real estate and the buildings and fixtures thereon acquired, constructed, and installed with funds from grants under KRS 154.23-060;
- (8) "Eligible company" means any corporation, limited liability company, partnership, registered limited liability partnership, sole proprietorship, business trust, or any other legal entity engaged in manufacturing, or service or technology; however, any company whose primary purpose is retail sales shall not be an eligible company;
- (9) "Employee benefits" means nonmandated costs paid by an eligible company for its full-time employees for health insurance, life insurance, dental insurance, vision insurance, defined benefits, 401(k) or similar plans;
- (10) "Final approval" means action taken by the authority that authorizes the eligible company to receive inducements in connection with a project under KRS 154.23-005 to 154.23-079;
- (11) "Full-time employee" means a person employed by an approved company for a minimum of thirty-five (35) hours per week and subject to the state income tax imposed by KRS 141.020;
- (12) "Inducements" means the assessment and the income tax credits allowed to an approved company under KRS 154.23-050 and 154.23-055;
- (13) "Local government" means a city, county, or urban-county government;
- (14) "Manufacturing" means to make, assemble, process, produce, or perform any other activity that changes the form or conditions of raw materials and other property, and shall include any ancillary activity to the manufacturing process, such as storage, warehousing, distribution, and related office facilities; however, "manufacturing" shall not include mining, the extraction of minerals or coal, or processing of these resources;
- (15) "Person" means an individual, sole proprietorship, partnership, registered limited liability partnership, joint venture, trust, unincorporated organization, association, corporation, limited liability company, institution, entity or government, whether federal, state, county, city, or otherwise, including without limitation any instrumentality, division, political subdivision, district, court, agency, or department thereof;
- (16) "Preliminary approval" means action taken by the authority that conditions final approval of an eligible company and its economic development project upon satisfaction by the eligible company of the applicable requirements under KRS 154.23-005 to 154.23-079;
- (17) "Qualified employee" means an individual subject to Kentucky income tax who has resided in the qualified zone where the project exists for at least twelve (12) consecutive months preceding full-time employment by an approved company;
- (18) "Qualified statewide employee" means an individual subject to Kentucky income tax who has resided in any census tract or county in the Commonwealth that meets the criteria in KRS 154.23-015, regardless of whether the tract or county is in a qualified zone, for at least twelve (12) consecutive months preceding full-time employment by an approved company;
- (19) "Qualified zone" means any census tract or county certified as such by the authority in KRS 154.23-015 and 154.23-020;
- (20) "Rent" means:
  - (a) The actual annual rent or leasing fee paid by an approved company to a bona fide entity negotiated at arms length for the use of a building by the approved company to conduct the approved project for which the inducement has been granted; or
  - (b) The fair rental value on an annual basis in a building owned by the approved company of the space used by the approved company to conduct the approved project for which the inducement has been granted as determined by the authority using criteria that are customary in the real estate industry for the type of building being used. The fair rental value shall include an analysis of the cost of amortizing the cost of land and building over the period of time customary in the real estate industry for the type of building and for the land being utilized; and
  - (c) Rent shall include the customary cost of occupancy, including but not limited to property taxes, heating and air conditioning, electricity, water, sewer, and insurance;

- (21) "Service and technology agreement" means any agreement entered into, under KRS 154.23-040, on behalf of the authority, an approved company engaged in service or technology, and third-party lessors, if applicable, with respect to an economic development project;
- (22) (a) "Service or technology" means either:
1. Any activity involving the performance of work, except work classified by the divisions, including successor divisions, of agriculture, forestry and fishing, mining, utilities, construction, manufacturing, wholesale trade, retail trade, real estate rental and leasing, educational services, accommodation and food services, and public administration in accordance with the "North American Industry Classification System," as revised by the United States Office of Management and Budget from time to time, or any successor publication; or
  2. Regional or headquarters operations of an entity engaged in an activity listed in subparagraph 1. of this paragraph.
- (b) Notwithstanding paragraph (a) of this subsection, "service or technology" shall not include any activity involving the performance of work by an individual who is providing direct service to the public pursuant to a license issued by the state or an association that licenses in lieu of the state;
- (23) "Start-up costs" means the acquisition cost associated with the project and related to furnishing and equipping a building for ordinary business functions, including computers, nonrecurring costs of fixed telecommunication equipment, furnishings, office equipment, and the relocation of out-of-state equipment, as verified and approved by the authority in accordance with KRS 154.23-040;
- (24) "Tax incentive agreement" means that agreement entered into, pursuant to KRS 154.23-035, between the authority and an approved company with respect to an economic development project; and
- (25) "Affiliate" means the following:
- (a) Members of a family, including only brothers and sisters of the whole or half blood, spouse, ancestors, and lineal descendants of an individual;
  - (b) An individual, and a corporation more than fifty percent (50%) in value of the outstanding stock of which is owned, directly or indirectly, by or for that individual;
  - (c) An individual, and a limited liability company of which more than fifty percent (50%) of the capital interest or profits are owned or controlled, directly or indirectly, by or for that individual;
  - (d) Two (2) corporations which are members of the same controlled group, which includes and is limited to:
    1. One (1) or more chains of corporations connected through stock ownership with a common parent corporation if:
      - a. Stock possessing more than fifty percent (50%) of the total combined voting power of all classes of stock entitled to vote or more than fifty percent (50%) of the total value of shares of all classes of stock of each of the corporations, except the common parent corporation, is owned by one (1) or more of the other corporations; and
      - b. The common parent corporation owns stock possessing more than fifty percent (50%) of the total combined voting power of all classes of stock entitled to vote or more than fifty percent (50%) of the total value of shares of all classes of stock of at least one (1) of the other corporations, excluding, in computing the voting power or value, stock owned directly by the other corporations; or
    2. Two (2) or more corporations if five (5) or fewer persons who are individuals, estates, or trusts own stock possessing more than fifty percent (50%) of the total combined voting power of all classes of stock entitled to vote or more than fifty percent (50%) of the total value of shares of all classes of stock of each corporation, taking into account the stock ownership of each person only to the extent the stock ownership is identical with respect to each corporation;
  - (e) A grantor and a fiduciary of any trust;
  - (f) A fiduciary of a trust and a fiduciary of another trust, if the same person is a grantor of both trusts;
  - (g) A fiduciary of a trust and a beneficiary of that trust;

- (h) A fiduciary of a trust and a beneficiary of another trust, if the same person is a grantor of both trusts;
- (i) A fiduciary of a trust and a corporation more than fifty percent (50%) in value of the outstanding stock of which is owned, directly or indirectly, by or for the trust or by or for a person who is a grantor of the trust;
- (j) A fiduciary of a trust and a limited liability company, of which more than fifty percent (50%) of the capital interest, or the interest in profits, is owned directly or indirectly, by or for the trust or by or for a person who is a grantor of the trust;
- (k) A corporation and a partnership, including a registered limited liability partnership, if the same persons own:
  - 1. More than fifty percent (50%) in value of the outstanding stock of the corporation; and
  - 2. More than fifty percent (50%) of the capital interest, or the profits interest, in the partnership, including a registered limited liability partnership;
- (l) A corporation and a limited liability company if the same persons own:
  - 1. More than fifty percent (50%) in value of the outstanding stock of the corporation; and
  - 2. More than fifty percent (50%) of the capital interest or the profits in the limited liability company;
- (m) A partnership, including a registered limited liability partnership, and a limited liability company if the same persons own:
  - 1. More than fifty percent (50%) of the capital interest or profits in the partnership, including a registered limited liability partnership; and
  - 2. More than fifty percent (50%) of the capital interest or the profits in the limited liability company;
- (n) An S corporation and another S corporation if the same persons own more than fifty percent (50%) in value of the outstanding stock of each corporation, S corporation designation being the same as that designation under the Internal Revenue Code of 1986, as amended; or
- (o) An S corporation and a C corporation, if the same persons own more than fifty percent (50%) in value of the outstanding stock of each corporation; S and C corporation designations being the same as those designations under the Internal Revenue Code of 1986, as amended.

Section 72. KRS 154.23-015 is amended to read as follows:

- (1) Upon written application by a county, urban-county government, or city of the first class, the authority shall certify one (1) to five (5) contiguous census tracts or a county certified by the authority in accordance with KRS 154.22-040 as a qualified zone. In the case of certification based on one (1) to five (5) contiguous census tracts, each census tract shall independently meet each of the following criteria, as verified by the ***Office of Employment and Training within the Department of Workforce Investment in the Education Cabinet***~~[Department for Employment Services within the Cabinet for Workforce Development]~~:
  - (a) A minimum total poverty rate of one hundred fifty percent (150%) of the United States poverty rate as determined by the most recent decennial census;
  - (b) An unemployment rate that exceeds the statewide unemployment rate as determined on the basis of the most recent decennial census; and
  - (c) A minimum population density of two hundred percent (200%) of the average Kentucky census tract population density as determined by the most recent decennial census.
- (2) Census tract information shall be based upon United States census data as set forth in the most recent edition of Census of Population and Housing: Population and Housing Characteristics for Census Tracts and Block Numbering Areas published by the United States Bureau of the Census.

- (3) The authority shall certify no more than one (1) qualified zone within each county of the Commonwealth, except in the case of a county certified under KRS 154.22-040, the entire county shall constitute the qualified zone.
- (4) A qualified zone shall commence on the date of certification by the authority and continue thereafter, except that at the time new decennial census data becomes available, the authority shall decertify any census tract that no longer meets the criteria of subsection (1) of this section for qualified zone status. The authority shall not give preliminary approval to any project in a decertified census tract. An approved company whose project is located in a decertified census tract shall not be eligible for the inducements offered by KRS 154.23-005 to 154.23-079, unless the tax incentive agreement or service and technology agreement is entered into by all parties prior to July 1 of the year following the calendar year in which the authority decertified that tract.
- (5) If decertification causes a formerly certified contiguous census tract to become noncontiguous, the applicant shall have the discretion to eliminate or maintain the noncontiguous tract. If the applicant eliminates the noncontiguous tract, it may replace the noncontiguous tract with another qualifying census tract, subject to approval of the authority.
- (6) A county, urban-county government, or city of the first class shall have no authority to request decertification of a census tract, and any addition of a census tract requested by a county, urban-county government, or city of the first class under KRS 154.23-020 shall be contiguous to a census tract that continues to meet the criteria under this section.
- (7) The authority shall pay its costs of counsel relating to zone certification.

Section 73. KRS 154.24-010 is amended to read as follows:

The following words and terms, unless the context clearly indicates a different meaning, shall have the following respective meanings in KRS 154.24-010 to 154.24-150:

- (1) "Affiliate" means the following:
  - (a) Members of a family, including only brothers and sisters of the whole or half blood, spouse, ancestors, and lineal descendants of an individual;
  - (b) An individual, and a corporation more than fifty percent (50%) in value of the outstanding stock of which is owned, directly or indirectly, by or for that individual;
  - (c) An individual, and a limited liability company of which more than fifty percent (50%) of the capital interest or profits are owned or controlled, directly or indirectly, by or for that individual;
  - (d) Two (2) corporations which are members of the same controlled group, which includes and is limited to:
    1. One (1) or more chains of corporations connected through stock ownership with a common parent corporation if:
      - a. Stock possessing more than fifty percent (50%) of the total combined voting power of all classes of stock entitled to vote or more than fifty percent (50%) of the total value of shares of all classes of stock of each of the corporations, except the common parent corporation, is owned by one (1) or more of the other corporations; and
      - b. The common parent corporation owns stock possessing more than fifty percent (50%) of the total combined voting power of all classes of stock entitled to vote or more than fifty percent (50%) of the total value of shares of all classes of stock of at least one (1) of the other corporations, excluding, in computing the voting power or value, stock owned directly by the other corporations; or
    2. Two (2) or more corporations if five (5) or fewer persons who are individuals, estates, or trusts own stock possessing more than fifty percent (50%) of the total combined voting power of all classes of stock entitled to vote or more than fifty percent (50%) of the total value of shares of all classes of stock of each corporation, taking into account the stock ownership of each person only to the extent the stock ownership is identical with respect to each corporation;
  - (e) A grantor and a fiduciary of any trust;
  - (f) A fiduciary of a trust and a fiduciary of another trust, if the same person is a grantor of both trusts;
  - (g) A fiduciary of a trust and a beneficiary of that trust;



- (h) A fiduciary of a trust and a beneficiary of another trust, if the same person is a grantor of both trusts;
  - (i) A fiduciary of a trust and a corporation more than fifty percent (50%) in value of the outstanding stock of which is owned, directly or indirectly, by or for the trust or by or for a person who is a grantor of the trust;
  - (j) A fiduciary of a trust and a limited liability company, of which more than fifty percent (50%) of the capital interest, or the interest in profits, is owned directly or indirectly, by or for the trust or by or for a person who is a grantor of the trust;
  - (k) A corporation and a partnership, including a registered limited liability partnership, if the same persons own:
    - 1. More than fifty percent (50%) in value of the outstanding stock of the corporation; and
    - 2. More than fifty percent (50%) of the capital interest, or the profits interest, in the partnership, including a registered limited liability partnership;
  - (l) A corporation and a limited liability company if the same persons own:
    - 1. More than fifty percent (50%) in value of the outstanding stock of the corporation; and
    - 2. More than fifty percent (50%) of the capital interest or the profits in the limited liability company;
  - (m) A partnership, including a registered limited liability partnership, and a limited liability company if the same persons own:
    - 1. More than fifty percent (50%) of the capital interest or profits in the partnership, including a registered limited liability partnership; and
    - 2. More than fifty percent (50%) of the capital interest or the profits in the limited liability company;
  - (n) An S corporation and another S corporation if the same persons own more than fifty percent (50%) in value of the outstanding stock of each corporation, S corporation designation being the same as that designation under the Internal Revenue Code of 1986, as amended; or
  - (o) An S corporation and a C corporation, if the same persons own more than fifty percent (50%) in value of the outstanding stock of each corporation; S and C corporation designations being the same as those designations under the Internal Revenue Code of 1986, as amended;
- (2) "Agreement" means the service and technology agreement made pursuant to KRS 154.24-120, between the authority and an approved company with respect to an economic development project;
  - (3) "Approved company" means any eligible company seeking to locate an economic development project from outside the Commonwealth into the Commonwealth, or undertaking an economic development project in the Commonwealth for which it is approved pursuant to KRS 154.24-100;
  - (4) "Approved costs" means fifty percent (50%) of the total of the start-up costs up to a maximum of ten thousand dollars (\$10,000) per new full-time job created and to be held by a Kentucky resident subject to the personal income tax of the Commonwealth, plus fifty percent (50%) of the annual rent for each elapsed year of the service and technology agreement;
  - (5) "Assessment" means the "service and technology job creation assessment fee" authorized by KRS 154.24-110;
  - (6) "Authority" means the Kentucky Economic Development Finance Authority, as created in KRS 154.20-010;
  - (7) "Average hourly wage" means the wage and employment data published by the ***Office of Employment and Training within the Department of Workforce Investment within the Education Cabinet***~~[Department for Employment Services in the Kentucky Cabinet for Workforce Development]~~ collectively translated into wages per hour based on a two thousand eighty (2,080) hour work year for the following sectors:
    - (a) Manufacturing;
    - (b) Transportation, communications, and public utilities;

- (c) Wholesale and retail trade;
  - (d) Finance, insurance, and real estate; and
  - (e) Services;
- (8) "Commonwealth" means the Commonwealth of Kentucky;
- (9) "Economic development project" or "project" means a new or expanded service or technology activity conducted at a new or expanded site by:
- (a) An approved company; or
  - (b) An approved company and its affiliate or affiliates;
- (10) "Eligible company" means any corporation, limited liability company, partnership, registered limited liability partnership, sole proprietorship, business trust, or any other entity engaged in service or technology and meeting the standards promulgated by the authority in accordance with KRS Chapter 13A;
- (11) "Employee benefits" means nonmandated costs paid by an approved company for its full-time employees for health insurance, life insurance, dental insurance, vision insurance, defined benefits, 401(k) or similar plans;
- (12) "Final approval" means the action taken by the authority authorizing the eligible company to receive inducements under this subchapter;
- (13) "Full-time employee" means a person employed by an approved company for a minimum of thirty-five (35) hours per week and subject to the state tax imposed by KRS 141.020;
- (14) "In lieu of credits" means a local government appropriation to the extent permitted by law, or other form of local government grant or service benefit, directly related to the economic development project and in an amount equal to one percent (1%) of employees' gross wages, exclusive of any noncash benefits provided to an employee, or the provision by a local government of an in-kind contribution directly related to the economic development project and in an amount equal to one half (1/2) of the rent for the duration of the agreement;
- (15) "Inducements" means the income tax credits allowed and the assessment authorized by KRS 154.24-110, which are intended to induce companies engaged in service and technology industries to locate or expand in the Commonwealth;
- (16) "Person" means an individual, sole proprietorship, partnership, registered limited liability partnership, joint venture, trust, unincorporated organization, association, corporation, limited liability company, institution, entity or government, whether federal, state, county, city, or otherwise, including without limitation any instrumentality, division, political subdivision, district, court, agency, or department thereof;
- (17) "Preliminary approval" means the action taken by the authority conditioning final approval by the authority upon satisfaction by the eligible company of the requirements under this subchapter;
- (18) "Rent" means:
- (a) The actual annual rent or leasing fee paid by an approved company to a bona fide entity negotiated at arms length for the use of a building by the approved company to conduct the approved activity for which the inducement has been granted; or
  - (b) The fair rental value on an annual basis in a building owned by the approved company of the space used by the approved company to conduct the approved activity for which the inducement has been granted as determined by the authority using criteria which is customary in the real estate industry for the type of building being used. The fair rental value shall include an analysis of the cost of amortizing the cost of land and building over the period of time customary in the real estate industry for the type of building and for the land being utilized;
  - (c) Rent shall include the customary cost of occupancy, including but not limited to property taxes, heating and air-conditioning, electricity, water, sewer, and insurance;
- (19) (a) "Service or technology" means either:
- 1. Any activity involving the performance of work, except work classified by the divisions, including successor divisions, of agriculture, forestry and fishing, mining, utilities, construction, manufacturing, wholesale trade, retail trade, real estate rental and leasing, educational services, accommodation and food services, and public administration in accordance with the "North

American Industry Classification System," as revised by the United States Office of Management and Budget from time to time, or any successor publication; or

2. Regional or headquarters operations of an entity engaged in an activity listed in subparagraph 1. of this paragraph.
- (b) Notwithstanding paragraph (a) of this subsection, "service or technology" shall not include any activity involving the performance of work by an individual who is providing direct service to the public pursuant to a license issued by the state or an association that licenses in lieu of the state; and
- (20) "Start-up costs" means the acquisition cost associated with the project related to the furnishing and equipping the building for ordinary business functions, including computers, furnishings, office equipment, the relocation of out-of-state equipment, and nonrecurring costs of fixed telecommunication equipment as verified and approved by the authority in accordance with KRS 154.24-130.

Section 74. KRS 154.26-080 is amended to read as follows:

- (1) The authority shall establish standards for the determination and approval of eligible companies and their projects by the promulgation of administrative regulations in accordance with KRS Chapter 13A.
- (2) The criteria for approval of eligible companies and economic revitalization projects shall include but not be limited to the need for the project; the new capital investment in the project that will result in financial stability for the manufacturing or coal mining and processing facility; and the retention or expansion of the greatest number of employees at the manufacturing or coal mining and processing facility.
- (3) With respect to each eligible company making an application to the authority for inducements, and with respect to the project described in the application, the authority shall make inquiries and request materials of the applicant, including, but not limited to, written evidence that except for a substantial investment in the project, assisted by the inducements authorized by KRS 154.26-015 to 154.26-100, the eligible company will close its manufacturing or coal mining and processing facility, permanently lay off its employees, and cease operations.
- (4) The eligible company shall, in a manner acceptable to the authority, detail the condition of the facility, including, but not limited to, financial, efficiency, and productivity matters; explain in detail why the company intends to close the facility; and set out alternatives that are available to the company.
- (5) As a part of its application, an eligible company as described in KRS 154.26-010(10)(b) may request an emergency declaration based upon the urgency of the request and its impact on the local or regional economy.
- (6) A request for an emergency declaration shall be reviewed by the secretary of the Cabinet for Economic Development, the secretary of the **Education** Cabinet ~~for Workforce Development~~, and the secretary of the Finance and Administration Cabinet and their findings in connection with the emergency declaration shall be delivered to the authority.
- (7) If the emergency declaration is granted in accordance with subsection (6) of this section, the eligible company shall not be subject to the requirements contained in subsection (8), subsection (9), or subsection (11) of this section.
- (8) In accordance with, and after the adoption of a resolution under subsection (10) of this section, the authority shall engage the services of a competent consulting firm or technical resource to analyze the data made available by the company, and to collect and analyze additional information necessary to determine that, in the independent judgment of the consultant, the company will close the facility absent a substantial investment in the project, assisted by the inducements authorized by KRS 154.26-015 to 154.26-100. The company shall pay the cost of this evaluation.
- (9) The company shall cooperate with the consultant and provide all of the data which could reasonably be required by the consultant to make a fair assessment of the company's intentions to close the facility.
- (10) After a review of relevant materials and completion of inquiries, the authority may, by resolution, give its preliminary approval by designating an eligible company as a preliminarily-approved company and authorizing the undertaking of the economic revitalization project.
- (11) The authority shall review the report of the consultant and other information which has been made available to it in order to assist the authority in determining whether the company intends to close the facility for valid

reasons. The authority shall determine the potential of the proposed revitalization project to make the facility stable, productive, and competitive in its market.

- (12) After the review of the consultant's report or if an emergency declaration has been issued in accordance with subsection (6) of this section, the authority shall hold a public hearing to solicit public comment from any person, group, or interested party regarding the proposed project.
- (13) After the public hearing, the authority, by resolution, may declare the jobs then existing at the facility to be lost; may give its final approval to the eligible company's application for a project; and may grant to the eligible company the status of an approved company. The decision reached by the authority shall be final and no appeal shall be granted.
- (14) All meetings of the authority shall be held in accordance with KRS 61.805 to 61.850. The authority may, pursuant to KRS 61.815, hold closed sessions of its meetings to discuss matters exempt from the open meetings law and pertaining to an eligible company.

Section 75. KRS 154.28-010 is amended to read as follows:

As used in KRS 154.28-010 to 154.28-100, unless the context clearly indicates otherwise:

- (1) "Activation date" means a date selected by an approved company in the agreement at any time within the two (2) year period after the date of final approval of the agreement by the authority;
- (2) "Affiliate" means the following:
  - (a) Members of a family, including only brothers and sisters of the whole or half blood, spouse, ancestors, and lineal descendants of an individual;
  - (b) An individual and a corporation more than fifty percent (50%) in value of the outstanding stock of which is owned, directly or indirectly, by or for that individual;
  - (c) An individual, and a limited liability company of which more than fifty percent (50%) of the capital interest or the profits interest of which is owned, directly or indirectly, by or for that individual;
  - (d) Two (2) corporations which are members of the same controlled group, which includes and is limited to:
    - 1. One (1) or more chains of corporations connected through stock ownership with a common parent corporation if:
      - a. Stock possessing more than fifty percent (50%) of the total combined voting power of all classes of stock entitled to vote or more than fifty percent (50%) of the total value of shares of all classes of stock of each of the corporations, except the common parent corporation, is owned by one (1) or more of the other corporations; and
      - b. The common parent corporation owns stock possessing more than fifty percent (50%) of the total combined voting power of all classes of stock entitled to vote or more than fifty percent (50%) of the total value of shares of all classes of stock of at least one (1) of the other corporations, excluding, in computing such voting power or value, stock owned directly by the other corporations; or
    - 2. Two (2) or more corporations if five (5) or fewer persons who are individuals, estates, or trusts own stock possessing more than fifty percent (50%) of the total combined voting power of all classes of stock entitled to vote or more than fifty percent (50%) of the total value of shares of all classes of stock of each corporation, taking into account the stock ownership of each person only to the extent the stock ownership is identical with respect to each corporation;
  - (e) A grantor and a fiduciary of any trust;
  - (f) A fiduciary of a trust and a fiduciary of another trust, if the same person is a grantor of both trusts;
  - (g) A fiduciary of a trust and a beneficiary of that trust;
  - (h) A fiduciary of a trust and a beneficiary of another trust, if the same person is a grantor of both trusts;
  - (i) A fiduciary of a trust and a corporation more than fifty percent (50%) in value of the outstanding stock of which is owned, directly or indirectly, by or for the trust or by or for a person who is a grantor of the trust;

- (j) A fiduciary of a trust and a limited liability company of which more than fifty percent (50%) of the capital interest or the profits interest of which is owned, directly or indirectly, by or for the trust or by or for a person who is a grantor of the trust;
  - (k) A corporation and a partnership, including a registered limited liability partnership, if the same persons own:
    - 1. More than fifty percent (50%) in value of the outstanding stock of the corporation; and
    - 2. More than fifty percent (50%) of the capital interest, or the profits interest, in the partnership, including a registered limited liability partnership;
  - (l) A corporation and a limited liability company if the same persons own:
    - 1. More than fifty percent (50%) in value of the outstanding stock of the corporation; and
    - 2. More than fifty percent (50%) of the capital interest or the profits in the limited liability company;
  - (m) A partnership, including a registered limited liability partnership, and a limited liability company if the same persons own:
    - 1. More than fifty percent (50%) of the capital interest or profits in the partnership, including a registered limited liability partnership; and
    - 2. More than fifty percent (50%) of the capital interest or profits in the limited liability company;
  - (n) An S corporation and another S corporation if the same persons own more than fifty percent (50%) in value of the outstanding stock of each corporation, S corporation designation being the same as that designation under the Internal Revenue Code of 1986, as amended; or
  - (o) An S corporation and a C corporation, if the same persons own more than fifty percent (50%) in value of the outstanding stock of each corporation: S and C corporation designations being the same as those designations under the Internal Revenue Code of 1986, as amended;
- (3) "Agreement" means the tax incentive agreement entered into, pursuant to KRS 154.28-090, between the authority and an approved company with respect to an economic development project;
  - (4) "Agribusiness" means any activity involving the processing of raw agricultural products, including timber, or the providing of value-added functions with regard to raw agricultural products;
  - (5) "Approved company" means any eligible company, approved by the authority pursuant to KRS 154.28-080, requiring an economic development project;
  - (6) "Approved costs" means:
    - (a) Obligations incurred for labor and to vendors, contractors, subcontractors, builders, suppliers, deliverymen, and materialmen in connection with the acquisition, construction, rehabilitation, and installation of an economic development project;
    - (b) The cost of contract bonds and of insurance of all kinds that may be required or necessary during the course of acquisition, construction, rehabilitation, and installation of an economic project which is not paid by the vendor, supplier, deliverymen, contractors, or otherwise else provided;
    - (c) All costs of architectural and engineering services, including estimates, plans and specifications, preliminary investigations, and supervision of construction, rehabilitation, and installation, as well as for the performance of all the duties required by or consequent upon the acquisition, construction, rehabilitation, and installation of an economic development project;
    - (d) All costs which shall be required to be paid under the terms of any contract for the acquisition, construction, rehabilitation, and installation of an economic development project;
    - (e) All costs which shall be required for the installation of utilities such as water, sewer, sewer treatment, gas, electricity, communications, railroads, and similar facilities, and including offsite construction of the facilities paid for by the approved company; and
    - (f) All other costs comparable to those described above;

- (7) "Assessment" means the job development assessment fee authorized by this section to KRS 154.28-100;
- (8) "Authority" means the Kentucky Economic Development Finance Authority created by KRS 154.20-010;
- (9) "Average hourly wage" means the wage and employment data published by the *Office of Employment and Training within the Department of Workforce Investment in the Education Cabinet*~~[Department for Employment Services in the Kentucky Cabinet for Workforce Development]~~ collectively translated into wages per hour based on a two thousand eighty (2,080) hour work year for the following sectors:
  - (a) Manufacturing;
  - (b) Transportation, communications, and public utilities;
  - (c) Wholesale and retail trade;
  - (d) Finance, insurance, and real estate; and
  - (e) Services;
- (10) "Commonwealth" means the Commonwealth of Kentucky;
- (11) (a) "Economic development project" or "project" means and includes:
  - 1. The acquisition of ownership in any real estate by the approved manufacturing or agribusiness company or its affiliate;
  - 2. The present ownership of real estate by the approved manufacturing or agribusiness company or its affiliate; or
  - 3. The acquisition or present ownership of improvements or facilities, as described in paragraph (b) of this subsection, on land which is possessed or is to be possessed by the approved company pursuant to a ground lease having a term of sixty (60) years or more.
- (b) For purposes of subparagraphs 1. and 2. of paragraph (a) of this subsection, ownership of real estate shall only include fee ownership of real estate and possession of real estate pursuant to a capital lease as determined in accordance with Statement of Financial Accounting Standards No. 13, Accounting for Leases, issued by the Financial Accounting Standards Board, November 1976. With respect to subparagraphs 1., 2., and 3. of paragraph (a) of this subsection, the construction, installation, equipping, and rehabilitating of improvements, including fixtures and equipment directly involved in the manufacturing process, and facilities necessary or desirable for improvement of the real estate shall include: surveys, site tests, and inspections; subsurface site work and excavation; removal of structures, roadways, cemeteries, and other site obstructions; filling, grading, provision of drainage, and storm water retention; installation of utilities such as water, sewer, sewage treatment, gas, electricity, communications, and similar facilities; offsite construction of utility extensions to the boundaries of the real estate; and the acquisition, installation, equipping, and rehabilitation of manufacturing facilities or agribusiness operations on the real estate for the use of the approved company or its affiliates for manufacturing or agribusiness operational purposes. Pursuant to paragraphs (a)3. and (b) of this subsection, an economic development project shall not include lease payments made pursuant to a ground lease for purposes of the tax credits provided under the provisions of KRS 154.28-010 to 154.28-100. An economic development project shall include the equipping of a facility with equipment but, for purposes of the tax credits provided under the provisions of KRS 154.28-010 to 154.28-090, only to the extent of ten thousand dollars (\$10,000) per job created by and maintained at the economic development project;
- (12) "Eligible company" means any corporation, limited liability company, partnership, registered limited liability partnership, sole proprietorship, trust, or any other entity engaged in manufacturing or agribusiness operations;
- (13) "Employee benefits" means nonmandated costs paid by an eligible company for its full-time employees for health insurance, life insurance, dental insurance, vision insurance, defined benefits, 401(k) or similar plans;
- (14) "Full-time employee" means a person employed by an approved company for a minimum of thirty-five (35) hours per week and subject to the state income tax imposed by KRS 141.020;
- (15) "Inducement" means the assessment or the Kentucky income tax credit as set forth in KRS 154.28-090;
- (16) "Manufacturing" means any activity involving the manufacturing, processing, assembling, or production of any property, including the processing resulting in a change in the conditions of the property, and any activity

functionally related to it, together with storage, warehousing, distribution, and related office facilities; however, "manufacturing" shall not include mining, coal or mineral processing, or extraction of minerals; and

- (17) "State agency" shall have the meaning assigned to the term in KRS 56.440(8).

Section 76. KRS 154.45-120 is amended to read as follows:

The **Education** Cabinet ~~for Workforce Development~~ shall verify employment information relating to the hiring requirements of qualified businesses to select and maintain employees from the targeted workforce. The **Education** Cabinet ~~for Workforce Development~~ shall fully cooperate with the authority in the development of a system to monitor employment information supplied by qualified businesses.

Section 77. KRS 154.47-015 is amended to read as follows:

- (1) The Kentucky Wood Products Competitiveness Corporation is created and established, as a de jure municipal corporation and political subdivision of the Commonwealth of Kentucky which shall be a public body corporate and politic, performing functions and purposes essential to improving and promoting the health and general welfare of the people of the Commonwealth through promoting, enhancing, and developing the Commonwealth's secondary wood products industries by:
  - (a) Disseminating information;
  - (b) Providing services;
  - (c) Developing workforce training measures and standards to support value-added functions with regard to design, processing and manufacture, and marketing of wood products; and
  - (d) Providing financial support for the deployment of new or improved technology and world-class manufacturing systems to businesses engaged in the production and manufacture of value-added wood products.
- (2) The corporation shall be governed by a board of thirteen (13) members, consisting of seven (7) members representing the private sector including four (4) representatives of Kentucky's secondary wood products industry; one (1) member representing the Kentucky Forest Products Council as created and established by KRS 154.47-110; one (1) member representing the **Education** Cabinet ~~for Workforce Development~~; and four (4) members representing the following universities with one (1) member each representing the University of Kentucky, the University of Louisville, Eastern Kentucky University, and Morehead State University.
- (3) The initial appointments to the board shall be made on or before October 1, 1994, in the following manner:
  - (a) Seven (7) private sector members shall be made by the Governor from names of persons submitted on or before August 30, 1994, in the following manner:
    1. Two (2) from a list of six (6) nominees from the secondary wood products industry submitted in writing by the Kentucky Wood Manufacturers Network;
    2. Two (2) from a list of six (6) nominees from the secondary wood products industry submitted in writing by the Kentucky Forest Industries Association;
    3. One (1) from a list of three (3) nominees submitted in writing by the Mountain Association for Community Economic Development;
    4. One (1) from a list of three (3) nominees submitted in writing from grass roots community economic development organizations that have a demonstrated interest in the development of secondary wood products industries; and
    5. One (1) from a list of three (3) nominees from private business submitted in writing by the Kentucky Economic Development Partnership.
  - (b) The Kentucky Forest Products Council, the secretary of the **Education** Cabinet ~~for Workforce Development~~, and the presidents of the University of Kentucky, the University of Louisville, Eastern Kentucky University, and Morehead State University shall each designate a representative of their respective organizations to be appointed by the Governor to the board.

- (c) If any organization or institution as specified in paragraph (a) of this subsection does not nominate persons for appointment as prescribed therein, the Governor may solicit names from any other source, or he may appoint from the list of names submitted by the remaining organizations.
- (d) The initial term of office for the seven (7) private sector members shall be staggered so that four (4) members shall serve for a term of three (3) years and three (3) members shall serve for a term of four (4) years. Subsequent appointments shall be made in the same manner as prescribed for original appointments, and shall be for four (4) year terms each.
- (4) Except as prescribed in subsection (3)(d) of this section and for the appointee representing the **Education** Cabinet~~[for Workforce Development]~~, all appointments shall have a term of four (4) years. The term for the person appointed from the **Education** Cabinet~~[for Workforce Development]~~ shall be the same as that of the Governor. Any appointment made by the Governor to fill an unexpired term shall be only for the remaining time of the vacated appointment. Nothing contained in this section shall be construed as prohibiting the reappointment of a member of the board to succeeding terms if, the person to be reappointed has been nominated or designated in the manner as prescribed for original appointments set forth in this section.

Section 78. KRS 154.48-010 is amended to read as follows:

As used in KRS 154.48-010 to 154.48-035, unless the context clearly indicates otherwise:

- (1) "Activation date" means a date selected by an approved company in the tax incentive agreement at any time within a two (2) year period after the date of final approval of the tax incentive agreement by the authority;
- (2) "Affiliate" means the following:
  - (a) Members of a family, including only brothers and sisters of the whole or half blood, spouse, ancestors, and lineal descendants of an individual;
  - (b) An individual, and a corporation more than fifty percent (50%) in value of the outstanding stock of which is owned, directly or indirectly, by or for that individual;
  - (c) An individual, and a limited liability company of which more than fifty percent (50%) of the capital interest or profits are owned or controlled, directly or indirectly, by or for that individual;
  - (d) Two (2) corporations which are members of the same controlled group, which includes and is limited to:
    - 1. One (1) or more chains of corporations connected through stock ownership with a common parent corporation if:
      - a. Stock possessing more than fifty percent (50%) of the total combined voting power of all classes of stock entitled to vote or more than fifty percent (50%) of the total value of shares of all classes of stock of each of the corporations, except the common parent corporation, is owned by one (1) or more of the other corporations; and
      - b. The common parent corporation owns stock possessing more than fifty percent (50%) of the total combined voting power of all classes of stock entitled to vote or more than fifty percent (50%) of the total value of shares of all classes of stock of at least one (1) of the other corporations, excluding, in computing the voting power or value, stock owned directly by the other corporations; or
    - 2. Two (2) or more corporations if five (5) or fewer persons who are individuals, estates, or trusts own stock possessing more than fifty percent (50%) of the total combined voting power of all classes of stock entitled to vote or more than fifty percent (50%) of the total value of shares of all classes of stock of each corporation, taking into account the stock ownership of each person only to the extent the stock ownership is identical with respect to each corporation;
  - (e) A grantor and a fiduciary of any trust;
  - (f) A fiduciary of a trust and a fiduciary of another trust, if the same person is a grantor of both trusts;
  - (g) A fiduciary of a trust and a beneficiary of that trust;
  - (h) A fiduciary of a trust and a beneficiary of another trust, if the same person is a grantor of both trusts;



- (i) A fiduciary of a trust and a corporation more than fifty percent (50%) in value of the outstanding stock of which is owned, directly or indirectly, by or for the trust or by or for a person who is a grantor of the trust;
  - (j) A fiduciary of a trust and a limited liability company more than fifty percent (50%) of the capital interest, or the interest in profits, of which is owned directly or indirectly, by or for the trust or by or for a person who is a grantor of the trust;
  - (k) A corporation and a partnership, including a registered limited liability partnership, if the same persons own:
    - 1. More than fifty percent (50%) in value of the outstanding stock of the corporation; and
    - 2. More than fifty percent (50%) of the capital interest, or the profits interest, in the partnership, including a registered limited liability partnership;
  - (l) A corporation and a limited liability company if the same persons own:
    - 1. More than fifty percent (50%) in value of the outstanding stock of the corporation; and
    - 2. More than fifty percent (50%) of the capital interest or the profits in the limited liability company;
  - (m) A partnership, including a registered limited liability partnership, and a limited liability company if the same persons own:
    - 1. More than fifty percent (50%) of the capital interest or profits in the partnership, including a registered limited liability partnership; and
    - 2. More than fifty percent (50%) of the capital interest or the profits in the limited liability company;
  - (n) An S corporation and another S corporation if the same persons own more than fifty percent (50%) in value of the outstanding stock of each corporation, S corporation designation being the same as that designation under the Internal Revenue Code of 1986, as amended; or
  - (o) An S corporation and a C corporation, if the same persons own more than fifty percent (50%) in value of the outstanding stock of each corporation; S and C corporation designations being the same as those designations under the Internal Revenue Code of 1986, as amended;
- (3) "Approved company" means any eligible company for which the authority has granted final approval of its application pursuant to KRS 154.48-025;
  - (4) "Approved costs" means one hundred percent (100%) of the eligible skills upgrade training costs and up to twenty-five percent (25%) of the eligible equipment costs approved by the authority that an approved company may recover through the inducements authorized by KRS 154.48-010 to 154.48-035;
  - (5) "Authority" means the Kentucky Economic Development Finance Authority created by KRS 154.20-010;
  - (6) "Average hourly wage" means the wage and employment data published by the Office of Employment and Training ~~Services~~ in the Department ~~of~~ ~~for~~ Workforce Investment within the Education Cabinet collectively translated into wages per hour based on a two thousand eighty (2,080) hour work year for the following sectors:
    - (a) Manufacturing;
    - (b) Transportation, communications, and public utilities;
    - (c) Wholesale and retail trade;
    - (d) Finance, insurance, and real estate; and
    - (e) Services;
  - (7) "Commonwealth" means the Commonwealth of Kentucky;
  - (8) "Eligible company" means any entity that undertakes an environmental stewardship project;

- (9) "Eligible costs" means eligible equipment costs plus eligible skills upgrade training costs expended after preliminary approval of the environmental stewardship project;
- (10) "Eligible equipment costs" means:
- (a) Obligations incurred for labor and to vendors, contractors, subcontractors, builders, suppliers, deliverymen, and materialmen in connection with the acquisition, construction, equipping, and installation of an environmental stewardship project;
  - (b) The cost of contract bonds and of insurance of all kinds that may be required or necessary during the course of acquisition, construction, equipping, and installation of an environmental stewardship project which is not paid by the vendor, supplier, deliveryman, contractor, or otherwise provided;
  - (c) All costs of architectural and engineering services, including estimates, plans and specifications, preliminary investigations, and supervision of construction, rehabilitation and installation, as well as for the performance of all the duties required by or consequent upon the acquisition, construction, equipping, and installation of an environmental stewardship project;
  - (d) All costs required to be paid under the terms of any contract for the acquisition, construction, equipping, and installation of an environmental stewardship project;
  - (e) All costs paid for by the approved company that are required for the installation of utilities, including but not limited to water, sewer, sewer treatment, gas, electricity, communications, and access to transportation, and including off-site construction of the facilities necessary for implementation of an environmental stewardship project; and
  - (f) All other costs of a nature comparable to those described in this subsection.
- (11) "Eligible skills upgrade training costs" means:
- (a) Fees or salaries required to be paid to instructors who are employees of the approved company, instructors who are full-time, part-time, or adjunct instructors with an educational institution, and instructors who are consultants on contract with an approved company in connection with an occupational training program sponsored by an approved company for its full-time employees and specifically relating to an environmental stewardship project;
  - (b) Administrative fees charged by educational institutions in connection with an occupational training program sponsored by an approved company for its full-time employees and specifically relating to an environmental stewardship project;
  - (c) The cost of supplies, materials, and equipment used exclusively in an occupational training program sponsored by an approved company for its full-time employees and specifically relating to an environmental stewardship project;
  - (d) The cost of leasing a training facility where space is unavailable at an educational institution or at the premises of an approved company in connection with an occupational training program sponsored by an approved company for its full-time employees and specifically relating to an environmental stewardship project;
  - (e) Employee wages to be paid in connection with an occupational training program sponsored by an approved company for its full-time employees and specifically relating to an environmental stewardship project;
  - (f) Travel expenses paid by the approved company as incurred by its full-time employees resulting directly from the costs of transportation, lodging and meals that are directly related to an occupational training program necessary for the implementation of an environmental stewardship project; and
  - (g) All other costs of a nature comparable to those described in this subsection;
- (12) "Employee benefits" means nonmandated costs paid by an eligible company for its full-time employees for health insurance, life insurance, dental insurance, vision insurance, defined benefits, 401(k) or similar plans;
- (13) "Environmental stewardship product" means any new manufactured product or substantially improved existing manufactured product that has a lesser or reduced adverse effect on human health and the environment or provides for improvement to human health and the environment when compared with existing products or competing products that serve the same purpose. Such products may include, but are not limited to, those

which contain recycled content, minimize waste, conserve energy or water, and reduce the amount of toxics disposed or consumed, but shall not include products that are the result of the production of energy or energy producing fuels;

(14) "Environmental stewardship project" or "project" means:

- (a) The acquisition, construction, and installation of new equipment and, with respect thereto:
  - 1. The construction, rehabilitation, and installation of improvements to facilities necessary to house the new equipment, including surveys;
  - 2. Installation of utilities including water, sewer, sewage treatment, gas, electricity, communications, and similar facilities;
  - 3. Off-site construction of utility extensions to the boundaries of the real estate on which the facilities are located;

All of which are utilized by an approved company or its affiliate to manufacture an environmental stewardship product as reviewed and recommended to the authority by the Environmental and Public Protection Cabinet; and

- (b) The provision of an occupational training program to provide the employees of an approved company or its affiliate with the knowledge and skills necessary to manufacture the new product;

(15) "Final approval" means the action taken by the authority designating an eligible company that has previously received a preliminary approval as an approved company and authorizing the execution of an environmental stewardship agreement between the authority and the approved company:

(16) "Full-time employee" means a person employed by an approved company for a minimum of thirty-five (35) hours per week and subject to the state income tax imposed by KRS 141.020;

(17) "Inducement" means the Kentucky tax credit as authorized by KRS 154.48-010 to 154.48-035;

(18) "Manufacturing" means any activity involving the manufacturing, processing, assembling, or production of any property, including the processing that results in a change in the condition of the property and any related activity or function, together with the storage, warehousing, distribution, and related office facilities;

(19) "Preliminary approval" means the action taken by the authority designating an eligible company as a preliminarily approved company, and conditioning final approval by the authority upon satisfaction by the eligible company of the requirements set forth in the preliminary approval.

Section 79. KRS 156.740 is amended to read as follows:

(1) The Interagency Commission on Educational and Job Training Coordination is hereby created. Its membership shall be composed of the following individuals, serving in an ex officio capacity:

- (a) The chairman of the Council on Postsecondary Education;
- (b) The president of the Council on Postsecondary Education;
- (c) The chairman of the Kentucky Board of Education;
- (d) The commissioner of the Department of Education;
- (e) The **commissioner of the Department of Workforce Investment**~~secretary of the Cabinet for Workforce Development~~;
- (f) The chairman of the Board for the Kentucky Higher Education Assistance Authority; and
- (g) The president of the Kentucky Community and Technical College System.

(2) Members shall serve by virtue of their office. The chairman of the commission shall be chosen annually by a simple majority vote of the members. A quorum for conducting business shall be one-half (1/2) of the members plus one (1). The chair shall rotate annually, so that no person or agency holds the chairmanship in successive years.

Section 80. KRS 156.749 is amended to read as follows:

- (1) Administrative expenses of the commission will be borne by the respective participating agencies, as a part of each agency's normal budget for basic operations. In each year, the agency represented by the chairman shall provide any necessary staff support required, including provision of a secretary, whose duties shall include the taking of minutes and distribution thereof. The agency represented by the chairman shall make arrangements for meeting facilities.
- (2) All meetings will be held in Frankfort, Kentucky, upon the call of the chairman or a majority vote of the membership. In the initial year, the ***commissioner for the Department of Workforce Investment***~~{secretary of the Cabinet for Workforce Development}~~ shall serve as chairperson.

Section 81. KRS 157.069 is amended to read as follows:

- (1) As used in this section:
  - (a) "Secondary area technology center" or "secondary area center" means a school facility dedicated to the primary purpose of offering five (5) or more technical preparation programs that lead to skill development focused on specific occupational areas. An area center may be called a "magnet technology center" or "career center" or may be assigned another working title by the parent agency. An area center may be either state or locally operated; and
  - (b) "Vocational department" means a portion of a school facility that has five (5) or more technical preparation programs that lead to skill development focused on specific occupational areas.
- (2) The Kentucky Department of Education shall distribute all general funds designated for locally operated secondary area centers and vocational departments, which have been receiving state supplemental funds prior to June 21, 2001, by a weighted formula, specified in an administrative regulation promulgated by the Kentucky Board of Education. The formula shall take into account the differences in cost of operating specific programs. The ***commissioner***~~{commissioners}~~ of the Kentucky Department of Education and the ***executive director of the Office of Career and***~~{Department for}~~ Technical Education shall formally agree upon programs to be assigned to categories based on the descriptions found in paragraphs (a) to (c) of this subsection. Programs in Categories III and II shall be eligible for funding.
  - (a) Category III--High-cost technical programs: Programs in which students develop highly technical skills in specific occupational areas and that require high-cost equipment, materials, and facilities. This category may include selected industrial technology Level III programs as defined by the ***Office of Career and***~~{Department for}~~ Technical Education and programs in other occupational areas as deemed appropriate by both ***agencies***~~{departments}~~;
  - (b) Category II--Technical skill programs: Programs in which students develop technical skills focused in occupational areas and that require technical equipment but high-cost equipment, facilities, or materials are not necessary to operate the programs. This category may include selected industrial technology Level III programs as defined by the ***Office of Career and***~~{Department for}~~ Technical Education and programs in other occupational areas as deemed appropriate by both ***agencies***~~{departments}~~; and
  - (c) Category I--Orientation and career exploration programs: Programs that provide orientation and exploration of broad-based industries by giving students knowledge and experience regarding careers within these industries and develop some exploratory or hands-on skills used in the industry.

Notwithstanding paragraphs (a) and (b) of subsection (1) of this section, the Department of Education shall approve the combining of eligible secondary vocational programs into a single vocational department for purposes of funding for a school district that has been receiving state supplemental funds and has distributed its vocational programs, previously located in area centers, among magnet career academies.

- (3) For calculation purposes and after categorizing the programs as described in subsection (2) of this section, a weight shall be applied as a percentage of the base guarantee per pupil in average daily attendance as defined by KRS 157.320 under the Support Education Excellence in Kentucky Program, which shall be applied to full-time equivalent students in Categories II and III. Category I programs shall receive no weight. The full-time equivalent students shall be calculated on the basis of the total program enrollment divided by the length of the class period divided by six (6).

Section 82. KRS 158.814 is amended to read as follows:

- (1) In order to ensure that high-quality, relevant secondary career and technical programs are available to students in all school districts that enable them to gain the academic and technical skills to meet high school graduation

requirements and for successful transition to postsecondary education, work, or the military and to support present-day and future needs of Kentucky employers, the Kentucky Department of Education and the *Office of Career and* ~~Department for~~ Technical Education shall jointly implement a comprehensive plan between July 1, 2001, and January 1, 2004, to:

- (a) Review and revise as needed the equipment and facilities standards for each career and technical education program identified and described in the career and technical supplement to the Kentucky program of studies and published by the Kentucky Department of Education; and
  - (b) Establish a needs assessment process tied to specific criteria for assisting all providers of programs in determining if the current programs offered in their respective facilities are appropriate for the students in the school districts served as well as for determining if new programs are needed.
- (2) Representatives from local school districts, the Kentucky Community and Technical College System, business and industry, colleges, universities, and other appropriate agencies shall be consulted in carrying out the requirements of this section.

Section 83. KRS 158.816 is amended to read as follows:

- (1) The Kentucky Department of Education and the *Office of Career and* ~~Department for~~ Technical Education, with involvement of representatives from the local school districts and teacher preparation institutions, shall jointly complete an annual statewide analysis and report of academic achievement of technical education students who have completed or are enrolled in a sequence of a technical program of at least three (3) high school credits.
- (2) The analysis shall include the previous year's results from the Commonwealth Accountability Testing System. The data shall be disaggregated for all high school students by career cluster areas of agriculture, business and marketing, human services, health services, transportation, construction, communication, and manufacturing and by special populations. Where available, disaggregated data from other national assessments shall also be used.
- (3) (a) The Kentucky Department of Education, with assistance from the *Office of Career and* ~~Department for~~ Technical Education, shall coordinate the development of a statewide technical assistance plan to aid providers of programs in identifying areas for improvement for those schools that do not meet their school performance goal and for those schools where technical students as a group do not score equal to or better than the school average in each of the academic areas. The plan shall address methodologies for further analysis at each school including, but not limited to:
  - 1. The academic course-taking patterns of the technical students;
  - 2. The rigor and intensity of the technical programs and expectations for student performance in reading, math, science, and writing and other academic skills as well as in technical skill development;
  - 3. The level of communication and collaboration between teachers in technical programs and academic programs, planning, and opportunity for analyzing student achievement, particularly between faculty in the comprehensive high schools with the faculty in state-operated or locally operated secondary area centers and vocational departments;
  - 4. The faculties' understanding of Kentucky's program of studies, academic expectations, and core content for assessment;
  - 5. The knowledge and understanding of academic teachers and technical teachers in integrating mutually supportive curricula content;
  - 6. The level of curricula alignment and articulation in grades eight (8) to sixteen (16);
  - 7. The availability of extra help for students in meeting higher standards;
  - 8. The availability and adequacy of school career and guidance counseling;
  - 9. The availability and adequacy of work-based learning;
  - 10. The availability and adequacy of distance learning and educational technology;

11. The adequacy of involvement of business and industry in curricula, work-based learning, and program development; and
  12. The adequacy of teachers' preparation to prepare them for teaching both academic and technical skills to all students that are necessary for successful transition to postsecondary education, work, or the military.
- (b) The *department and the office*~~[departments]~~, in cooperation with teacher preparation programs, postsecondary education institutions, and other appropriate partners, shall ensure that academic core content is imbedded or integrated within the performance requirements for students.
  - (c) The *department and the office*~~[departments]~~, in cooperation with the Kentucky Community and Technical College System, shall encourage postsecondary education and business and industry to provide professional development and training opportunities to engage technical faculty in continuous improvement activities to enhance their instructional skills.
  - (d) The *department and the office*~~[departments]~~ shall continue efforts with business and industry to develop occupation skill standards and assessments. All efforts shall be made with the involvement of business, industry, and labor. Skill standards and assessments, where available, shall be used as the focus of the curricula.
- (4) The *department and the office*~~[departments]~~ shall consult with the Education Professional Standards Board in carrying out the requirements of this section as they relate to teacher preparation.

Section 84. KRS 158.442 is amended to read as follows:

- (1) The General Assembly hereby authorizes the establishment of the Center for School Safety. The center's mission shall be to serve as the central point for data analysis; research; dissemination of information about successful school safety programs, research results, and new programs; and, in collaboration with the Department of Education and others, to provide technical assistance for safe schools.
- (2) To fulfill its mission, the Center for School Safety shall:
  - (a) Establish a clearinghouse for information and materials concerning school violence prevention;
  - (b) Provide program development and implementation expertise and technical support to schools, law enforcement agencies, and communities, which may include coordinating training for administrators, teachers, students, parents, and other community representatives;
  - (c) Analyze the data collected in compliance with KRS 158.444;
  - (d) Research and evaluate school safety programs so schools and communities are better able to address their specific needs;
  - (e) Administer a school safety grant program for local districts as directed by the General Assembly;
  - (f) Promote the formation of interagency efforts to address discipline and safety issues within communities throughout the state in collaboration with other postsecondary education institutions and with local juvenile delinquency prevention councils;
  - (g) Prepare and disseminate information regarding best practices in creating safe and effective schools;
  - (h) Advise the Kentucky Board of Education on administrative policies and administrative regulations; and
  - (i) Provide an annual report by July 1 of each year to the Governor, the Kentucky Board of Education, and the Interim Joint Committee on Education regarding the status of school safety in Kentucky.
- (3) The Center for School Safety shall be governed by a board of directors appointed by the Governor. Members shall consist of:
  - (a) The commissioner or a designee of the Department of Education;
  - (b) The commissioner or a designee of the Department of Juvenile Justice;
  - (c) The commissioner or a designee of the Department for Mental Health and Mental Retardation Services;
  - (d) The commissioner or a designee of the Department for Community Based Services;
  - (e) The secretary or a designee of the Education~~[, Arts, and Humanities]~~ Cabinet;

- (f) A juvenile court judge;
- (g) A local school district board of education member;
- (h) A local school administrator;
- (i) A school council parent representative;
- (j) A teacher;
- (k) A classified school employee; and
- (l) A superintendent of schools who is a member of the Kentucky Association of School Administrators.

In appointing the board of education member, the school administrator, the school superintendent, the school council parent member, the teacher, and the classified employee, the Governor shall solicit recommendations from the following groups respectively: the Kentucky School Boards Association, the Kentucky Association of School Administrators, the Kentucky Association of School Councils, the Kentucky Education Association, and the Kentucky Education Support Personnel Association. The initial board shall be appointed by July 15, 1998. The board shall hold its first meeting no later than thirty (30) days after the appointment of the members.

Section 85. KRS 157.910 is amended to read as follows:

- (1) There is hereby established the Kentucky Environmental Education Council, referred to hereafter as the council, to provide leadership and planning for environmental education for the population of Kentucky through the cooperative efforts of educators, government agencies, businesses, and public interests. The council shall be an independent agency and be attached to the Education~~[- Arts, and Humanities]~~ Cabinet for administrative purposes.
- (2) The nine (9) member council shall be appointed to four (4) year terms by the Governor and be composed of a balance of education, government, industry, and environmental interests. Members appointed by the Governor shall have the authority to carry out the provisions of KRS 157.900 to 157.915.
- (3) The council shall hire an executive director, environmental education specialists, and clerical staff to carry out the functions and duties of the council.
- (4) The council members shall receive no compensation, but shall be reimbursed for actual expenses incurred in accordance with state procedures and policies.
- (5) The council membership shall elect a chairperson to serve a one (1) year term.

Section 86. KRS 157.921 is amended to read as follows:

- (1) The Kentucky Geographic Education Board is established to provide leadership and planning for geography education for the population of Kentucky through the efforts of elementary, secondary, and postsecondary educators, government agencies, and public interests. The board shall be an independent agency and be attached to the Education~~[- Arts, and Humanities]~~ Cabinet for administrative purposes.
- (2) The twelve (12) member board shall be appointed to two (2) year terms, initially appointed by the Governor, and composed of the following members:
  - (a) Three (3) representatives from postsecondary institutions;
  - (b) One (1) representative from the Council for Social Sciences;
  - (c) Six (6) representatives from elementary and secondary schools;
  - (d) One (1) representative of the Department of Education; and
  - (e) One (1) representative of the Council on Postsecondary Education.
- (3) The board shall select from its membership a chair and establish bylaws, including bylaws governing board membership and length of terms. Upon expiration of the initial appointments and adoption of bylaws governing membership and length of terms by the board, the board shall be self-perpetuating, and the appointment and length of terms shall be made in accordance with the board's bylaws. Vacancies that occur before the expiration of the initial appointments shall be filled by the Governor for the remaining term of the vacancy.

- (4) The board members shall receive no compensation but shall be reimbursed for actual expenses incurred in accordance with state procedures and policies.

Section 87. KRS 158.360 is amended to read as follows:

- (1) The ***Kentucky Adult Education Program***~~[Department for Adult Education and Literacy]~~ shall provide technical assistance to providers to develop family literacy services. The technical assistance shall be evaluated on a regular basis by contracted evaluators outside the ***program***~~[department]~~.
- (2) The ***services***~~[programs]~~ shall:
- (a) Provide parents with instruction in basic academic skills, life skills which include parenting skills, and employability skills;
  - (b) Provide the children with developmentally appropriate educational activities;
  - (c) Provide planned high-quality educational experiences requiring interaction between parents and their children;
  - (d) Be of sufficient intensity and duration to help move families to self-sufficiency and break the cycle of under education and poverty; and
- (e) Be designed to reduce duplication with other educational providers to ensure high quality and efficient services.

Section 88. KRS 158.443 is amended to read as follows:

- (1) Each nonstate-government employee member of the board of directors for the Center for School Safety shall serve a term of two (2) years and may be reappointed, but a member shall not serve more than two (2) consecutive terms.
- (2) The members who are nonstate-government employees shall be reimbursed for travel, meals, and lodging and expenses relating to official duties of the board from funds appropriated for this purpose.
- (3) The board of directors shall meet a minimum of four (4) times per year. The board of directors shall be attached to the Office of the Secretary of the Education~~[Arts, and Humanities]~~ Cabinet for administrative purposes.
- (4) The board of directors shall annually elect a chair and vice chair from the membership. The board may form committees as needed.
- (5) Using a request-for-proposal process, the board of directors shall select a public university to administer the Center for School Safety for a period of not less than four (4) years unless funds for the center are not appropriated or the board determines that the university is negligent in carrying out its duties as specified in the request for proposal and contract. The initial request for proposals shall be issued not later than September 15, 1998. The board shall select a university no later than January 1, 1999. The university shall be the fiscal agent for the center and:
- (a) Receive funds based on the approved budget by the board of directors and the General Assembly's appropriation for the center. The center shall operate within the fiscal policies of the university and in compliance with policies established by the board of directors per the request for proposal and contract; and
  - (b) Employ the staff of the center who shall have the retirement and employee benefits granted other similar university employees.
- (6) The board of directors shall annually approve:
- (a) A work plan for the center;
  - (b) A budget for the center;
  - (c) Operating policies as needed; and
  - (d) Recommendations for grants, beginning in the 1999-2000 school year and subsequent years, to local school districts and schools to assist in the development of programs and individualized approaches to work with violent, disruptive, or academically at-risk students, and consistent with provisions of KRS 158.445.



- (7) The board of directors shall prepare a biennial budget request to support the Center for School Safety and to provide program funds for local school district grants.
- (8) The board shall develop model interagency agreements between local school districts and other local public agencies, including, among others, health departments, departments of social services, mental health agencies, and courts, in order to provide cooperative services and sharing of costs for services to students who are at risk of school failure, are at risk of participation in juvenile crime, or have been expelled from the school district.

Section 89. KRS 158.842 is amended to read as follows:

- (1) As used in KRS 158.840 to 158.844, unless the context requires otherwise:
  - (a) "Concepts" means mathematical ideas that serve as the basis for understanding mathematics;
  - (b) "Mathematics" means the curriculum of numbers and computations, geometry and measurements, probability and statistics, and algebraic ideas;
  - (c) "Mathematics coach" means a mathematics leader whose primary responsibility is to provide ongoing support for one (1) or more mathematics teachers. The role of the coach is to improve mathematics teaching practices by working with teachers in their classrooms, observing and providing feedback to them, modeling appropriate teaching practices, conducting workshops or institutes, establishing learning communities, and gathering appropriate and useful resources;
  - (d) "Mathematics diagnostic assessment" means an assessment that identifies a student at risk of failure in mathematics or a student with major deficits in numeracy and other mathematical concepts and skills;
  - (e) "Mathematics intervention program" means an intensive instructional program that is based on valid research and is provided by a highly trained teacher to specifically meet individual students needs;
  - (f) "Mathematics leader" means any educator with a specialization in mathematics who:
    - 1. Serves in a supervisory capacity, such as mathematics department chair, school-based mathematics specialist, or district mathematics supervisor or coordinator; or
    - 2. Regularly conducts or facilitates teacher professional development, such as higher education faculty or other mathematics teachers;
  - (g) "Mathematics mentor" means an experienced mathematics coach who typically works with beginning or novice teachers only. The responsibilities and roles of the mentor are the same as those of the coach;
  - (h) "Numeracy" means the development of the basic concepts which include counting, place value, addition and subtraction strategies, multiplication and division strategies, and the concepts of time, money, and length. To be numerate is to have and be able to use appropriate mathematical knowledge, concepts, skills, intuition, and experience in relationship to every day life;
  - (i) "Relationships" means connections of mathematical concepts and skills within mathematics; and
  - (j) "Skills" means actions of mathematics.
- (2) The Committee for Mathematics Achievement is hereby created for the purposes of developing a multifaceted strategic plan to improve student achievement in mathematics at all levels of schooling, prekindergarten through postsecondary and adult. At a minimum the plan shall address:
  - (a) Challenging curriculum that is aligned prekindergarten through postsecondary, including consensus among high school teachers and postsecondary education faculty about expectations, curriculum, and assessment;
  - (b) Attitudes and beliefs of teachers about mathematics;
  - (c) Teachers' knowledge of mathematics;
  - (d) Diagnostic assessment, intervention services, and instructional strategies;
  - (e) Shortages of teachers of mathematics, including incentives to attract strong candidates to mathematics teaching;

- (f) Statewide institutes that prepare cadres of mathematics leaders in local school districts, which may include highly skilled retired mathematics teachers, to serve as coaches and mentors in districts and schools;
- (g) Cohesive continuing education options for experienced mathematics classroom teachers;
- (h) Closing the student achievement gap among various student subpopulations;
- (i) Curriculum expectations and assessments of students among the various school levels, prekindergarten, primary, elementary, middle, and high school;
- (j) Content standards for adult education centers providing mathematics curricula;
- (k) Introductory postsecondary education mathematics courses that are appropriate to the wide array of academic programs and majors;
- (l) Research to analyze further the issues of transition from high school or GED programs to postsecondary education mathematics; and
- (m) The early mathematics testing program under KRS 158.803.

Other factors may be included in the strategic plan as deemed appropriate by the committee to improve mathematics achievement of Kentucky students.

- (3) In carrying out its responsibility under subsection (2)(f) of this section, the committee shall:
  - (a) Design a statewide professional development program that includes summer mathematics institutes at colleges and universities, follow-up, and school-based support services, beginning no later than June 1, 2006, to prepare teams of teachers as coaches and mentors of mathematics at all school levels to improve student achievement. Teachers shall receive training in diagnostic assessment and intervention. The statewide initiative shall be funded, based on available funds, from the Teachers' Professional Growth Fund described in KRS 156.553. The design shall:
    - 1. Define the curricula focus;
    - 2. Build on the expertise of specific colleges and universities;
    - 3. Place emphasis on mathematics concepts, skills and relationships, diagnostic assessment, intervention services, and instructional strategies;
    - 4. Identify quality control measures for the delivery of each institute;
    - 5. Establish evaluation procedures for the summer institutes and the other professional development components;
    - 6. Provide updates and networking opportunities for coaches and mentors throughout the school year; and
    - 7. Define other components within the initiative that are necessary to meet the goal of increasing student achievement in mathematics.
  - (b) Require schools and districts approved to have participants in the mathematics leader institutes to provide assurances that:
    - 1. The district and schools have, or will develop, local mathematics curricula and assessments that align with state standards for mathematics;
    - 2. There is a local commitment to build a cadre of mathematics leaders within the district;
    - 3. The district and participating schools will provide in-school support for coaching and mentoring activities;
    - 4. The mathematics teachers are willing to develop classroom assessments that align with state assessments; and
    - 5. Students who need modified instructional and intervention services will have opportunity for continuing education services beyond the regular school day, week, or year.

- (c) In addition to the conditions specified in paragraph (b) of this subsection, the committee shall make recommendations to the Kentucky Department of Education and the Kentucky Board of Education for criteria to be included in administrative regulations promulgated by the board which define:
  - 1. Eligible grant recipients, taking into consideration how this program relates to other funded mathematics initiatives;
  - 2. The application process and review;
  - 3. The responsibilities of schools and districts, including but not limited to matching funds requirements, released or extended time for coaches and mentors during the school year, continuing education requirements for teachers and administrators in participating schools, data to be collected, and local evaluation requirements; and
  - 4. Other recommendations requested by the Kentucky Department of Education.
- (4) The committee shall initially be composed of twenty-five (25) members as follows:
  - (a) The commissioner of education or his or her designee;
  - (b) The president of the Council on Postsecondary Education or his or her designee;
  - (c) The president of the Association of Independent Kentucky Colleges and Universities or his or her designee;
  - (d) The executive director of the Education Professional Standards Board or his or her designee;
  - (e) The secretary of the Education~~[Arts, and Humanities]~~ Cabinet or his or her designee;
  - (f) A representative with a specialty in mathematics or mathematics education who has expertise and experience in professional development, especially with coaching and mentoring of teachers, from each of the nine (9) public postsecondary education institutions defined in KRS 164.001. The representatives shall be selected by mutual agreement of the president of the Council on Postsecondary Education and the commissioner of education;
  - (g) Two (2) adult education instructors selected by the vice president for Kentucky Adult Education;
  - (h) Two (2) elementary, two (2) middle, and two (2) high school mathematics teachers, appointed by the board of the statewide professional education association having the largest paid membership with approval from their respective local principals and superintendents of schools; and
  - (i) Three (3) school administrators, with one (1) each representing elementary, middle, and high school, appointed by the board of the statewide administrators' association having the largest paid membership with approval from their respective local superintendents of schools.

When the Center for Mathematics created under KRS 164.525 becomes operational, the executive director of the center shall be added to the committee, which shall then be composed of twenty-six (26) members. Appointments to the committee shall be made no later than thirty (30) days following March 18, 2005, and the first meeting of the committee shall occur no later than thirty (30) days following appointment of the members.

- (5) A majority of the full membership shall constitute a quorum.
- (6) Each member of the committee, other than members who serve by virtue of their positions, shall serve for a term of three (3) years or until a successor is appointed and qualified, except that the initial appointments shall be made in the following manner: six (6) members shall serve a one (1) year term, six (6) members shall serve a two (2) year term, and eight (8) members shall serve a three (3) year term.
- (7) A temporary chair of the committee shall be appointed prior to the first meeting of the committee through consensus of the president of the Council on Postsecondary Education and the commissioner of education, to serve ninety (90) days after his or her appointment. Prior to the end of the ninety (90) days, the committee shall elect a chair by majority vote. The temporary chair may be a nominee for the chair by majority vote. Thereafter, a chair shall be elected each calendar year. An individual may not serve as chair for more than three (3) consecutive years. The chair shall be the presiding officer of the committee, and coordinate the functions and activities of the committee.

- (8) The committee shall be attached to the Kentucky Department of Education for administrative purposes. The commissioner of education may contract with a mathematics-trained professional to provide part-time staff support to the committee. The commissioner of education and the president of the council shall reach consensus in the selection of a person to fill the position. The person selected shall have a graduate degree, a mathematics major, and teaching or administrative experience in elementary and secondary education. The person shall not be a current employee of any entity represented on the committee. The department shall provide office space and other resources necessary to support the staff position and the work of the committee.
- (9) The committee, under the leadership of the chair, may organize itself into appropriate subcommittees and work structures to accomplish the purposes of the committee.
- (10) Members of the committee shall serve without compensation but shall be reimbursed for necessary travel and expenses while attending meetings at the same per diem rate promulgated in administrative regulation for state employees under provisions of KRS Chapter 45. Funds shall be provided school districts to cover the cost of substitute teachers for those teachers on the committee at each district's established rate for substitute teachers.
- (11) If a vacancy occurs within the committee during its duration, the board of the statewide professional education association having the largest paid membership or the board of the statewide administrators association having the largest paid membership or the president of the Council on Postsecondary Education, as appropriate, shall appoint a person to fill the vacancy.
- (12) The committee shall:
  - (a) Present a draft strategic plan addressing the requirements in subsection (1) of this section and other issues that arose during the work of the committee to the Education Assessment and Accountability Review Subcommittee no later than August 2005;
  - (b) Present the strategic plan for improving mathematics achievement to the Interim Joint Committee on Education by July 15, 2006, which shall include any recommendations that require legislative action; and
  - (c) Provide a final written report of committee activities to the Interim Joint Committee on Education and the Legislative Research Commission by December 1, 2006.
- (13) The committee shall have ongoing responsibility for providing advice and guidance to policymakers in the development of statewide policies and in the identification and allocation of resources to improve mathematics achievement. In carrying out this responsibility, the committee shall periodically review the strategic plan and make modifications as deemed appropriate and report those to the Interim Joint Committee on Education.
- (14) The committee shall collaborate with the Center for Mathematics to ensure that there is ongoing identification of research-based intervention programs for K-12 students who have fallen behind in mathematics, rigorous mathematics curricula that prepare students for the next level of schooling, research-based professional development models that prepare teachers in mathematics and pedagogy, and strategies for closing the gap between high school or GED and postsecondary mathematics preparation.

Section 90. KRS 161.011 is amended to read as follows:

- (1)
  - (a) "Classified employee" means an employee of a local district who is not required to have certification for his position as provided in KRS 161.020; and
  - (b) "Seniority" means total continuous months of service in the local school district, including all approved paid and unpaid leave.
- (2) The commissioner of education shall establish by January, 1992, job classifications and minimum qualifications for local district classified employment positions which shall be effective July 1, 1992. After June 30, 1992, no person shall be eligible to be a classified employee or receive salary for services rendered in that position unless he holds the qualifications for the position as established by the commissioner of education.
- (3) No person who is initially hired after July 13, 1990, shall be eligible to hold the position of a classified employee or receive salary for services rendered in such position, unless he holds at least a high school diploma or high school certificate of completion or GED certificate, or he shows progress toward obtaining a GED. To show progress toward obtaining a GED, a person shall be enrolled in a GED program and be progressing satisfactorily through the program, as defined by administrative regulations promulgated by the **Council on Postsecondary Education** [commissioner of the Department for Adult Education and Literacy].

- (4) Local school districts shall encourage classified employees who were initially hired before July 13, 1990, and who do not have a high school diploma or a GED certificate to enroll in a program to obtain a GED.
- (5) Local districts shall enter into written contracts with classified employees. Contracts with classified employees shall be renewed annually except contracts with the following employees:
  - (a) An employee who has not completed four (4) years of continuous active service, upon written notice which is provided or mailed to the employee by the superintendent, no later than April 30, that the contract will not be renewed for the subsequent school year. Upon written request by the employee, within ten (10) days of the receipt of the notice of nonrenewal, the superintendent shall provide, in a timely manner, written reasons for the nonrenewal.
  - (b) An employee who has completed four (4) years of continuous active service, upon written notice which is provided or mailed to the employee by the superintendent, no later than April 30, that the contract is not being renewed due to one (1) or more of the reasons described in subsection (7) of this section. Upon written request within ten (10) days of the receipt of the notice of nonrenewal, the employee shall be provided with a specific and complete written statement of the grounds upon which the nonrenewal is based. The employee shall have ten (10) days to respond in writing to the grounds for nonrenewal.
- (6) Local districts shall provide in contracts with classified employees of family resource and youth services centers the same rate of salary adjustment as provided for other local board of education employees in the same classification.
- (7) Nothing in this section shall prevent a superintendent from terminating a classified employee for incompetency, neglect of duty, insubordination, inefficiency, misconduct, immorality, or other reasonable grounds which are specifically contained in board policy.
- (8) The superintendent shall have full authority to make a reduction in force due to reductions in funding, enrollment, or changes in the district or school boundaries, or other compelling reasons as determined by the superintendent.
  - (a) When a reduction of force is necessary, the superintendent shall, within each job classification affected, reduce classified employees on the basis of seniority and qualifications with those employees who have less than four (4) years of continuous active service being reduced first.
  - (b) If it becomes necessary to reduce employees who have more than four (4) years of continuous active service, the superintendent shall make reductions based upon seniority and qualifications within each job classification affected.
  - (c) Employees with more than four (4) years of continuous active service shall have the right of recall positions if positions become available for which they are qualified. Recall shall be done according to seniority with restoration of primary benefits, including all accumulated sick leave and appropriate rank and step on the current salary schedule based on the total number of years of service in the district.
- (9) Local school boards shall develop and provide to all classified employees written policies which shall include, but not be limited to:
  - (a) Terms and conditions of employment;
  - (b) Identification and documentation of fringe benefits, employee rights, and procedures for the reduction or laying off of employees; and
  - (c) Discipline guidelines and procedures that satisfy due process requirements.
- (10) Local school boards shall maintain a registry of all vacant classified employee positions that is available for public inspection in a location determined by the superintendent and make copies available at cost to interested parties. If financially feasible, local school boards may provide training opportunities for classified employees focusing on topics to include, but not be limited to, suicide prevention, abuse recognition, and cardiopulmonary resuscitation (CPR).
- (11) The evaluation of the local board policies required for classified personnel as set out in this section shall be subject to review by the Department of Education while it is conducting district management audits pursuant to KRS 158.785.

Section 91. KRS 161.220 is amended to read as follows:

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As used in KRS 161.220 to 161.716 and KRS 161.990:

- (1) "Retirement system" means the arrangement provided for in KRS 161.230 to 161.716 and KRS 161.990 for payment of allowances to members;
- (2) "Retirement allowance" means the amount annually payable during the course of his natural life to a member who has been retired by reason of service;
- (3) "Disability allowance" means the amount annually payable to a member retired by reason of disability;
- (4) "Member" means the commissioner of education, deputy commissioners, associate commissioners, and all division directors in the State Department of Education, and any full-time teacher or professional occupying a position requiring certification or graduation from a four (4) year college or university, as a condition of employment, and who is employed by public boards, institutions, or agencies as follows:
  - (a) Local boards of education;
  - (b) Eastern Kentucky University, Kentucky State University, Morehead State University, Murray State University, Western Kentucky University, and any community colleges established under the control of these universities;
  - (c) State-operated secondary area vocational education or area technology centers, Kentucky School for the Blind, and Kentucky School for the Deaf;
  - (d) The State Department of Education, the Education Professional Standards Board, other public education agencies as created by the General Assembly, and those members of the administrative staff of the Teachers' Retirement System of the State of Kentucky whom the board of trustees may designate by administrative regulation;
  - (e) Regional cooperative organizations formed by local boards of education or other public educational institutions listed in this subsection, for the purpose of providing educational services to the participating organizations;
  - (f) All full-time members of the staffs of the Kentucky Association of School Administrators, Kentucky Education Association, Kentucky Vocational Association, Kentucky High School Athletic Association, Kentucky Academic Association, and the Kentucky School Boards Association who were members of the Kentucky Teachers' Retirement System or were qualified for a position covered by the system at the time of employment by the association in the event that the board of directors of the respective association petitions to be included. The board of trustees of the Kentucky Teachers' Retirement System may designate by resolution whether part-time employees of the petitioning association are to be included. The state shall make no contributions on account of these employees, either full-time or part-time. The association shall make the employer's contributions, including any contribution that is specified under KRS 161.550. The provisions of this paragraph shall be applicable to persons in the employ of the associations on or subsequent to July 1, 1972;
  - (g) Employees of the Council on Postsecondary Education who were employees of the Department for Adult Education and Literacy and who were members of the Kentucky Teachers' Retirement System at the time the department was transferred to the council pursuant to Executive Order 2003-600;
  - (h) The *Office of Career and ~~Department for~~ Technical Education*, except that the *executive director*~~commissioner~~ shall not be a member;
  - (i) The *Office*~~Department~~ of Vocational Rehabilitation;
  - (j) The Kentucky Educational Collaborative for State Agency Children;
  - (k) The Governor's Scholars Program;
  - (l) Any person who is retired for service from the retirement system and is reemployed by an employer identified in this subsection in a position that the board of trustees deems to be a member;
  - (m) Employees of the *former* Cabinet for Workforce Development who are transferred to the Kentucky Community and Technical College System and who occupy positions covered by the Kentucky Teachers' Retirement System shall remain in the Teachers' Retirement System. New employees occupying these positions, as well as newly created positions qualifying for Teachers' Retirement

System coverage that would have previously been included in the *former* Cabinet for Workforce Development, shall be members of the Teachers' Retirement System;

- (n) Effective January 1, 1998, employees of state community colleges who are transferred to the Kentucky Community and Technical College System shall continue to participate in federal old age, survivors, disability, and hospital insurance and a retirement plan other than the Kentucky Teachers' Retirement System offered by Kentucky Community and Technical College System. New employees occupying positions in the Kentucky Community and Technical College System as referenced in KRS 164.5807(5) that would not have previously been included in the *former* Cabinet for Workforce Development, shall participate in federal old age, survivors, disability, and hospital insurance and have a choice at the time of employment of participating in a retirement plan provided by the Kentucky Community and Technical College System, including participation in the Kentucky Teachers' Retirement System, on the same basis as faculty of the state universities as provided in KRS 161.540 and 161.620; and
  - (o) Employees of the Office of General Counsel, the Office of Budget and Administrative Services, and the Office of Quality and Human Resources within the Office of the Secretary of the *former* Cabinet for Workforce Development and the commissioners of the *former* Department for Adult Education and Literacy and the *former* Department for Technical Education who were contributing to the Kentucky Teachers' Retirement System as of July 15, 2000;
- (5) "Present teacher" means any teacher who was a teacher on or before July 1, 1940, and became a member of the retirement system created by 1938 (1st Extra. Sess.) Ky. Acts ch. 1, on the date of the inauguration of the system or within one (1) year after that date, and any teacher who was a member of a local teacher retirement system in the public elementary or secondary schools of the state on or before July 1, 1940, and continued to be a member of the system until he, with the membership of the local retirement system, became a member of the state Teachers' Retirement System or who becomes a member under the provisions of KRS 161.470(4);
  - (6) "New teacher" means any member not a present teacher;
  - (7) "Prior service" means the number of years during which the member was a teacher in Kentucky prior to July 1, 1941, except that not more than thirty (30) years' prior service shall be allowed or credited to any teacher;
  - (8) "Subsequent service" means the number of years during which the teacher is a member of the Teachers' Retirement System after July 1, 1941;
  - (9) "Final average salary" means the average of the five (5) highest annual salaries which the member has received for service in a covered position and on which the member has made contributions, or on which the public board, institution, or agency has picked-up member contributions pursuant to KRS 161.540(2), or the average of the five (5) years of highest salaries as defined in KRS 61.680(2)(a), which shall include picked-up member contributions. Additionally, the board of trustees may approve a final average salary based upon the average of the three (3) highest salaries for members who are at least fifty-five (55) years of age and have a minimum of twenty-seven (27) years of Kentucky service credit. However, if any of the five (5) or three (3) highest annual salaries used to calculate the final average salary was paid within the three (3) years immediately prior to the date of the member's retirement, the amount of salary to be included for each of those three (3) years for the purpose of calculating the final average salary shall be limited to the lesser of:
    - (a) The member's actual salary; or
    - (b) The member's annual salary that was used for retirement purposes during each of the prior three (3) years, plus a percentage increase equal to the percentage increase received by all other members employed by the public board, institution, or agency, or for members of school districts, the highest percentage increase received by members on any one (1) rank and step of the salary schedule of the school district. The increase shall be computed on the salary that was used for retirement purposes.

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

- (10) "Annual compensation" means the total salary received by a member as compensation for all services performed in employment covered by the retirement system during a fiscal year. Annual compensation shall

not include payment for any benefit or salary adjustments made by the public board, institution, or agency to the member or on behalf of the member which is not available as a benefit or salary adjustment to other members employed by that public board, institution, or agency. Annual compensation shall not include the salary supplement received by a member under KRS 158.6455 or 158.782 on or after July 1, 1996. Under no circumstances shall annual compensation include compensation that is earned by a member while on assignment to an organization or agency that is not a public board, institution, or agency listed in subsection (4) of this section. In the event that federal law requires that a member continue membership in the retirement system even though the member is on assignment to an organization or agency that is not a public board, institution, or agency listed in subsection (4) of this section, the member's annual compensation for retirement purposes shall be deemed to be the annual compensation, as limited by subsection (9) of this section, last earned by the member while still employed solely by and providing services directly to a public board, institution, or agency listed in subsection (4) of this section. The board of trustees shall determine if any benefit or salary adjustment qualifies as annual compensation;

- (11) "Age of member" means the age attained on the first day of the month immediately following the birthdate of the member. This definition is limited to retirement eligibility and does not apply to tenure of members;
- (12) "Employ," and derivatives thereof, means relationships under which an individual provides services to an employer as an employee, as an independent contractor, as an employee of a third party, or under any other arrangement as long as the services provided to the employer are provided in a position that would otherwise be covered by the Kentucky Teachers' Retirement System and as long as the services are being provided to a public board, institution, or agency listed in subsection (4) of this section;
- (13) "Regular interest" means interest at three percent (3%) per annum;
- (14) "Accumulated contributions" means the contributions of a member to the teachers' savings fund, including picked-up member contributions as described in KRS 161.540(2), plus accrued regular interest;
- (15) "Annuitant" means a person who receives a retirement allowance or a disability allowance;
- (16) "Local retirement system" means any teacher retirement or annuity system created in any public school district in Kentucky in accordance with the laws of Kentucky;
- (17) "Fiscal year" means the twelve (12) month period from July 1 to June 30. The retirement plan year is concurrent with this fiscal year. A contract for a member employed by a local board of education may not exceed two hundred sixty-one (261) days in the fiscal year;
- (18) "Public schools" means the schools and other institutions mentioned in subsection (4) of this section;
- (19) "Dependent" as used in KRS 161.520 and 161.525 means a person who was receiving, at the time of death of the member, at least one-half (1/2) of the support from the member for maintenance, including board, lodging, medical care, and related costs;
- (20) "Active contributing member" means a member currently making contributions to the Teachers' Retirement System, who made contributions in the next preceding fiscal year, for whom picked-up member contributions are currently being made, or for whom these contributions were made in the next preceding fiscal year;
- (21) "Full-time" means employment in a position that requires services on a continuing basis equal to at least seven-tenths (7/10) of normal full-time service on a fiscal year basis;
- (22) "Full actuarial cost," when used to determine the payment that a member must pay for service credit means the actuarial value of all costs associated with the enhancement of a member's benefits or eligibility for benefit enhancements, including health insurance supplement payments made by the retirement system. The actuary for the retirement system shall determine the full actuarial value costs and actuarial cost factor tables as provided in KRS 161.400; and
- (23) "Last annual compensation" means the annual compensation, as defined by subsection (10) of this section and as limited by subsection (9) of this section, earned by the member during the most recent period of contributing service, either consecutive or nonconsecutive, that is sufficient to provide the member with one (1) full year of service credit in the Kentucky Teachers' Retirement System, and which compensation is used in calculating the member's initial retirement allowance, excluding bonuses, retirement incentives, payments for accumulated sick, annual, personal and compensatory leave, and any other lump-sum payment.

Section 92. KRS 163.460 is amended to read as follows:



As used in this chapter unless the context otherwise requires:

- (1) "**Office**~~[Department]~~" means the **Office**~~[Department]~~ for the Blind.
- (2) "Legally blind" means a visual acuity of 20/200 or less in the better eye with correction or a visual field of 20 degrees or less.
- (3) "Visually impaired" means a condition of the eye with correction which constitutes or progressively results for the individual in a substantial disability to employment.
- (4) "Executive director" means the executive director of the **Office**~~[Department]~~ for the Blind.

Section 93. KRS 163.470 is amended to read as follows:

- (1) There is created within the **Education** Cabinet~~[for Workforce Development]~~ the **Office**~~[Department]~~ for the Blind.
- (2) The **executive director**~~[commissioner]~~ shall be appointed by the~~[Governor upon the recommendation of the]~~ secretary of the **Education** Cabinet **pursuant to KRS 12.050**~~[for Workforce Development to whom he shall be directly responsible]~~.
- (3) The **office**~~[department]~~ shall be the state agency responsible for all rehabilitation services for the blind and the visually impaired and other services as deemed necessary. The **office**~~[department]~~ shall be the agency authorized to expend all state and federal funds designated for rehabilitation services for the blind and visually impaired. The Office of the Secretary of the **Education** Cabinet~~[for Workforce Development]~~ is authorized as the state agency to receive all state and federal funds and gifts and bequests for the benefit of rehabilitation services for the blind and visually impaired. The State Treasurer is designated as the custodian of all funds and shall make disbursements for rehabilitation purposes upon certification by the **executive director**~~[commissioner]~~.
- (4) (a) The Kentucky **Office**~~[Department]~~ for the Blind State Rehabilitation Council is hereby created and established to accomplish the purposes and functions enumerated in the Rehabilitation Act of 1973, as amended. Members of the council shall be appointed by the Governor from recommendations submitted by the **Office**~~[Department]~~ for the Blind consistent with the federal mandate to include a majority of individuals who are blind or visually impaired representing specified organizations, service providers, and advocacy groups. The composition, qualifications, and terms of service of the council shall conform to those prescribed by the federal law. There shall be statewide representation on the council.
  - (b) 1. Except as provided in subparagraph 2. of this paragraph, any vacancy occurring in the membership of the **Office**~~[Department]~~ for the Blind State Rehabilitation Council shall be filled in the same manner as the original appointment. The vacancy shall not affect the power of the remaining members of the council.
  2. The Governor may delegate the authority to fill a vacancy to the remaining voting members of the council.
- (c) Each member of the **Office**~~[Department]~~ for the Blind State Rehabilitation Council may receive a per diem of one hundred dollars (\$100), not to exceed six hundred dollars (\$600) annually, for each regular or special meeting attended if the member is not employed or must forfeit wages from other employment. Each member may have travel expenses approved at the established state rate and expenses reimbursed at the established state agency rate for services such as personal assistance, child care, and drivers for attendance at council meetings, and in the performance of duties authorized by the Kentucky **Office**~~[Department]~~ for the Blind State Rehabilitation Council. The per diem and expenses shall be paid out of the federal funds appropriated under the Rehabilitation Act of 1973, as amended.
- (5) The **office**~~[department]~~ shall establish and implement policies and procedures for the carrying out of the program of services for the blind.
- (6) At the close of each biennium, the **office**~~[department]~~ shall prepare a financial report and present it to the secretary of the **Education** Cabinet~~[for Workforce Development]~~ and to the Governor. The biennial report shall be published. The biennial report shall also contain a precise review of the work of the **office**~~[department]~~ and contain necessary suggestions for improvement.
- (7) The **office**~~[department]~~ shall coordinate its functions with other appropriate public and private agencies.

- (8) The *office*~~[department]~~ shall perform all other duties as required of it by law.
- (9) The *executive director*~~[commissioner]~~ shall hire personnel as necessary to carry out the work of the *office*~~[department]~~ and the provisions of KRS 163.450 to 163.470. Preference shall be given to hiring qualified blind persons.
- (10) There shall be created under the authority of the *office*~~[department]~~, to be directed by *a director appointed by the secretary of the Education Cabinet pursuant to KRS 12.050*~~[the commissioner]~~, a Division of *Consumer*~~[Client]~~ Services which shall provide intake and rehabilitation counseling services; distribute or sell technical educational and other aids to the blind; provide educational materials such as recorded texts, braille or large-type texts, or such other materials as may be deemed necessary for the education of the blind; research into the development of new technical aids for the blind, mobility training, work evaluation, personal adjustment, independent living, and other services as needed for blind adults, and services for the blind who have other disabilities; and promote employment of the blind in public and private sectors.
- (11) There shall be established under the authority of the *office*~~[department]~~ to be directed by *a director appointed by the secretary pursuant to KRS 12.050*~~[the commissioner]~~, ~~the~~<sup>a</sup> Division of *Kentucky Business Enterprise*~~[Enterprises]~~. This division shall manage and supervise the Vending Facilities Program and license qualified blind persons as vendors. In connection therewith, the *office*~~[department]~~ shall be authorized to own or lease vending equipment for the operation of vending facilities in federal, state, private, and other buildings. The set-aside charges levied shall comply with the existing federal regulations as specified in 34 CFR 395.9. One (1) or more facility placement agents shall be employed to locate and establish additional vending facilities. The *Office*~~[Department]~~ for the Blind shall make such surveys as may be deemed necessary to determine the vending facility opportunities for blind vendors in state buildings or on other property owned, leased, or otherwise occupied by the state government and shall install vending facilities in suitable locations on such property for the use of the blind. All of the net income from vending machines which are on the same property as a vending facility shall be paid to the blind vendor of the vending facility. Whenever there exists a conflict of interest between state agencies seeking to vend merchandise on the same state property, the agencies shall negotiate a fair agreement which shall protect the interest of both from unreasonable competition. The agreement shall be submitted to the custodial authority having jurisdiction over the property for approval. Provided, however, that in all situations the blind vendor shall be permitted to vend all items of merchandise customarily sold at similar vending facilities.
- (12) ~~The Office for the Blind~~<sup>There shall be established under authority of the department, to be directed by the commissioner, a Division of Industries for the Blind which shall provide industrial evaluation, training, and employment. Emphasis shall be on placement in public employment and long term sheltered employment at industries for the blind. The Division of Industries for the Blind shall be abolished, effective July 1, 2000. The department</sup>, at all times, shall be authorized to provide industrial evaluation, training, and employment. {
- ~~(13)~~ The *office*~~[department]~~ shall provide staff services which shall include~~[fiscal management]~~ staff development and training, program development and evaluation,~~[public information office]~~ and other staff services as may be deemed necessary.
- ~~(13)~~<sup>(14)</sup> The provisions of any other statute notwithstanding, the *executive director*~~[commissioner]~~ is authorized to use receipt of funds from the Social Security reimbursement program for a direct service delivery staff incentive program. Incentives may be awarded if case service costs are reimbursed for job placement of Social Security or Supplemental Security Income recipients at the Substantial Gainful Activity (SGA) level for nine (9) months pursuant to 42 U.S.C. sec. 422 and under those conditions and criteria as are established by the federal reimbursement program.

Section 94. KRS 163.475 is amended to read as follows:

- (1) The General Assembly finds that the provision of industrial evaluation, training, and employment opportunities for individuals who are blind or visually impaired is a valuable and necessary component of vocational rehabilitation services. The *Office*~~[Department]~~ for the Blind has sole responsibility for and the obligation to operate and manage a Division of the Kentucky Industries for the Blind. This facility has struggled to meet these mandates but, faced with declining available state revenues, expects a continual diminishment to a submarginal operation with respect to providing viable long-term employment opportunities that are self-sustaining and sufficiently diversified for individuals who are blind or visually impaired.
- (2) The General Assembly finds that increased flexibility in contract negotiation, purchasing, and hiring will enhance the competitiveness of the Kentucky Industries for the Blind, resulting in additional production

contracts thereby guaranteeing continued and expanded jobs and other opportunities for individuals who are blind or visually impaired. This flexibility and competitiveness can be achieved through the operation of the Kentucky Industries for the Blind by a nonprofit corporation, the members of which have expertise in management skills and background pertaining to sound business practices and rehabilitation philosophy.

- (3) The General Assembly finds that a transition period from state division to a nonprofit operation is necessary to ensure the success and continuation of the important functions of the Kentucky Industries for the Blind. Therefore, the General Assembly shall continue to support the Division of the Kentucky Industries for the Blind through appropriations to the ~~Office~~~~Department~~ for the Blind for six (6) years in order to eliminate eventually the necessity for annual state appropriations. The ~~Office~~~~Department~~ for the Blind shall monitor and safeguard the expenditure of those public moneys for the use and benefit of the Kentucky Industries for the Blind and citizens who are blind and visually impaired in the Commonwealth.
- (4) The General Assembly finds that the continued employment of current employees of the Division of the Kentucky Industries for the Blind is a necessary and important outcome. The ~~Office~~~~Department~~ for the Blind shall ensure through contractual provisions that the nonprofit corporation it contracts with pursuant to KRS 163.480(2) offers employment to every employee of the Kentucky Industries for the Blind at the time the nonprofit corporation assumes total responsibility for the operation of the workshop. The ~~Office~~~~Department~~ for the Blind shall maximize the retirement benefits for each current employee of the Division of Kentucky Industries for the Blind at the time the ~~office~~~~department~~ contracts for total operation by the nonprofit corporation through the parted employer provisions of KRS 61.510 to 61.705.
- (5) The General Assembly finds that at the time the Kentucky Industries for the Blind is operated totally by the nonprofit corporation, the ~~Office~~~~Department~~ for the Blind shall have the authority to convey ownership of the workshop to any nonprofit corporation with which it contracts pursuant to KRS 163.480(2) without financial consideration, including real and personal property, inventory of materials, and stores for resale. The instrument of conveyance to such nonprofit corporation shall provide that the real property and production equipment conveyed, or sufficient remuneration therefor, shall revert to the state at any time the nonprofit corporation or its successor shall cease operating the Kentucky Industries for the Blind for the benefit of individuals who are blind or visually impaired.

Section 95. KRS 163.480 is amended to read as follows:

- (1) The ~~Office~~~~Department~~ for the Blind may contract, to the extent funds are available under this chapter and under conditions and standards established by the ~~office~~~~department~~, with any nonprofit corporation able to provide expertise in the operation of workshops for and rehabilitation of individuals who are blind or visually impaired and whose objectives are to carry out the purposes of KRS 163.470(12)~~(13)~~.
- (2) The ~~Office~~~~Department~~ for the Blind shall contract with a nonprofit corporation, effective July 1, 2000, to provide industrial evaluation, training, and employment opportunities for individuals who are blind or visually impaired~~[as previously provided by the Division of Kentucky Industries for the Blind]~~.

Section 96. KRS 163.487 is amended to read as follows:

As used in KRS 163.485 to 163.489, unless the context requires otherwise:

- (1) "Accessible electronic information service" means news and other timely information, including but not limited to magazines, newsletters, schedules, announcements, and newspapers, provided to eligible individuals using high-speed computers, radios, and telecommunications technology for acquisition of content and rapid distribution in a form appropriate for use by those individuals; and
- (2) "Blind and disabled persons" means those individuals who are eligible for library loan services through the Library of Congress and the ~~Office~~~~Department~~ for the Blind pursuant to 36 C.F.R. sec. 701.10(b).

Section 97. KRS 163.489 is amended to read as follows:

- (1) The Accessible Electronic Information Service Program is created and shall be provided by the ~~Office~~~~Department~~ for the Blind. The program shall include:
  - (a) Intrastate access for eligible persons to read audio editions of newspapers, magazines, newsletters, schedules, announcements, and other information using a touch-tone telephone, radio, or other technologies that produce audio editions by use of computer; and

- (b) A means of program administration and reader registration on the Internet, or by mail, telephone, or any other method providing consumer access.
- (2) The program shall:
  - (a) Provide accessible electronic information services for all eligible blind and disabled persons as defined by KRS 163.487(2);
  - (b) Make maximum use of available state, federal, and other funds by obtaining grants or in-kind support from appropriate programs and securing access to low-cost interstate rates for telecommunications by reimbursement or otherwise.
- (3) The ~~Office~~~~Department~~ for the Blind shall review new technologies and current service programs in Kentucky for the blind and visually impaired that are available to expand audio communication if the ~~office~~~~department~~ determines that these new technologies will expand access to consumers in a cost-efficient manner. The ~~office~~~~department~~ may implement recommendations from the ~~Office~~~~Department~~ for the Blind State Rehabilitation Council for improving the program.

Section 98. KRS 163.506 is amended to read as follows:

- (1) The Commission on the Deaf and Hard of Hearing shall consist of:
  - (a) Seven (7) members appointed by the Governor as follows:
    - 1. One (1) audiologist chosen from a list of three (3) names submitted by the Kentucky Speech and Hearing Association;
    - 2. Three (3) hard of hearing or deaf persons chosen from a list of six (6) names submitted by the Kentucky Association of the Deaf;
    - 3. One (1) deaf or hard of hearing person chosen from a list of three (3) names submitted by the Kentucky Chapter of the Alexander Graham Bell Association for the Deaf, the initial appointment to be for a one (1) year term;
    - 4. One (1) hard of hearing or deaf person chosen from a list of three (3) names submitted by the Kentucky members of Self Help for Hard of Hearing People, the initial appointment to be for a two (2) year term; and
    - 5. One (1) deaf, late-deafened, or hard of hearing person chosen from a list of three (3) names submitted by the American Association of Retired Persons, the initial appointment to be for a two (2) year term;
  - (b) One (1) representative of the Cabinet for Health and Family Services appointed by the secretary;
  - (c) The secretary of the Education~~, Arts, and Humanities~~ Cabinet or his designee;
  - (d) The president of the Kentucky Association for the Deaf or his designee;
  - (e) The president of the Kentucky Registry of Interpreters for the Deaf or his designee; and
  - (f) Three (3) persons appointed by the Commission on the Deaf and Hard of Hearing as constituted in subsections (1)(a) through (1)(e) of this section, appointed as follows:
    - 1. One (1) parent of a hard of hearing or deaf child;
    - 2. One (1) representative of a public or private organization providing consistent services to the deaf and hard of hearing; and
    - 3. One (1) member at large.
- (2) All members shall serve three (3) year terms except state officials or their designees who shall serve during their terms of office. Of the members appointed pursuant to subsection (1)(a)2. through (1)(a)5. and subsection (1)(f) of this section, no more than three (3) of those members shall have terms beginning in the same year. Any person who is a member of the commission on July 13, 1990, shall serve until he resigns or until his term expires.
- (3) Each member of the commission shall be reimbursed for his necessary travel and other expenses actually incurred in the discharge of his duties.

SECTION 99. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

- (1) *The Kentucky Adult Education Program is created to carry out the statewide adult education mission. The program shall implement a twenty (20) year state strategy to reduce the number of adults who are at the lowest levels of literacy and most in need of adult education and literacy services. The program shall have responsibility for all functions related to adult education and literacy.*
- (2) *The Kentucky Adult Education Program is part of the Council on Postsecondary Education and shall be organized in a manner as directed by the president of the Council on Postsecondary Education. The program shall be headed by a vice president appointed by the president of the Council on Postsecondary Education.*
- (3) *The Kentucky Adult Education Program, Council on Postsecondary Education, shall be the agency solely designated for the purpose of developing and approving state plans required by state or federal laws or regulations.*

Section 100. KRS 164.001 is amended to read as follows:

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

- (1) "Administrator" means the chief executive officer of the institution;
- (2) "Adult basic education" means instruction in mathematics, science, social studies, reading, language arts, and related areas to enable individuals to better function in society;
- (3) "Benchmarks" means objective measures developed where applicable or practical by the Council on Postsecondary Education to judge the performance of the postsecondary education system and progress toward the goals as stated in KRS 164.003(2);
- (4) "Board" or "governing board" means the board of trustees for the University of Kentucky or the University of Louisville, the board of regents for a regional university, or the board of regents for the Kentucky Community and Technical College System;
- (5) "Board of regents" means the governing board of each regional university and the Kentucky Community and Technical College System;
- (6) "Committee" means the Strategic Committee on Postsecondary Education created in KRS 164.004;
- (7) "Council" means the Council on Postsecondary Education created in KRS 164.011;
- (8) "Customized training" means training in specific academic areas, work processes, or technical skills that are designed to serve a specific industry or industries to upgrade worker skills;
- (9) "Goals" means the six (6) goals specified in KRS 164.003(2);
- (10) "Independent institution" means a nonpublic postsecondary education institution in Kentucky whose instruction is not solely sectarian in nature, is accredited by a regional accrediting association recognized by the United States Department of Education, and is licensed by the Council on Postsecondary Education;
- (11) "Institution" means a university, college, community college, health technology center, vocational-technical school, technical institute, technical college, technology center, or the Kentucky Community and Technical College System;
- (12) "Kentucky Community and Technical College System" means the system composed of public community and technical colleges, including those postsecondary institutions operated by the *former* Cabinet for Workforce Development and those community colleges in the University of Kentucky Community College System on May 30, 1997.

The system also includes institutions created by the board of regents for the Kentucky Community and Technical College System and approved by the General Assembly;

- (13) "Literacy" means an individual's ability to read, write, and speak in English and compute and solve problems at levels of proficiency necessary to function on the job and in society to achieve one's goals and develop one's knowledge and potential;
- (14) "Lower division academic course" means any academic course offered for college or university credit that is designated as a freshman or sophomore level academic course;

- (15) "Nonteaching personnel" means any employee who is a full-time staff member, excluding a president, chancellor, vice president, academic dean, academic department chair, or administrator;
- (16) "Postsecondary education system" means the following public institutions: University of Kentucky, University of Louisville, Eastern Kentucky University, Kentucky State University, Morehead State University, Murray State University, Northern Kentucky University, Western Kentucky University, and the Kentucky Community and Technical College System;
- (17) "P-16 council" or "council of partners" means a local or state council that is composed of educators from public and private preschools, elementary, secondary, and postsecondary education institutions, local board of education members, and may include community and business representatives that have voluntarily organized themselves for the purpose of improving the alignment and quality of the education continuum from preschool through postsecondary education as well as student achievement at all levels;
- (18) "Public" means operated with state support;
- (19) "Relative" means a person's father, mother, brother, sister, husband, wife, son, daughter, aunt, uncle, son-in-law, or daughter-in-law;
- (20) "Remedial education" means any program, course, or activity that is designed specifically for students who have basic deficiencies in reading, written or oral communication, mathematics, study skills, or other skills necessary to do beginning postsecondary work as defined by the institution;
- (21) "Standardized degree program" means a program, approved by the Council on Postsecondary Education, that consists of specific competencies, curriculum, and performance requirements regardless of the providing institution;
- (22) "Strategic agenda" means the state strategic postsecondary education agenda described in KRS 164.0203; and
- (23) "Technical institution" means an educational institution that offers certificates, diplomas, or technical degrees in technical or occupational-related programs, including a facility called a vocational-technical school, technical institute, health technology center, technology center, technical college, or similar designation.

Section 101. KRS 164.020 is amended to read as follows:

The Council on Postsecondary Education in Kentucky shall:

- (1) Develop and implement the strategic agenda with the advice and counsel of the Strategic Committee on Postsecondary Education. The council shall provide for and direct the planning process and subsequent strategic implementation plans based on the strategic agenda as provided in KRS 164.0203;
- (2) Revise the strategic agenda and strategic implementation plan with the advice and counsel of the committee as set forth in KRS 164.004;
- (3) Develop a system of public accountability related to the strategic agenda by evaluating the performance and effectiveness of the state's postsecondary system. The council shall prepare a report in conjunction with the accountability reporting described in KRS 164.095, which shall be submitted to the committee, the Governor, and the General Assembly by December 1 annually. This report shall include a description of contributions by postsecondary institutions to the quality of elementary and secondary education in the Commonwealth;
- (4) Review, revise, and approve the missions of the state's universities and the Kentucky Community and Technical College System. The Council on Postsecondary Education shall have the final authority to determine the compliance of postsecondary institutions with their academic, service, and research missions;
- (5) Establish and ensure that all postsecondary institutions in Kentucky cooperatively provide for an integrated system of postsecondary education. The council shall guard against inappropriate and unnecessary conflict and duplication by promoting transferability of credits and easy access of information among institutions;
- (6) Engage in analyses and research to determine the overall needs of postsecondary education and adult education in the Commonwealth;
- (7) Develop plans that may be required by federal legislation. The council shall for all purposes of federal legislation relating to planning be considered the "single state agency" as that term may be used in federal legislation. When federal legislation requires additional representation on any "single state agency," the Council on Postsecondary Education shall establish advisory groups necessary to satisfy federal legislative or regulatory guidelines;

- (8) Determine tuition and approve the minimum qualifications for admission to the state postsecondary educational system. In defining residency, the council shall classify a student as having Kentucky residency if the student met the residency requirements at the beginning of his or her last year in high school and enters a Kentucky postsecondary education institution within two (2) years of high school graduation. In determining the tuition for non-Kentucky residents, the council shall consider the fees required of Kentucky students by institutions in adjoining states, the resident fees charged by other states, the total actual per student cost of training in the institutions for which the fees are being determined, and the ratios of Kentucky students to non-Kentucky students comprising the enrollments of the respective institutions, and other factors the council may in its sole discretion deem pertinent;
- (9) Devise, establish, and periodically review and revise policies to be used in making recommendations to the Governor for consideration in developing recommendations to the General Assembly for appropriations to the universities, the Kentucky Community and Technical College System, and to support strategies for persons to maintain necessary levels of literacy throughout their lifetimes including, but not limited to, appropriations to the **Kentucky Adult Education Program**~~Department for Adult Education and Literacy~~. The council has sole discretion, with advice of the Strategic Committee on Postsecondary Education and the executive officers of the postsecondary education system, to devise policies that provide for allocation of funds among the universities and the Kentucky Community and Technical College System;
- (10) Lead and provide staff support for the biennial budget process as provided under KRS Chapter 48, in cooperation with the committee;
- (11)
  - (a) Except as provided in paragraph (b) of this subsection, review and approve all capital construction projects covered by KRS 45.750(1)(f), including real property acquisitions, and regardless of the source of funding for projects or acquisitions. Approval of capital projects and real property acquisitions shall be on a basis consistent with the strategic agenda and the mission of the respective universities and the Kentucky Community and Technical College System.
  - (b) The organized groups that are establishing community college satellites as branches of existing community colleges in the counties of Laurel, Leslie, and Muhlenberg, and that have substantially obtained cash, pledges, real property, or other commitments to build the satellite at no cost to the Commonwealth, other than operating costs that shall be paid as part of the operating budget of the main community college of which the satellite is a branch, are authorized to begin construction of the satellite on or after January 1, 1998;
- (12) Require reports from the executive officer of each institution it deems necessary for the effectual performance of its duties;
- (13) Ensure that the state postsecondary system does not unnecessarily duplicate services and programs provided by private postsecondary institutions and shall promote maximum cooperation between the state postsecondary system and private postsecondary institutions. Receive and consider an annual report prepared by the Association of Independent Kentucky Colleges and Universities stating the condition of independent institutions, listing opportunities for more collaboration between the state and independent institutions and other information as appropriate;
- (14) Develop a university track program within the Kentucky Community and Technical College System consisting of sixty (60) hours of instruction that can be transferred and applied toward the requirements for a bachelor's degree at the public universities. The track shall consist of general education courses and pre-major courses as prescribed by the council. Courses in the university track program shall transfer and apply toward the requirements for graduation with a bachelor's degree at all public universities. Successful completion of the university track program shall meet the academic requirement for transfer to a public university as a junior. By fall semester of 1997, requirements for track programs shall be established for all majors and baccalaureate degree programs;
- (15) Define and approve the offering of all postsecondary education technical, associate, baccalaureate, graduate, and professional degree, certificate, or diploma programs in the public postsecondary education institutions. The council shall expedite wherever possible the approval of requests from the Kentucky Community and Technical College System board of regents relating to new certificate, diploma, technical, or associate degree programs of a vocational-technical and occupational nature. Without the consent of the General Assembly, the council shall not abolish or limit the total enrollment of the general program offered at any community college to meet the goal of reasonable access throughout the Commonwealth to a two (2) year course of general studies

designed for transfer to a baccalaureate program. This does not restrict or limit the authority of the council, as set forth in this section, to eliminate or make changes in individual programs within that general program;

- (16) Eliminate, in its discretion, existing programs or make any changes in existing academic programs at the state's postsecondary educational institutions, taking into consideration these criteria:
  - (a) Consistency with the institution's mission and the strategic agenda;
  - (b) Alignment with the priorities in the strategic implementation plan for achieving the strategic agenda;
  - (c) Elimination of unnecessary duplication of programs within and among institutions; and
  - (d) Efforts to create cooperative programs with other institutions through traditional means, or by use of distance learning technology and electronic resources, to achieve effective and efficient program delivery;
- (17) Ensure the governing board and faculty of all postsecondary education institutions are committed to providing instruction free of discrimination against students who hold political views and opinions contrary to those of the governing board and faculty;
- (18) Review proposals and make recommendations to the Governor regarding the establishment of new public community colleges, technical institutions, and new four (4) year colleges;
- (19) Postpone the approval of any new program at a state postsecondary educational institution, unless the institution has met its equal educational opportunity goals, as established by the council. In accordance with administrative regulations promulgated by the council, those institutions not meeting the goals shall be able to obtain a temporary waiver, if the institution has made substantial progress toward meeting its equal educational opportunity goals;
- (20) Ensure the coordination, transferability, and connectivity of technology among postsecondary institutions in the Commonwealth including the development and implementation of a technology plan as a component of the strategic agenda;
- (21) Approve the teacher education programs in the public institutions that comply with standards established by the Education Professional Standards Board pursuant to KRS 161.028;
- (22) Constitute the representative agency of the Commonwealth in all matters of postsecondary education of a general and statewide nature which are not otherwise delegated to one (1) or more institutions of postsecondary learning. The responsibility may be exercised through appropriate contractual relationships with individuals or agencies located within or without the Commonwealth. The authority includes but is not limited to contractual arrangements for programs of research, specialized training, and cultural enrichment;
- (23) Maintain procedures for the approval of a designated receiver to provide for the maintenance of student records of the public institutions of higher education and the colleges as defined in KRS 164.945, and institutions operating pursuant to KRS 165A.310 which offer collegiate level courses for academic credit, which cease to operate. Procedures shall include assurances that, upon proper request, subject to federal and state laws and regulations, copies of student records shall be made available within a reasonable length of time for a minimum fee;
- (24) Monitor and transmit a report on compliance with KRS 164.351 to the director of the Legislative Research Commission for distribution to the Health and Welfare Committee;
- (25) Develop in cooperation with each state postsecondary educational institution a comprehensive orientation program for new members of the council and the governing boards. The orientation program shall include but not be limited to the information concerning the roles of the council, the strategic agenda and the strategic implementation plan, and the respective institution's mission, budget, plans, policies, strengths, and weaknesses;
- (26) Develop a financial reporting procedure to be used by all state postsecondary education institutions to ensure uniformity of financial information available to state agencies and the public;
- (27) Select and appoint a president of the council under KRS 164.013;
- (28) Employ consultants and other persons and employees as may be required for the council's operations, functions, and responsibilities;



- (29) Promulgate administrative regulations, in accordance with KRS Chapter 13A, governing its powers, duties, and responsibilities as described in this section;
- (30) Prepare and present by January 31 of each year an annual status report on postsecondary education in the Commonwealth to the Governor, the Strategic Committee on Postsecondary Education, and the Legislative Research Commission;
- (31) Consider the role, function, and capacity of independent institutions of postsecondary education in developing policies to meet the immediate and future needs of the state. When it is found that independent institutions can meet state needs effectively, state resources may be used to contract with or otherwise assist independent institutions in meeting these needs;
- (32) Create advisory groups representing the presidents, faculty, nonteaching staff, and students of the public postsecondary education system and the independent colleges and universities;
- (33) Develop a statewide policy to promote employee and faculty development in all postsecondary institutions and in state and locally operated secondary area technology centers through the waiver of tuition for college credit coursework in the public postsecondary education system. Any regular full-time employee of a postsecondary public institution or a state or locally operated secondary area technology center may, with prior administrative approval of the course offering institution, take a maximum of six (6) credit hours per term at any public postsecondary institution. The institution shall waive the tuition up to a maximum of six (6) credit hours per term;
- (34) Establish a statewide mission for adult education and develop a twenty (20) year strategy, in partnership with the **Kentucky Adult Education Program**~~{Department for Adult Education and Literacy}~~, under the provisions of KRS 164.0203 for raising the knowledge and skills of the state's adult population. The council shall:
  - (a) Promote coordination of programs and responsibilities linked to the issue of adult education with the **Kentucky Adult Education Program**~~{Department for Adult Education and Literacy}~~ and with other agencies and institutions;
  - (b) Facilitate the development of strategies to increase the knowledge and skills of adults in all counties by promoting the efficient and effective coordination of all available education and training resources;
  - (c) Lead a statewide public information and marketing campaign to convey the critical nature of Kentucky's adult literacy challenge and to reach adults and employers with practical information about available education and training opportunities;
  - (d) Establish standards for adult literacy and monitor progress in achieving the state's adult literacy goals, including existing standards that may have been developed to meet requirements of federal law in conjunction with the Collaborative Center for Literacy Development: Early Childhood through Adulthood; and
  - (e) Administer the adult education and literacy initiative fund created under KRS 164.041; and
- (35) Exercise any other powers, duties, and responsibilities necessary to carry out the purposes of this chapter. Nothing in this chapter shall be construed to grant the Council on Postsecondary Education authority to disestablish or eliminate any college of law which became a part of the state system of higher education through merger with a state college.

Section 102. KRS 164.0203 is amended to read as follows:

- (1) The Council on Postsecondary Education shall adopt a strategic agenda that identifies specific short-term objectives in furtherance of the long-term goals established in KRS 164.003(2).
- (2) (a) The purpose of the strategic agenda is to further the public purposes under KRS 164.003 by creating high-quality, relevant, postsecondary education and adult education opportunities in the Commonwealth. The strategic agenda shall:
  - 1. Serve as the public agenda for postsecondary education and adult education for the citizens of the Commonwealth, providing statewide priorities and a vision for long-term economic growth;
  - 2. State those important issues and aspirations of the Commonwealth's students, employers, and workforce reflecting high expectations for their performance and the performance of the educational institutions and providers that serve them; and

3. Sustain a long-term commitment for constant improvement, while valuing market-driven responsiveness, accountability to the public, technology-based strategies, and incentive-based motivation.
  - (b) The council shall develop a strategic implementation plan, which may be periodically revised, to achieve the strategic agenda. The strategic agenda shall serve as a guide for institutional plans and missions.
- (3) The framework for the strategic implementation plan of the strategic agenda shall include the following elements:
  - (a) A mission statement;
  - (b) Goals;
  - (c) Principles;
  - (d) Strategies and objectives;
  - (e) Benchmarks; and
  - (f) Incentives to achieve desired results.
- (4) The implementation plan for the strategic agenda shall take into consideration the value to society of a quality liberal arts education and the needs and concerns of Kentucky's employers.
- (5) The council shall develop benchmarks using criteria that shall include, but not be limited to:
  - (a) Use of the statistical information commonly provided by governmental and regulatory agencies or specific data gathered by authorization of the council;
  - (b) Comparison of regions and areas within the Commonwealth and comparisons of the Commonwealth to other states and the nation; and
  - (c) Measures of educational attainment, effectiveness, and efficiency including, but not limited to, those set forth in KRS 164.095.
- (6) The council shall review the goals established by KRS 164.003(2) at least every four (4) years and shall review its implementation plan at least every two (2) years.
- (7) In developing the strategic agenda, the council shall actively seek input from the Department of Education and local school districts to create necessary linkages to assure a smooth and effective transition for students from the elementary and secondary education system to the postsecondary education system. Upon completion of the strategic agenda and strategic implementation plan, the council shall distribute copies to each local school district.
- (8) The strategic agenda shall include a long-term strategy, developed in partnership with the **Kentucky Adult Education Program**~~[Department for Adult Education and Literacy]~~, for raising the knowledge and skills of Kentucky's adult population, and ensuring lifelong learning opportunities for all Kentucky adults, drawing on the resources of all state government cabinets and agencies, business and civic leadership, and voluntary organizations.

Section 103. KRS 164.035 is amended to read as follows:

The Council on Postsecondary Education, in consultation with the **Kentucky Adult Education Program**~~[Department for Adult Education and Literacy]~~ and the Collaborative Center for Literacy Development: Early Childhood through Adulthood, shall assess the need for technical assistance, training, and other support to assist in the development of adult education and workforce development that support the state strategic agenda and that include a comprehensive coordinated approach to education and training services. The council shall promote the involvement of universities; colleges; technical institutions; elementary and secondary educational agencies; labor, business, and industry representatives; community-based organizations; citizens' groups; and other policymakers in the development of the regional strategies.

Section 104. KRS 164.041 is amended to read as follows:

- (1) There is created in the Council on Postsecondary Education, a special fund to be known as the adult education and literacy initiative fund, which shall consist of moneys appropriated by the General Assembly, gifts, grants, other sources of funding, public and private, and interest accrued by the fund. This fund shall not lapse at the

end of a fiscal year but shall be carried forward to be used only for the purposes specified in this section. Moneys accumulated in this fund on July 14, 2000, shall remain in the fund and be transferred to the Council on Postsecondary Education to be used for purposes stated in this section.

- (2) The purpose of the adult education and literacy initiative fund shall be to support strategies for adult education, to provide statewide initiatives for excellence, and to provide funds for research and development activities.
- (3) The council, in collaboration with the ***Kentucky Adult Education Program***~~Department for Adult Education and Literacy~~, shall establish the guidelines for the use, distribution, and administration of the fund, financial incentives, technical assistance, and other support for strategic planning; and guidelines for fiscal agents to assess county and area needs and to develop strategies to meet those needs.
- (4) The fund shall include the following strategies:
  - (a) Statewide initiatives. Funds shall be used to encourage collaboration with other organizations, stimulate development of models of adult education programs that may be replicated elsewhere in the state, provide incentives for adults, employers, and providers to encourage adults to establish and accomplish learning contracts, provide incentives to encourage participation in adult education, assist providers of county and area programs in areas of highest need, and for other initiatives of regional or statewide significance as determined by the council. The Collaborative Center for Literacy Development: Early Childhood through Adulthood created under KRS 164.0207 shall evaluate the reading and literacy components of model programs funded under this paragraph.
  - (b) Research and demonstration. The funds shall be used to develop:
    1. Standards for the preparation, professional development, and support for adult educators with the advice of the ***Kentucky Adult Education Program***~~Department for Adult Education and Literacy~~ and as compatible with funds provided under Title II of the Federal Workforce Investment Act;
    2. A statewide competency-based certification for transferable skills in the workplace; and
    3. A statewide public information and marketing campaign.

Section 105. KRS 164.477 is amended to read as follows:

- (1) As used in this section, unless the context requires otherwise:
  - (a) "Alternative format" means any medium or format for the presentation of instructional materials other than standard print needed by a student with a disability for a reading accommodation, including but not limited to braille, large print texts, audio recordings, digital texts, and digital talking books;
  - (b) "Instructional material" means a textbook or other material published primarily for use by students in a course of study in which a student with a disability is enrolled that is required or essential to a student's success, as determined by the course instructor. "Instructional material" includes nontextual mathematics and science material to the extent that software is commercially available to permit the conversion of the electronic file of the material into a format that is compatible with assistive technologies such as speech synthesis software or braille translation software commonly used by students with disabilities;
  - (c) "Nonprinted instructional material" means instructional material in a format other than print, including instructional material that requires the availability of electronic equipment in order to be used as a learning resource, including but not limited to software programs, videodiscs, videotapes, and audio tapes;
  - (d) "Printed instructional material" means instructional material in book or other printed form;
  - (e) "Publisher" means an individual, firm, partnership, corporation, or other entity that publishes or manufactures instructional material used by students attending a public or independent postsecondary education institution in Kentucky;
  - (f) "State Repository for Alternative Format Instructional Materials" or "repository" means a consortium established or otherwise designated by the Council on Postsecondary Education under subsection (8) of this section to serve as a state repository for electronic files or alternative format instructional materials obtained from publishers, created by institutions, or received through other means;

- (g) "Structural integrity" means the inclusion of all of the information provided in printed instructional material, including but not limited to the text of the material sidebars, the table of contents, chapter headings and subheadings, footnotes, indexes, and glossaries, but need not include nontextual elements such as pictures, illustrations, graphs, or charts; and
  - (h) "Working day" means a day that is not Saturday, Sunday, or a national holiday.
- (2) The purpose of this section is to ensure, to the maximum extent possible, that all postsecondary students with a disability in Kentucky requiring reading accommodations, in accordance with Section 504 of the Rehabilitation Act, 29 U.S.C. sec. 794, or the Americans with Disabilities Act, 42 U.S.C. secs. 12101 et seq., including but not limited to students who are blind, are visually impaired, or have a specific learning disability or other disability affecting reading, shall have access to instructional materials in alternative formats that are appropriate to their disability and educational needs.
  - (3) A publisher shall, upon fulfillment of the requirements of subsections (6) and (7) of this section, provide to a postsecondary education institution or to the State Repository for Alternative Format Instructional Materials, at no cost:
    - (a) Printed instructional material in an electronic format; and
    - (b) Nonprinted instructional material in an electronic format, when the technology is available to maintain the material's structural integrity.
  - (4) Instructional material provided by a publisher in electronic format shall:
    - (a) Maintain the structural integrity of the original instructional material, except as provided for in paragraph (b) subsection (3) of this section;
    - (b) Be compatible with commonly used braille translation and speech synthesis software;
    - (c) Include corrections and revisions as may be necessary; and
    - (d) Be in a format that is mutually agreed upon by the publisher and the requesting institution or the State Repository for Alternative Format Instructional Materials. If good-faith efforts fail to produce an agreement as to an electronic format that will preserve the structural integrity of the instructional material, the publisher shall provide the instructional material in XML (Extensible Markup Language), utilizing an appropriate document-type definition suitable for the creation of alternative format materials, and shall preserve as much of the structural integrity of the original instructional material as possible.
  - (5) The publisher shall transmit or otherwise send an electronic format version of requested instructional material within fifteen (15) working days of receipt of an appropriately completed request. Should this timetable present an undue burden for a publisher, the publisher shall submit within the fifteen (15) working day period a statement to the requesting entity certifying the expected date for transmission or delivery of the file.
  - (6)
    - (a) To receive an electronic format version of instructional material, a written request shall be submitted to the publisher that certifies:
      1. The instructional material has been purchased for use by a student with a disability by the student or the institution the student attends or is registered to attend;
      2. The student has a disability that prevents the student from using the standard instructional material; and
      3. The instructional material is for use by the student in connection with a course in which he or she is registered or enrolled.
    - (b) A publisher may also require a statement signed by the student or, if the student is a minor, the student's parent or legal guardian, agreeing that the student will:
      1. Use the electronic copy of the instructional material solely for his or her own educational purposes; and
      2. Not copy or distribute the instructional material for use by others.
  - (7) The request for an electronic format version of instructional material shall be prepared and signed by:
    - (a) The coordinator of services for students with a disability at the institution;

- (b) A representative of the *Office*~~[Department]~~ for the Blind;
  - (c) A representative of the *Office*~~[Department]~~ of Vocational Rehabilitation; or
  - (d) A representative of the State Repository for Alternative Format Instructional Materials.
- (8) The Council on Postsecondary Education may, to the extent funds are available, establish or otherwise designate a consortium to be called the State Repository for Alternative Format Instructional Materials to serve as a state repository for electronic files and alternative format materials for the purpose of facilitating the timely access of appropriate alternative instructional materials by postsecondary students with a disability.
- (9) The Council on Postsecondary Education may promulgate administrative regulations governing the implementation and administration of this section.
- (10) The council shall work with representatives of each postsecondary institution to develop policies and procedures designed to ensure to the maximum extent possible that students with disabilities have access to instructional materials in appropriate alternative formats within the first week of class.
- (11) The council, in consultation with appropriate entities, including but not limited to the *Office*~~[Department]~~ for the Blind, the Kentucky Assistive Technology Service Network, Recording for the Blind and Dyslexic, and the Kentucky Association on Higher Education and Disability, shall include within its annual status report on postsecondary education in Kentucky a continuing assessment of the need for statewide technical assistance, training, and other supports designed to increase the availability and effective use of alternative format instructional materials.
- (12) The State Repository for Alternative Format Instructional Materials or the council may receive electronic files and alternative format materials from:
- (a) Publishers;
  - (b) Postsecondary education institutions that have created alternative materials for use by a student with a disability;
  - (c) The Kentucky Department of Education, receiving electronic files from publishers under the requirements of KRS 156.027; or
  - (d) Other sources.
- (13) The repository or the council shall, upon receipt of documents as set forth in subsection (6) of this section, provide at no cost copies of electronic files and alternative format materials to:
- (a) Postsecondary education institutions in Kentucky; and
  - (b) The Kentucky Department of Education, to assist in the implementation of the requirements of KRS 156.027.
- (14) The repository shall provide to a publisher, upon request:
- (a) A summary of all electronic or alternative format versions of instructional material from that publisher provided to students, postsecondary education institutions, and the Kentucky Department of Education from its holdings; and
  - (b) Copies of requests and related certification documents received for instructional materials from that publisher.
- (15) The repository or the council may submit requests for electronic files to publishers on behalf of institutions.
- (16) (a) A postsecondary education institution or an educational instructor, assistant, or tutor may assist a student with a disability by using the electronic format version of instructional material as provided by this section solely to transcribe or arrange for the conversion of the instructional material into an alternative format, or to otherwise assist the student.
- (b) If an alternative format version of instructional material is created, an institution may, for the purpose of providing the version to other students with disabilities, share that version with:
- 1. The repository;

2. A Kentucky postsecondary education institution serving a student with a disability; and
  3. An authorized entity as defined under 17 U.S.C. sec. 121 that commonly provides alternative format materials for use by students in Kentucky institutions.
- (17) The disk or file of an electronic format version of instructional material used directly by a student shall be copy-protected, or reasonable precautions shall be taken by the institution to ensure that the student does not copy or distribute the electronic format version in violation of the Copyright Revisions Act of 1976, as amended, 17 U.S.C. secs. 101 et seq.
  - (18) Nothing in this section shall be deemed to authorize any use of instructional materials that would constitute an infringement of copyright under the Copyright Revision Act of 1976, as amended, 17 U.S.C. secs. 101 et seq.
  - (19) Nothing in this section shall absolve covered entities from the obligation to provide equivalent access to information technology and software as set forth in KRS 61.982.
  - (20) A publisher shall be considered a place of public accommodation for the purposes of KRS 344.130. Failure to comply with the requirements of this section shall be an unlawful practice of discrimination on the basis of disability for the purposes of KRS 344.120.

Section 106. KRS 164.478 is amended to read as follows:

- (1) It is the intent of the General Assembly to increase the educational level of deaf and hard of hearing persons by assuring them an equal opportunity to obtain an education in the public postsecondary institutions.
- (2) The public postsecondary institutions shall make their programs accessible to deaf and hard of hearing students by providing support services necessary for such students to fully participate in the programs. The support services shall include, but not be limited to, interpreters and notetakers in the classroom and equal access to all support services available to those who are not deaf or hard of hearing. Appropriate assistive listening devices and alerting devices shall be available in dormitories housing deaf or hard of hearing students.
- (3)
  - (a) The General Assembly shall appropriate funds to the ~~Office~~~~Department~~ of Vocational Rehabilitation excluding costs of capital equipment or modifications for installation of assistive listening or alerting devices to cover the costs of support services at the institutions for students who are deaf or hard of hearing.
  - (b) The ~~Office~~~~Department~~ of Vocational Rehabilitation shall administer funding of support services at institutions for students who are deaf or hard of hearing contingent on General Assembly funding. The postsecondary institutions and the ~~Office~~~~Department~~ of Vocational Rehabilitation shall cooperate to assure that funds are used to effectively provide support services to students who are deaf and hard of hearing.
  - (c) The funds shall be distributed to institutions based upon actual costs or established fees for service of providing support services to individual students.

Section 107. KRS 164.5805 is amended to read as follows:

- (1) Effective July 1, 1998, the Kentucky Community and Technical College System shall be the legal successor to the postsecondary Kentucky Tech institutions and corresponding administrative units in the **former** Cabinet for Workforce Development and shall assume all assets and liabilities of this system, including without limitation all obligations, responsibilities, programs, staff, instructional supplies, equipment, real property, facilities, funds, and records. The Finance and Administration Cabinet shall execute the instruments necessary to transfer the real property relating to the operation of the postsecondary institutions in the Kentucky Tech System from the **former** Cabinet for Workforce Development to the Kentucky Community and Technical College System.
  - (a) The staff positions in the **former** Department for Technical Education and the **former** Cabinet for Workforce Development whose responsibilities include support for the postsecondary institutions in the Kentucky Tech System and the school-based positions shall be transferred to the Kentucky Community and Technical College System. Selected employees of the Kentucky Tech regional offices shall be transferred and reassigned within the Kentucky Community and Technical College System. Appropriate central office functions from the Department for Technical Education shall be assigned within the system to carry out the administrative and support functions with the approval of the board of regents for the Kentucky Community and Technical College System.

- (b) All funds related to the costs of operating the Kentucky Tech postsecondary institutions, including the administrative costs, shall be transferred to the board of regents for the Kentucky Community and Technical College System for carrying out the mission of the postsecondary technical institutions and colleges.
- (c) Funds raised by a not-for-profit or nonprofit organization for a specific program or technical institution shall be for the exclusive use of the program or that technical institution.
- (d) The following provisions shall apply to the employees who are transferred from the *former* Cabinet for Workforce Development to the Kentucky Community and Technical College System, effective July 1, 1998:
  - 1. Accumulated sick leave, compensatory time, and annual leave as of June 30, 1998, shall be transferred with each employee;
  - 2. Employees who have earned continuing status as defined in KRS 151B.010 and employees who have earned classified status as merit system employees under KRS Chapter 18A shall be provided the same standing. Those employees who are transferred and are in the process of earning continuing status or classified status shall earn their standing based on the rules that were governing them on June 30, 1998, in their respective systems. New employees within the system shall earn status based on the new policies established by the board;
  - 3. Employees shall transfer into the new system at a salary not less than their previous salary as of June 30, 1998;
  - 4. Employees shall be provided retirement plans in the same system where they are currently enrolled: the Kentucky Teachers' Retirement System under KRS 161.220 or the Kentucky Employees Retirement System under KRS 61.525;
  - 5. Employees shall be provided a health benefits package that is available or equivalent to that provided to other state or university employees; and
  - 6. Employees shall be provided life insurance coverage and optional insurance or investment programs.
- (e) The board shall adopt rules that are the same as the administrative regulations under KRS Chapter 151B in effect on June 30, 1998, to govern the certified and equivalent employees who transfer from the *former* Cabinet for Workforce Development, except that the rules shall provide that all grievances and appeals shall be to the board of regents or to the board's designee. The board shall adopt rules that are the same as the administrative regulations under KRS Chapter 18A in effect on June 30, 1998, to govern the transferred classified employees, except that the rules shall provide that all grievances and appeals shall be to the board of regents or to the board's designee. A transferred employee shall have the option to elect to participate in the new Kentucky Community and Technical College personnel system in lieu of the rules under which the employee transferred. An employee who elects to accept this option may not return to the previous personnel policy. An employee shall have the right to exercise this option at any time.
- (2) New employees hired after July 1, 1997, in the Kentucky Community and Technical College System shall be governed by the rules and regulations established by the board.

Section 108. KRS 171.312 is amended to read as follows:

In order to better facilitate the operation and management, the Kentucky Historical Society shall be organized into four (4) separate divisions. These divisions shall include: Research and Publications; Oral History and Educational Outreach; Administration; and Museums. The divisions shall be headed by a director appointed by the Executive Committee of the Kentucky Historical Society of the ~~Commerce~~~~Education, Arts, and Humanities~~ Cabinet pursuant to KRS 171.311.

Section 109. KRS 171.347 is amended to read as follows:

There is created the Commonwealth of Kentucky Abraham Lincoln Bicentennial Commission, which shall be attached to the Kentucky Historical Society for administrative purposes. The commission shall be composed of twenty (20) members, as follows:

- (1) Two (2) members of the House of Representatives, appointed by the Speaker of the House;
- (2) Two (2) members of the Senate, appointed by the President of the Senate;
- (3) The secretary of the Education~~[- Arts, and Humanities]~~ Cabinet, or his or her designee;
- (4) One (1) member from the Commerce Cabinet, appointed by the secretary of that cabinet;
- (5) One (1) member from the Kentucky Historical Society, appointed by the director of that agency;
- (6) One (1) member from the Kentucky Heritage Council, appointed by the executive director of that agency;
- (7) One (1) member from the Kentucky African-American Heritage Commission, appointed by the head of that agency;
- (8) One (1) member from the Kentucky Humanities Council, appointed by the executive director of that agency;
- (9) One (1) member from the Abraham Lincoln Bicentennial Commission established by the United States Congress, appointed by the concurrence of the chairs of that agency;
- (10) The Larue County judge/executive, or his or her designee;
- (11) One (1) member from the Abraham Lincoln Birthplace, appointed by the superintendent of that national historic site;
- (12) One (1) member from the Lincoln Museum in Hodgenville, appointed by the president of that agency;
- (13) One (1) member from the Mary Todd Lincoln House in Lexington, appointed by the head of that agency;
- (14) One (1) member from the Farmington Historic Home museum in Louisville, appointed by the head of that agency; and
- (15) Four (4) citizen members from the state at large with a demonstrated interest in history and substantial knowledge and appreciation of Abraham Lincoln, appointed by the Governor.

The chair of the commission shall be elected from among the membership by the commission members.

Section 110. KRS 171.381 is amended to read as follows:

- (1) The **Kentucky** Heritage Council shall be dedicated to the preservation and protection of all meaningful vestiges of Kentucky's heritage for succeeding generations, and in pursuit of this dedication it shall engage in and concern itself with worthy projects and other matters related to the conservation and continuing recognition of buildings, structures, sites, and other landmarks associated with the archaeological, cultural, economic, military, natural, political, or social aspects of Kentucky's history.
- (2) The duties and functions of the council shall be to:
  - (a) Review and recommend appropriate projects and programs to insure the proper recognition, preservation, and protection of matters related to Kentucky's heritage, particularly those in the nature of or associated with real property;
  - (b) Advise, consult, and cooperate generally with state, local, and national officials and agencies to accomplish the purposes to which the council is dedicated, and specifically with the Kentucky Department of Parks and Historical Society in matters of common concern;
  - (c) Encourage, promote, and coordinate historic preservation programs being conducted in Kentucky by other agencies or groups, public and private; and
  - (d) Prepare and maintain an inventory or survey of Kentucky's resource of historic buildings, sites, structures, and other landmarks, and list in an official roll those such landmarks which possess statewide or national significance.
- (3) The council may:
  - (a) Accept grants or other funds or property from any available source, public or private;
  - (b) Employ, with the approval of the Governor, such staff as may be necessary. Any member of such staff shall be entitled to compensation under KRS Chapter 18A, and may be reimbursed for necessary and actual expenses in accordance with the provisions of KRS Chapters 44 and 45;
  - (c) Enter into such contractual relationships as may be necessary;



- (d) Acquire real property, by gift or devise or by purchase pursuant to the provisions of KRS 45A.045, and hold the same in the name of the Commonwealth for the use and benefit of the council;
  - (e) Initiate its own projects of an appropriate nature, and undertake or otherwise engage in joint projects with other agencies or groups, public or private; and
  - (f) Adopt such rules and regulations as may be necessary and incidental to the performance of the council's duties and functions.
- (4) The receipt, control, and expenditure of funds shall be subject to the general provisions of the Kentucky Revised Statutes governing financial administration of all state agencies.
  - (5) No provision of this section shall be construed as repealing any of the laws of the Commonwealth relating to the preservation, protection, and recognition of historical matters, but shall be held and construed as ancillary and supplemental thereto.
  - (6) The council shall receive applications, interview and recommend to the Governor three (3) persons as nominees for appointment as the director of the Heritage Division, ~~Commerce, Education, Arts, and Humanities~~ Cabinet. The director of the Heritage Division shall be the state historic preservation officer.
  - (7) The responsibilities of the state historic preservation officer shall include:
    - (a) Development for the State Historic Preservation Program;
    - (b) Direction of a comprehensive statewide survey of historic properties;
    - (c) Nomination of historic properties to the National Register of Historic Places;
    - (d) Cooperation in the development of effective working relationships with federal, state, and local agencies that participate in the management of historic properties and in project planning that may affect historic properties;
    - (e) Cooperation in the integration of historic preservation planning with all levels of planning;
    - (f) Cooperation in the development and maintenance of a review procedure for publicly funded, assisted, and licensed undertakings that may affect historic properties within the state;
    - (g) Participation in the review of federal, federally assisted, and federally licensed undertakings that may affect historic properties included in or eligible for inclusion in the National Register under Section 106 of the National Historic Preservation Act and Executive Order 11593;
    - (h) Assisting federal agencies in fulfilling their historic preservation responsibilities under federal law and regulations;
    - (i) Liaison with organizations of professional archaeologists, historians, architects, architectural historians, planners, and others concerned with historic preservation;
    - (j) Development and operation of a program of public information and education concerning the preservation program;
    - (k) Administration of the grants program within the state;
    - (l) Preparation and maintenance of a comprehensive statewide historic preservation plan; and
    - (m) The immediate transmittal to the Department of Parks and to the Commonwealth's Railtrail Development Office in the Department for Local Government of any information received from a railroad or other person having an ownership interest in a railroad corridor pertaining to a proposed or pending action or proceeding to obtain federal authority for the regulatory abandonment of that railroad corridor.

Section 111. 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 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 112. KRS 171.805 is amended to read as follows:

- (1) The Kentucky African-American Heritage Commission shall be dedicated to the preservation and protection of all meaningful vestiges of Kentucky's African-American heritage.
- (2) The duties and functions of the commission shall be to:
  - (a) Advise the secretary of the ~~Commerce~~~~[Education, Arts, and Humanities]~~ Cabinet and agencies within the cabinet on matters relating to African-American heritage.
  - (b) Encourage other public and private agencies within the areas of the arts, the humanities, and the sciences to incorporate the African-American influence when developing programs on the history and heritage of Kentucky.
  - (c) Represent a network of groups and individuals interested or involved in promoting awareness of African-American heritage in Kentucky.
  - (d) Advocate the preservation, conservation, and interpretation of significant buildings, sites, neighborhoods, documents, artifacts, and lifeways that represent and embody African-American heritage.
  - (e) Recognize and sanction projects which advance wider knowledge of African-Americans' impact on life in Kentucky.
  - (f) Coordinate an initiative to protect, preserve, and promote the history of the Underground Railroad in Kentucky, in accordance with KRS 171.812.

Section 113. KRS 171.814 is amended to read as follows:

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

- (1) The council shall consist of thirteen (13) members, as follows:
  - (a) Secretary of the ~~Education, Arts, and Humanities~~ Cabinet, or designee;
  - (b) Secretary of the Commerce Cabinet, or designee;
  - (c) Secretary of the Transportation Cabinet, or designee;
  - (d) Director of the Kentucky Historical Society, or designee;
  - (e) State historic preservation officer of the Kentucky Heritage Council, or designee;
  - (f) Chair of the commission or designee;
  - (g) Director of the Underground Railroad Institute at Georgetown College, or designee;
  - (h) Two (2) members of the General Assembly who hold an interest in the Underground Railroad, one (1) appointed by the President of the Senate and one (1) appointed by the Speaker of the House of Representatives;

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

Section 114. KRS 171.816 is amended to read as follows:

The ~~Commerce~~~~[Education, Arts, and Humanities]~~ Cabinet shall be charged with the purpose of protecting, preserving, and promoting the history of the Underground Railroad in Kentucky in accordance with KRS 171.805 and 171.810 to 171.814. The secretary of the ~~Commerce~~~~[Education, Arts, and Humanities]~~ Cabinet shall receive an annual report from the Kentucky African-American Heritage Commission in accordance with KRS 171.812(5), and shall review and submit the annual report to the Governor and the Legislative Research Commission for distribution to the appropriate committees.

Section 115. KRS 177.109 is amended to read as follows:

The Transportation and Tourism Interagency Committee shall have, but not be limited to, the following duties and responsibilities:

- (1) Review Kentucky's signage laws, administrative regulations, and policies implementing the federal "Manual on Uniform Traffic Control Devices" and submit any proposed revisions to the secretary of the Transportation Cabinet;
- (2) Seek public comment on Kentucky's signage laws, administrative regulations, and policies;
- (3) Advise the Transportation Cabinet on the scenic byways and highways program;
- (4) Review and make recommendations on requests for highway signage from tourism-related entities;
- (5) Coordinate development of the tourism information potential of welcome centers and rest areas through such means as interactive videos, information kiosks, and highway advisory radio transmitters, as well as other innovative methods which may be identified by the committee;
- (6) Monitor developments across the United States relating to billboards and official signs;
- (7) Report to the secretary of the Transportation Cabinet and to the secretary of the Commerce Cabinet on issues of mutual interest to the cabinets;
- (8) Serve as an advisory committee on issues identified by the secretary of the Transportation Cabinet and secretary of the Commerce Cabinet; and

- (9) Report committee recommendations to the secretary of the Transportation Cabinet, the secretary of the Commerce Cabinet, the secretary of the Education~~[- Arts, and Humanities]~~ Cabinet, and the secretary of the Executive Cabinet.

Section 116. KRS 186.576 is amended to read as follows:

As used in KRS 186.576 to 186.579:

- (1) "Applicant" means any person applying for an instruction permit or an operator's license who must use a bioptic telescopic device in order to operate a motor vehicle;
- (2) "Binocular vision" means visual acuity that is 20/200 or better in both eyes, with or without corrective lenses;
- (3) "Bioptic telescopic device" means a two (2) focus optical system used to magnify distant objects by including a small telescope that is mounted in a spectacle lens in a manner to allow an unobstructed view of the horizontal visual field through a person's normal distance corrective lens;
- (4) "Certified driver training program" means a program that provides and coordinates comprehensive assessment and training of driving skills and responses that emphasizes the vision, hearing, psychological, perceptual, orientation, and mobility skills of an applicant and that is certified by the department;
- (5) "Combined visual acuity" means visual acuity attained by using both eyes together where a person has binocular vision;
- (6) "Corrective lenses" means eyeglasses, contact lenses, and intraocular lenses, but does not mean a bioptic telescopic device;
- (7) "Daytime driving restriction" means operation of a motor vehicle is restricted to the period of time from between thirty (30) minutes after sunrise and thirty (30) minutes before sunset. Under this restriction, driving during adverse weather conditions that significantly reduce the visibility of the roadway, other traffic, and traffic control devices shall be prohibited;
- (8) "~~Office~~~~[Department]~~" means the *Office*~~[Department]~~ for the Blind;
- (9) "Monocular vision" means visual acuity that is 20/200 or better in only one (1) eye, with or without corrective lenses;
- (10) "Restricted out-of-state driver" means a person who has been issued, by another state, a valid operator's license with a restriction requiring the use of a bioptic telescopic device;
- (11) "Vision specialist" means a licensed ophthalmologist or optometrist;
- (12) "Visual acuity" means the measure of a person's visual acuity based on the Snellen visual acuity scale; and
- (13) "Visual field" means the area of physical space visible to the eye in a given fixed position.

Section 117. KRS 186.578 is amended to read as follows:

- (1) Applicants accepted to participate in a certified driver training program shall meet the following minimum vision requirements:
  - (a) A distance visual acuity of 20/200 or better, with corrective lenses, in the applicant's better eye;
  - (b) A visual field of at least one hundred twenty (120) degrees horizontally and eighty (80) degrees vertically in the same eye as used in paragraph (a) of this subsection;
  - (c) A distance visual acuity of 20/60 or better using a bioptic telescopic device; and
  - (d) No ocular diagnosis or prognosis that indicates a likelihood that significant deterioration of visual acuity or visual field to levels below the minimum standards outlined in this subsection will occur.
- (2) Upon acceptance into a certified driver training program, an applicant shall be given an examination to test his or her knowledge of the motor vehicle laws of the Commonwealth. This examination may be taken orally. Upon successful completion of this examination, the applicant shall be issued a temporary instruction permit, that shall be valid only when the applicant is accompanied by an employee of a certified driver training program. Temporary instruction permits issued under this section shall be valid for one (1) year from the date of issue.

- (3) An applicant who successfully completes a certified driver training program shall be reexamined by a vision specialist upon completion of the program. The examination shall certify that the applicant continues to meet the visual acuity and visual field standards set forth in subsection (1) of this section.
- (4) An applicant who successfully completes a certified driving training program and passes the visual reexamination required by subsection (3) of this section shall be eligible to take a comprehensive operator's license examination administered by the State Police. The operator's license examination shall include testing of the applicant's driving skills over a route specifically designed to test the applicant's competency using a bioptic telescopic device.
- (5) An applicant who is a restricted out-of-state driver establishing residence in Kentucky shall be required to take and pass a temporary instruction permit examination before being eligible to take the operator's license examination. An applicant who is a restricted out-of-state driver establishing residence in Kentucky shall not be required to complete a certified driver training program, but shall be required to take and pass the visual examination outlined in subsection (3) of this section before taking the operator's license examination.
- (6) If an applicant or restricted out-of-state driver fails the operator's license examination three (3) times, he or she shall not be eligible to retake the examination until successfully completing additional training from a certified driver training program and obtaining an affidavit from the program director recommending that the applicant or restricted out-of-state driver be allowed to retake the examination.
- (7) The ~~Office (Department)~~ for the Blind shall promulgate administrative regulations in accordance with KRS Chapter 13A to set standards for a certified driver training program and to otherwise carry out the provisions of this section.

Section 118. KRS 194A.135 is amended to read as follows:

- (1) The Kentucky Council on Developmental Disabilities is created within the cabinet.
- (2) The Kentucky Council on Developmental Disabilities is established to comply with the requirements of the Developmental Disabilities Act of 1984 and any subsequent amendment to that act.
- (3) The members of the Kentucky Council on Developmental Disabilities shall be appointed by the Governor to serve as advocates for persons with developmental disabilities. The council shall be composed of twenty-six (26) members.
  - (a) Ten (10) members shall be representatives of: the principal state agencies administering funds provided under the Rehabilitation Act of 1973 as amended; the state agency that administers funds provided under the Individuals with Disabilities Education Act (IDEA); the state agency that administers funds provided under the Older Americans Act of 1965 as amended; the single state agency designated by the Governor for administration of Title XIX of the Social Security Act for persons with developmental disabilities; higher education training facilities, each university-affiliated program or satellite center in the Commonwealth; and the protection and advocacy system established under Public Law 101-496. These members shall represent the following:
    1. ~~Office of (Department for)~~ Vocational Rehabilitation;
    2. ~~Office (Department)~~ for the Blind;
    3. Division of Exceptional Children, within the Department of Education;
    4. Division of Aging Services;
    5. Department for Medicaid Services;
    6. Department of Public Advocacy, Protection and Advocacy Division;
    7. University-affiliated programs;
    8. Local and nongovernmental agencies and private nonprofit groups concerned with services for persons with developmental disabilities;
    9. Department for Mental Health and Mental Retardation Services; and
    10. Department for Public Health, Division of Adult and Child Health Improvement.

- (b) At least sixty percent (60%) of the members of the council shall be composed of persons with developmental disabilities or the parents or guardians of persons, or immediate relatives or guardians of persons with mentally impairing developmental disabilities, who are not managing employees or persons with ownership or controlling interest in any other entity that receives funds or provides services under the Developmental Disabilities Act of 1984 as amended and who are not employees of a state agency that receives funds or provides services under this section. Of these members, five (5) members shall be persons with developmental disabilities, and five (5) members shall be parents or guardians of children with developmental disabilities or immediate relatives or guardians of adults with mentally impairing developmental disabilities who cannot advocate for themselves. Six (6) members shall be a combination of individuals in these two (2) groups, and at least one (1) of these members shall be an immediate relative or guardian of an institutionalized or previously institutionalized person with a developmental disability or an individual with a developmental disability who resides in an institution or who previously resided in an institution.
  - (c) Members not representing principal state agencies shall be appointed for a term of three (3) years. Members shall serve no more than two (2) consecutive three (3) year terms. Members shall serve until their successors are appointed or until they are removed for cause.
  - (d) The council shall elect its own chair, adopt bylaws, and operate in accordance with its bylaws. Members of the council who are not state employees shall be reimbursed for necessary and actual expenses. The cabinet shall provide personnel adequate to insure that the council has the capacity to fulfill its responsibilities. The council shall be headed by an executive director. If the executive director position becomes vacant, the council shall be responsible for the recruitment and hiring of a new executive director.
- (4) The Kentucky Council on Developmental Disabilities shall:
- (a) Develop, in consultation with the cabinet, and implement the state plan as required by Part B of the Developmental Disabilities Act of 1984, as amended, with a goal of development of a coordinated consumer and family centered focus and direction, including the specification of priority services required by that plan;
  - (b) Monitor, review, and evaluate, not less often than annually, the implementation and effectiveness of the state plan in meeting the plan's objectives;
  - (c) To the maximum extent feasible, review and comment on all state plans that relate to persons with developmental disabilities;
  - (d) Submit to the secretary of the cabinet, the commissioner of the Department for Mental Health and Mental Retardation Services, and the Secretary of the United States Department of Health and Human Services any periodic reports on its activities as required by the United States Department of Health and Human Services and keep records and afford access as the cabinet finds necessary to verify the reports;
  - (e) Serve as an advocate for individuals with developmental disabilities and conduct programs, projects, and activities that promote systematic change and capacity building;
  - (f) Examine, not less than once every five (5) years, the provision of and need for federal and state priority areas to address, on a statewide and comprehensive basis, urgent needs for services, supports, and other assistance for individuals with developmental disabilities and their families; and
  - (g) Prepare, approve, and implement a budget that includes amounts paid to the state under the Developmental Disabilities Act of 1984, as amended, to fund all programs, projects, and activities under that Act.
- (5) The Kentucky Council on Developmental Disabilities shall appoint a subcommittee, which shall include members of the Kentucky Commission on Autism Spectrum Disorders, to monitor the implementation of the state plan as developed by the commission beginning October 1, 2006. The subcommittee shall prepare, and the council shall submit, the report as required under KRS 194A.622(10).

Section 119. KRS 200.700 is amended to read as follows:

- (1) The Early Childhood Development Authority is established as a public agency and political subdivision of the Commonwealth with all powers, duties, and responsibilities conferred upon it by statute and essential to perform its functions including, but not limited to, employing other persons, consultants, attorneys, and agents.

The authority shall be attached to the ***Department of Education***~~[Office of the Governor, Office of Early Childhood Development,]~~ for administrative purposes and shall establish necessary advisory councils. The authority shall have the ability to make expenditures from the early childhood development fund and shall ensure that expenditures made from the early childhood development fund are in conformance with its duties as established by the General Assembly.

- (2) The authority shall consist of the following sixteen (16) members:
  - (a) The ~~[executive]~~ director of the ***Division***~~[Governor's Office]~~ of Early Childhood Development, who shall serve as chair;
  - (b) The secretary of the Education~~[Arts, and Humanities]~~ Cabinet;
  - (c) The secretary of the Cabinet for Health and Family Services;
  - (d) One (1) nonvoting ex officio member from the House of Representatives who shall be appointed by and serve at the pleasure of the Speaker of the House;
  - (e) One (1) nonvoting ex officio member from the Senate who shall be appointed by and serve at the pleasure of the President of the Senate;
  - (f) Seven (7) private sector members knowledgeable about the health, education, and development of preschool children who shall be appointed by the Governor. At least one (1) private sector member shall be appointed from each congressional district;
  - (g) Three (3) citizens at large of the Commonwealth who shall be appointed by the Governor; and
  - (h) One (1) early childhood development advocate.
- (3) No later than thirty (30) days after July 14, 2000, the governing bodies of each of the following organizations shall recommend three (3) persons, at least one (1) of whom shall be male and at least one (1) of whom shall be female, as candidates for initial appointment by the Governor as private sector members to the authority:
  - (a) The Kentucky AFL-CIO;
  - (b) The Kentucky Chamber of Commerce;
  - (c) The Kentucky League of Cities;
  - (d) The Kentucky Medical Association;
  - (e) The Louisville Urban League and Lexington Urban League;
  - (f) The Kentucky County Judge/Executives Association; and
  - (g) The Kentucky Council on Postsecondary Education.
- (4) The Governor shall select the private sector members of the authority by selecting one (1) nominee from each list of the three (3) nominees submitted to the Governor by each organization listed under subsection (3) of this section. The Governor shall fill a vacancy occurring before the expiration of the appointed term from the appropriate list of nominees. If there are no nominees remaining on the appropriate list, the Governor shall request a list of additional nominees from the appropriate organization.
- (5)
  - (a) The initial terms of the private sector and citizen at-large members of the authority shall be for:
    1. One (1) year for two (2) of the initial terms;
    2. Two (2) years for three (3) of the initial terms;
    3. Three (3) years for two (2) of the initial terms; and
    4. Four (4) years for four (4) of the initial appointments.
  - (b) All succeeding appointments shall be for four (4) years from the expiration date of the preceding appointment.
  - (c) Members shall serve until a successor has been appointed.

- (6) Private sector and citizen at-large members shall serve without compensation but shall be reimbursed for reasonable and necessary expenses.
- (7) In making appointments to the authority, the Governor shall assure broad geographical, ethnic, and gender diversity representation from the major sectors of Kentucky's early childhood development community. In filling vacancies, the Governor shall attempt to assure the continuing representation on the authority of broad constituencies of Kentucky's early childhood development community.
- (8) Upon the expiration of the term of any member, the governing body of the organization that made the original recommendation shall recommend three (3) persons, at least one (1) of whom shall be male and at least one (1) of whom shall be female, between sixty (60) and thirty (30) days before the expiration of the term of any authority member who is appointed as a result of a previous recommendation. The Governor shall, during March of the year that any organization is to recommend three (3) persons, request the organization to recommend three (3) persons for possible appointment to the authority. If there is no response, the Governor shall make the appointment from the population of the Commonwealth.
- (9) The authority shall meet at least quarterly and at other times upon call of the chair or a majority of the authority.
- (10) Members of the authority shall serve on a voluntary basis, receive a fixed per diem set by the authority, and be reimbursed for their expenses in accordance with state travel expense and reimbursement administrative regulations.

Section 120. KRS 200.703 is amended to read as follows:

- (1) The authority shall establish priorities for programs and the expenditure of funds that include, but are not limited to, the following:
  - (a) Implementation of public health initiatives identified by the General Assembly;
  - (b) Provision of preconceptional and prenatal vitamins, with priority for folic acid for the prevention of neural tube defects;
  - (c) Voluntary immunization for children not covered by public or private health insurance;
  - (d) Availability of high-quality, affordable early child-care and education options; and
  - (e) Increased public awareness of the importance of the early childhood years for the well-being of all Kentucky's citizens.
- (2) The authority shall develop a state plan on a biennial basis that identifies early childhood development funding priorities. Every two (2) years the authority shall review its priorities and make necessary adjustments to its state plan. The state plan shall incorporate priorities included in "KIDS NOW: Kentucky Invests in Developing Success, a Report from the Governor's Early Childhood Task Force, November 1999," and recommendations identified by the community early childhood councils. The authority shall file a report on the state plan with the Governor and the Legislative Research Commission by July 15 of odd-numbered years.
- (3) Programs funded by the authority shall be implemented by the appropriate agencies within the Cabinet for Health and Family Services; the Education, ~~Arts, and Humanities~~ Cabinet; the Finance and Administration Cabinet; or other appropriate administrative agency.
- (4) The authority shall assure that a public hearing is held on the expenditure of funds. Advertisement of the public hearing shall be published at least once but may be published two (2) more times, if 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.
- (5) The authority shall promulgate administrative regulations in accordance with KRS Chapter 13A to:
  - (a) Coordinate and improve early childhood development services, outcomes, and policies;
  - (b) Establish procedures that relate to its governance;
  - (c) Designate service areas of the Commonwealth where the community early childhood councils may be established to identify and address the early childhood development needs of young children and their families for the communities that they serve;



- (d) Establish procedures that relate to the monitoring of grants, services, and activities of the community early childhood councils and their governance;
- (e) Establish procedures for accountability and measurement of the success of programs that receive funds from the authority; and
- (f) Establish standards for the payment of funds to a designated service provider and grantee of a community early childhood council. These standards shall include requirements relating to:
  - 1. The financial management of funds paid to grantees;
  - 2. The maintenance of records; and
  - 3. An independent audit of the use of grant funds.
- (6) The authority may disband or suspend a council, and may remove one (1) or more members for nonperformance or malfeasance. The authority may also recover funds that have been determined by the authority to have been misappropriated or misspent in relation to a grant award.
- (7) An appeal to the authority may be made by a council as to a decision made by the authority on the disbanding or suspension of a council, service provider, or grantee on a determination that funds have been misappropriated or misspent and are subject to recovery. The appeal shall be conducted in accordance with KRS Chapter 13B.
- (8) The authority, councils established by the authority, and initiatives funded by the authority with expenditures from the early childhood development fund shall expire when:
  - (a) Funds are no longer designated to the Commonwealth from the master settlement agreement signed on November 22, 1998, between the participating tobacco manufacturers and the forty (40) settling states or related federal legislation; or
  - (b) Funds are no longer designated to the early childhood development fund from gifts, grants, or federal funds to fund the authority, the councils established by the authority, or any programs that had been funded by the authority with expenditures from the early childhood development fund.
- (9)
  - (a) The authority shall establish a Healthy Babies Work Group, consisting of representatives from the Cabinet for Health and Family Services; public schools; local libraries; the Kentucky March of Dimes; family resource centers; agencies that provide benefits under the Special Supplementation Food Program for Women, Infants, and Children; the Folic Acid Awareness Campaign; physicians; secondary health education and consumer sciences teachers; the Spina Bifida Association of Kentucky; and other persons as appropriate. Representatives shall reflect the geographic, racial, and gender diversity of the Commonwealth.
  - (b) The Healthy Babies Work Group shall collaborate on development and implementation of a public awareness campaign to inform the citizens of the Commonwealth about the benefits of good nutrition, folic acid, smoking cessation, and healthy lifestyle choices that lead to healthy babies, the effects of alcohol and substance abuse on fetal and early childhood development, and the need for a vision examination of children at age three (3). The work group shall work with local health departments for the vision examination outreach program.
- (10) The authority shall work with local entities, including, but not limited to, health departments and service providers, to establish to the extent of available funding a vision examination program for children who are not eligible for the Kentucky Children's Health Insurance Program or Medicaid, and who do not have insurance coverage for a vision examination. The authority shall provide that primary students, regardless of age, who are having difficulty with reading may be referred and receive a second vision examination as described in KRS 156.160 at no cost to the parent.
- (11) The authority shall develop a request for proposal process by which local early childhood councils may request any funding appropriated to the authority for use by the councils.

Section 121. KRS 200.705 is amended to read as follows:

The **Department of Education**~~{Office of Early Childhood Development in the Office of the Governor}~~ shall provide staffing and administrative support to:

- (1) The Early Childhood Development Authority;
- (2) The Early Childhood Business Council;
- (3) The Early Childhood Professional Development Council; and
- (4) The Kentucky Early Intervention System Interagency Coordinating Council.

Section 122. KRS 200.709 is amended to read as follows:

- (1) The Early Childhood Business Council is created and attached to the *Department of Education*~~{Office of Early Childhood Development, Office of the Governor,}~~ for administrative purposes. The function of the council shall be to:
  - (a) Involve the corporate community, county judges/executive, and mayors in supporting issues of importance to working families with young children in the Commonwealth; and
  - (b) Collect and disseminate information about the various ways business and local government can become involved in supporting early childhood.
- (2) (a) The Early Childhood Business Council shall consist of fifteen (15) members appointed by the Governor, who shall also appoint the chair. Members shall serve for a term of two (2) years and until their successors are appointed and qualify, except that for those members initially appointed, the terms are as follows:
  - 1. Five (5) members shall be appointed for three (3) years;
  - 2. Five (5) members shall be appointed for two (2) years; and
  - 3. Five (5) members shall be appointed for one (1) year.
- (b) Vacancies shall be appointed for unexpired terms in the same manner as original appointments. Members may not serve more than a total of three (3) terms.
- (c) Members who are eligible to be appointed shall have demonstrated an investment or interest in early childhood development.
- (3) Members of the Early Childhood Business Council shall serve on a voluntary basis, receive a fixed per diem set by the authority, and be reimbursed for their expenses in accordance with state travel expense and reimbursement administrative regulations.
- (4) The Early Childhood Business Council shall meet at least once every three (3) months and shall make reports in accordance with requirements established by the authority that include recommendations for the state plan.

Section 123. KRS 210.031 is amended to read as follows:

- (1) The cabinet shall establish an advisory committee of sixteen (16) members to advise the Department for Mental Health and Mental Retardation Services of the need for particular services for persons who are deaf or hard-of-hearing.
  - (a) At least eight (8) members shall be deaf or hard-of-hearing and shall be appointed by the secretary. Four (4) deaf or hard-of-hearing members, representing one (1) of each of the following organizations, shall be appointed from a list of at least two (2) nominees submitted from each of the following organizations:
    - 1. The Kentucky Association of the Deaf;
    - 2. The A.G. Bell Association;
    - 3. The Kentucky School for the Deaf Alumni Association; and
    - 4. Self Help for the Hard of Hearing.

The remaining four (4) deaf or hard-of-hearing members shall be appointed by the secretary from a list of at least eight (8) nominees submitted by the Kentucky Commission on the Deaf and Hard of Hearing.

- (b) One (1) member shall be a family member of a deaf or hard-of-hearing consumer of mental health services and shall be appointed by the secretary from a list of nominees accepted from any source.
- (c) The head of each of the following entities shall appoint one (1) member to the advisory committee:

1. The Cabinet for Health and Family Services, Department for Mental Health and Mental Retardation Services;
  2. The **Education** Cabinet, ~~Office~~ ~~for Workforce Development, Department~~ of Vocational Rehabilitation;
  3. The Cabinet for Health and Family Services, Division of Aging Services;
  4. The Education~~, Arts, and Humanities~~ Cabinet, Commission on the Deaf and Hard of Hearing;
  5. The Kentucky Registry of Interpreters for the Deaf; and
  6. A Kentucky School for the Deaf staff person involved in education.
- (d) The remaining member shall be a representative of a regional mental health/mental retardation board, appointed by the commissioner of the Department for Mental Health and Mental Retardation Services from a list composed of two (2) names submitted by each regional mental health/mental retardation board.
- (2) Of the members defined in subsection (1)(a) and (b) of this section, three (3) shall be appointed for a one (1) year term, three (3) shall be appointed for a two (2) year term, and three (3) shall be appointed for a three (3) year term; thereafter, they shall be appointed for three (3) year terms. The members defined under subsection (1)(c) and (d) of this section shall serve with no fixed term of office.
- (3) The members defined under subsection (1)(a) and (b) of this section shall serve without compensation but shall be reimbursed for actual and necessary expenses; the members defined under subsection (1)(c) and (d) shall serve without compensation or reimbursement of any kind.
- (4) The Department for Mental Health and Mental Retardation Services shall make available personnel to serve as staff to the advisory committee.
- (5) The advisory committee shall meet quarterly at a location determined by the committee chair.
- (6) (a) The advisory committee shall prepare a biennial report which:
1. Describes the accommodations and the mental health, mental retardation, development disability, and substance abuse services made accessible to deaf and hard-of-hearing persons;
  2. Reports the number of deaf or hard-of-hearing persons served;
  3. Identifies additional service needs for the deaf and hard-of-hearing; and
  4. Identifies a plan to address unmet service needs.
- (b) The report shall be submitted to the secretary, the commissioner of the Department for Mental Health and Mental Retardation Services, and the Interim Joint Committee on Health and Welfare by July 1 of every odd-numbered year.

Section 124. KRS 210.502 is amended to read as follows:

- (1) There is created the Kentucky Commission on Services and Supports for Individuals with Mental Illness, Alcohol and Other Drug Abuse Disorders, and Dual Diagnoses. The commission shall consist of:
- (a) The secretary of the Cabinet for Health and Family Services;
  - (b) The secretary of the Justice Cabinet;
  - (c) The commissioner of the Department for Mental Health and Mental Retardation Services;
  - (d) The commissioner of the Department for Medicaid Services;
  - (e) The commissioner of the Department of Corrections;
  - (f) The commissioner of the Department of Juvenile Justice;
  - (g) The commissioner of the Department of Education;
  - (h) The **executive director**~~commissioner~~ of the ~~Office~~~~Department~~ of Vocational Rehabilitation;
  - (i) The director of the Protection and Advocacy Division of the Department of Public Advocacy;

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

Section 125. KRS 210.575 is amended to read as follows:

- (1) There is created the Kentucky Commission on Services and Supports for Individuals with Mental Retardation and Other Developmental Disabilities. The commission shall consist of:
  - (a) The secretary of the Cabinet for Health and Family Services;
  - (b) The commissioner of the Department for Mental Health and Mental Retardation Services;
  - (c) The commissioner of the Department for Medicaid Services;
  - (d) The ~~executive director~~~~commissioner~~ of the ~~Office~~~~Department~~ of Vocational Rehabilitation;
  - (e) The director of the University Affiliated Program at the Interdisciplinary Human Development Institute of the University of Kentucky;
  - (f) The director of the Kentucky Council on Developmental Disabilities;
  - (g) Two (2) members of the House of Representatives, appointed by the Speaker of the House;
  - (h) Two (2) members of the Senate, appointed by the Senate President; and
  - (i) Public members, appointed by the Governor as follows:

1. Five (5) family members, at least one (1) of whom shall be a member of a family with a child with mental retardation or other developmental disabilities, and one (1) of whom shall be a member of a family with an adult with mental retardation or other developmental disabilities. Of these five (5) family members, at least two (2) shall be members of a family with an individual with mental retardation or other developmental disabilities residing in the home of the family member or in a community-based setting, and at least two (2) shall be members of a family with an individual with mental retardation or other mental disabilities residing in an institutional residential facility that provides service to individuals with mental retardation or other developmental disabilities;
2. Three (3) persons with mental retardation or other developmental disabilities;
3. Two (2) business leaders;
4. Three (3) direct service providers representing the Kentucky Association of Regional Programs and the Kentucky Association of Residential Resources; and
5. One (1) representative of a statewide advocacy group.

The six (6) appointments made under subparagraphs 1. and 2. of this paragraph shall be chosen to reflect representation from each of Kentucky's six (6) congressional districts.

- (2) The secretary of the Cabinet for Health and Family Services shall serve as chair of the commission.
- (3) Members defined in paragraphs (a) to (h) of subsection (1) of this section shall serve during their terms of office. All public members appointed by the Governor shall serve a four (4) year term and may be reappointed for one (1) additional four (4) year term.
- (4) All public members of the commission shall receive twenty-five dollars (\$25) per day for attending each meeting. All commission members shall be reimbursed for necessary travel and other expenses actually incurred in the discharge of duties of the commission.

Section 126. KRS 247.804 is amended to read as follows:

An Agritourism Advisory Council shall be established within the Department of Agriculture to advise and assist the Office of Agritourism. The Agritourism Advisory Council shall be composed of:

- (1) One (1) representative from each of the following entities:
  - (a) Department of Agriculture, appointed by the Commissioner of Agriculture;
  - (b) Commerce Cabinet, appointed by the secretary of the cabinet;
  - (c) Education, ~~Arts, and Humanities~~ Cabinet, appointed by the secretary of the cabinet;
  - (d) Department of Fish and Wildlife Resources Commission, appointed by the commissioner of the department;
  - (e) University of Kentucky Cooperative Extension Service;
  - (f) West Kentucky Corporation;
  - (g) Kentucky Tourism Council;
  - (h) Kentucky Farm Bureau;
  - (i) Kentucky Association of Fairs and Horse Shows;
  - (j) East Kentucky Corporation;
  - (k) Southern and Eastern Kentucky Tourism Development Association;
  - (l) Licking River Valley Resource Conservation and Development Council;
  - (m) Buffalo Trace Covered Bridge Authority;
  - (n) Kentucky Chamber of Commerce; and
  - (o) Kentucky Council of Area Development Districts;

- (2) The Governor, or a designee;
- (3) Two (2) members of the General Assembly who hold an interest in agriculture, one (1) appointed by the President of the Senate and one (1) appointed by the Speaker of the House of Representatives; and
- (4) Nine (9) representatives of agriculture or the agritourism industry, appointed by the Commissioner of Agriculture from a list of candidates compiled by the tourism regions as set forth in KRS 247.802(4). Each tourism region shall submit three (3) candidates with a business interest in agritourism who reside within that region, and the Commissioner shall appoint one (1) candidate from each region from those names submitted.

Section 127. KRS 281.870 is amended to read as follows:

- (1) There is hereby created a Coordinated Transportation Advisory Committee, also known as the "CTAC", that is to be composed of designated members of the cabinet, the Cabinet for Health and Family Services and the ***Education[Workforce Development]*** Cabinet.
- (2) Members of the CTAC shall serve terms as determined by each respective cabinet. The CTAC shall meet at least once a month, but may meet more frequently if desired, and shall maintain a written record of all meetings and actions taken. In all proceedings of the CTAC and in all actions taken by the CTAC, the cabinet and the Cabinet for Health and Family Services shall each have two (2) votes and the ***Education[Workforce Development]*** Cabinet shall have one (1) vote. A quorum of the CTAC shall be required to conduct any official business.
- (3) The staff of the cabinet's Office of Transportation Delivery shall provide administrative support to the CTAC. The executive director of the Office of Transportation Delivery shall set the agenda for meetings of the CTAC. The Office of Transportation Delivery may promulgate administrative regulations under KRS Chapter 13A governing the human service transportation delivery program on behalf of the CTAC. The cabinet shall promulgate administrative regulations under KRS Chapter 13A to specify the duties and responsibilities of the CTAC.

Section 128. KRS 281.872 is amended to read as follows:

- (1) The cabinet shall employ a pool of program coordinators. Each program coordinator shall be a state employee and reside in the cabinet.
- (2) The program coordinator shall initially investigate all complaints regarding recipients, subcontractors, and the broker for the area and attempt to immediately resolve the problem. All complaints relating to Medicaid fraud or abuse shall be forwarded by the cabinet to the Cabinet for Health and Family Services. The program coordinator shall further be responsible for assisting a person with a complaint as required in subsection (4) of this section.
- (3) The program coordinator shall investigate issues of eligibility that result in a person being denied transportation, determine the status of the person's case, and attempt to immediately resolve the matter in order for the person to continue to receive transportation services. A broker shall not deny any person transportation services until the program coordinator resolves the question of the person's eligibility and verifies to the broker that the person is actually ineligible to receive transportation services. A broker who violates the provisions of this subsection shall be fined one thousand dollars (\$1,000) and shall be subject to his or her contract being revoked by the cabinet. The program coordinator shall coordinate information about eligibility to participate in the human service transportation delivery program between the cabinet, the Cabinet for Health and Family Services, and the ***Education[Workforce Development]*** Cabinet. The cabinet shall ensure each program coordinator has direct computer access to all relevant databases used by all state agencies to administer the human service transportation delivery program. The Department for Medicaid Services shall provide each program coordinator with a monthly eligibility list for the area.
- (4) If a program coordinator is unable to resolve a complaint against a broker or subcontractor to the satisfaction of the person lodging the complaint on the same business day the complaint is made, the program coordinator shall immediately act to assist the person in contacting the appropriate state agency to resolve the complaint. The program coordinator shall ensure that the cabinet, the Cabinet for Health and Family Services, and the ***Education[Workforce Development]*** Cabinet strictly adhere to the provisions of 42 C.F.R. governing a person's right to appeal the denial of service or failure for a complaint to be acted upon promptly. The cabinet shall be required to inform in writing, every person who has either been denied transportation or who has failed to have a complaint resolved in a prompt manner under the human service transportation delivery program, of

their right to a hearing to be held in the county where the person lives, and the process to follow to obtain a hearing.

- (5) All brokers and subcontractors shall be prohibited from retaliating or attempting retribution in any way against any person using the human service transportation delivery program who files a complaint. A broker or subcontractor who is determined by the cabinet to have violated the provisions of this subsection, after an investigation and hearing conducted by the cabinet, shall have his or her contract revoked by the cabinet within ninety (90) days of the hearing and shall be prohibited from participating in the human service transportation delivery program for five (5) years from the date of the cabinet's determination.

Section 129. KRS 309.308 is amended to read as follows:

- (1) There is hereby created a committee to be known as the "Kentucky Board of Interpreters for the Deaf and Hard of Hearing Policy Committee."
- (2) The committee shall consist of ten (10) members as follows:
  - (a) The president or a designee of:
    1. Kentucky Association of the Deaf; and
    2. Kentucky Registry of Interpreters for the Deaf;
  - (b) A representative from:
    1. Kentucky Commission on the Deaf and Hard of Hearing (KCDHH);
    2. Eastern Kentucky University Interpreter Training Program;
    3. Kentucky Department of Education;
    4. Kentucky ~~Office~~~~Department~~ of Vocational Rehabilitation;
    5. Kentucky School for the Deaf; and
    6. Cabinet for Health and Family Services; and
  - (c) Two (2) members at large, who are consumers, appointed by the board.
- (3) The members of the committee shall receive no compensation for their services on the committee. The member from the Kentucky Association of the Deaf, the member from the Kentucky Registry of Interpreters for the Deaf, and the members-at-large shall be reimbursed for actual and necessary expenses incurred in the performance of their committee duties.

Section 130. KRS 314.452 is amended to read as follows:

- (1) As used in KRS 314.450 to 314.464, "board" means the board of the Nursing Workforce Foundation.
- (2) The Nursing Workforce Foundation is created and shall be governed by a board comprised of members who are residents of Kentucky appointed by the Governor.
- (3) The foundation shall be governed by a board, the membership of which shall consist of the following:
  - (a) President, or a designee, of the Kentucky Community and Technical College System;
  - (b) President, or a designee, of the Association of Independent Kentucky Colleges and Universities;
  - (c) President, or a designee, of the Council on Postsecondary Education;
  - (d) Secretary, or a designee, of the ~~Education~~~~Kentucky~~ Cabinet ~~for Workforce Development~~;
  - (e) Executive Director, or a designee, of the Kentucky Board of Nursing;
  - (f) President, or a designee, of the Kentucky Nurses Association;
  - (g) President, or a designee, of the Kentucky Coalition of Nurse Practitioners and Nurse Midwives;
  - (h) President, or a designee, of the Kentucky Council of Associate Degree Nursing Programs;
  - (i) Chair, or a designee, of the Kentucky Association of Baccalaureate and Higher Degree Nursing Programs; and

- (j) Two (2) members from a list of three (3) individuals recommended by the Kentucky Hospital Association, with one (1) representing a rural hospital and one (1) representing an urban hospital.
- (4) The board shall elect a chairman from its members. The board shall meet at least four (4) times a year and at the call of the chairman or a majority of the board members. A majority of the board membership shall constitute a quorum.
- (5) Each hospital representative appointment shall be for a term of four (4) years. A vacancy on the board shall be filled by the Governor as provided under this section.
- (6) Members of the board shall be entitled to reimbursement for expenses when carrying out official duties of the board in accordance with state administrative regulations relating to travel reimbursement.
- (7) The board shall employ or contract with a qualified person or nonprofit organization to serve as executive director to the board and shall fix the compensation and define the duties. The executive director shall be responsible for the performance of the administrative functions of the board and such other duties as the board may direct. The board may employ or contract with other persons as may be necessary to carry on the work of the board.
- (8) The board shall be a nonprofit, quasi-governmental corporation subject to the Kentucky Open Records Law and Kentucky Open Meetings Law. The board shall have any and all general corporate, trust, or other powers reasonable or necessary to fulfill the requirements and purposes of KRS 314.450 to 314.464.
- (9) The provisions of KRS 314.450 to 314.464 shall be funded by any grants, gifts, and contributions received by the board or other general funds appropriated by the General Assembly.

Section 131. KRS 314.464 is amended to read as follows:

Each school of nursing as defined under KRS 314.011 that is located in Kentucky, whether or not awarded funding under KRS 314.450 to 314.464, shall submit an annual report by August 1 to the board, the Kentucky Board of Nursing, the Council on Postsecondary Education, the **Education** Cabinet~~[for Workforce Development]~~, and the Legislative Research Commission detailing its strategies for increasing the enrollment of students who graduate from the program prepared for licensure as registered nurses or licensed practical nurses. Efforts undertaken by each school to increase cultural diversity within its nursing students shall be included in the annual report to the board.

Section 132. KRS 341.005 is amended to read as follows:

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

- (1) "Cabinet" means the **Education** Cabinet~~[for Workforce Development]~~.
- (2) "Secretary" means the secretary *of the Education Cabinet*~~[for workforce development]~~ or his *or her* duly authorized representative.
- (3) "Commission" means the unemployment insurance commission.

Section 133. KRS 341.080 is amended to read as follows:

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

- (1) Except in so far as the **Education** Cabinet~~[for Workforce Development]~~ by regulation prescribes the equivalent thereof to meet particular conditions:
  - (a) "Calendar year" means a year beginning on January 1; and
  - (b) "Calendar quarter" means three (3) consecutive months beginning on January 1, April 1, July 1, or October 1;
- (2) "Week" means such period of seven (7) consecutive calendar days as the **Education** Cabinet~~[for Workforce Development]~~ by regulation prescribes; and
- (3) "Week of unemployment" means any period of seven (7) consecutive days, as prescribed by *the Education Cabinet in administrative*~~[for Workforce Development]~~ regulations, during which a worker performed less than full-time work and earned less than an amount equal to one and one-fourth (1-1/4) times the benefit rate determined for him in accordance with the provisions of subsection (2) of KRS 341.380.

Section 134. KRS 341.110 is amended to read as follows:



- (1) In the ***Education*** Cabinet,~~[for Workforce Development]~~ there shall be an Unemployment Insurance Commission composed of the secretary or his ***or her*** duly authorized representative, as ex officio chairman and two (2) members appointed by the Governor.
- (2) The secretary shall represent the state and the public. One (1) member shall be appointed as a representative of labor and one (1) as a representative of employers. The chairman and one (1) other member of the commission shall constitute a quorum.
- (3) The members representing labor and employers shall be appointed on the basis of their merit and fitness to perform their duties and exercise the responsibilities of their offices. They shall be citizens of this state and not less than thirty (30) years of age.
- (4) The terms of each member appointed to represent labor and employers shall be for four (4) years from the date of appointment and until a successor is appointed and qualified, except that appointments to vacancies shall be for the unexpired term.
- (5) The compensation of the members representing labor and employers shall be \$12,000 each per annum.

Section 135. KRS 341.125 is amended to read as follows:

- (1) It shall be the duty of the secretary ***of the Education Cabinet*** to administer this chapter; and he shall have power and authority to make such expenditures, require such reports, make such investigations, and take such other action, not specifically assigned to the Cabinet~~[for Workforce Development]~~, as he ***or she*** deems necessary for the proper administration of this chapter.
- (2) The secretary is authorized, subject to the provisions of KRS Chapters 12, 42, 45, and 45A, to appoint, fix the compensation and prescribe duties and powers of such officers and employees as may be necessary in the performance of his ***or her*** duties under this chapter. All positions shall be filled by persons selected and appointed on a nonpartisan merit basis. The secretary shall not employ or pay any person who is an officer or committee member of any political party organization. The secretary may delegate to any such person so appointed such power and authority as he ***or she*** deems reasonable and proper for the effective administration of this chapter.
- (3) The salary and expenses of the secretary and his ***or her*** staff shall be considered a proper cost of the administration of this chapter, to be charged to the unemployment compensation administration fund in that proportion which the cost of such services rendered in the administration of this chapter bears to the overall cost of the services rendered in the administration of the cabinet.
- (4) The secretary shall submit to the Governor an annual report covering the administration and operation of this chapter and make such recommendations for amendments to this chapter as he ***or she*** deems proper.
- (5) In the administration of this chapter the secretary shall cooperate to the fullest extent possible with any agency of this state or any other state or of the United States and shall take such action, through the adoption of appropriate rules, regulations, administrative methods, and standards, as may be necessary to secure for this state and its citizens all the advantages available under the provisions of the Social Security Act, as amended, that relate to unemployment compensation, the Federal Unemployment Tax Act, as amended, the Wagner-Peyser Act, as amended, and the Federal-State Extended Unemployment Compensation Act of 1970.

Section 136. KRS 341.145 is amended to read as follows:

- (1) The secretary ***of the Education Cabinet*** may enter into arrangements with the appropriate agencies of other states or of the federal government, or both, for the purpose of assisting the secretary and such agencies in the payment of benefits and the furnishing of services to unemployed or underemployed workers. Such arrangements may provide that the respective agencies shall, for and on behalf of each other, act as agents in effecting registrations for work, notices of unemployment, and any other certifications or statements relating to a worker's claim for benefits; in making investigations, taking depositions, holding hearings, or otherwise securing information relating to benefit eligibility and payments; and in such other matters as the secretary considers suitable in effectuating the purpose of these administrative arrangements.
- (2) The secretary may enter into arrangements with the appropriate agencies of other states or the federal government whereby workers performing services in this and other states for a single employing unit under circumstances not specifically provided in KRS 341.050, or under similar provisions in the unemployment

compensation laws of such other states, shall be deemed to be engaged in employment performed entirely within this state or within one of such other states.

- (3) (a) The secretary shall participate in any arrangements for the payment of benefits on the basis of combining an individual's wages and employment covered under this chapter with his wages and employment covered under the unemployment compensation laws of other states or the federal government which are approved by the United States Secretary of Labor in consultation with the state unemployment compensation agencies as reasonably calculated to assure the prompt and full payment of benefits in such situations and which include provisions for applying the base period of a single state law to a claim involving the combining of an individual's wages and employment covered under two (2) or more state unemployment compensation laws, and avoiding the duplicate use of wages and employment by reason of such combining. Reimbursements to another state or the federal government, paid from the fund pursuant to this subsection, shall be deemed to be benefits for the purposes of this chapter and charged to contributory employers' reserve accounts and reimbursing employers' accounts in accordance with the provisions of subsections (2) and (3) of KRS 341.530 to the extent of calculations made on wages paid during the base period established by KRS 341.090 and wages paid after such base period; provided, however, benefits based on a period previous to the base-wage period established by KRS 341.090 shall be charged to the pooled account for contributing employers only. Provided, that if the Secretary of Labor determines that the charging of reimbursements provided above is inconsistent with the requirements of the Federal Unemployment Tax Act, charges of such reimbursements shall then be made in accordance with regulations prescribed by the secretary.
- (b) In order that such reciprocal arrangements, when entered into, may be effectuated, wages for insured work under an employment security law of another state or of the federal government shall be deemed to be wages earned in covered employment from a subject employer for the purpose of determining his benefits under this chapter.
- (4) Notwithstanding any other provision of this chapter, benefits shall not be denied or reduced to an individual solely because he files a claim in another state (or a contiguous country with which the United States has an agreement with respect to unemployment compensation) or because he resides in another state (or such a contiguous country) at the time he files a claim for benefits.
- (5) To the extent permissible under the laws and Constitution of the United States, the secretary is authorized to enter into or cooperate in arrangements or reciprocal agreements with appropriate and duly authorized agencies of other states or the United States Secretary of Labor or both, whereby:
  - (a) Overpayments of unemployment benefits, as determined under this chapter, shall be recoverable (after due notice and opportunity for appeal has been provided to the claimant) by offset from unemployment benefits otherwise payable under the unemployment compensation law of another state, in either the current or any subsequent benefit year, in an amount equivalent to the amount of overpayment determined under this chapter, provided the **Office of Employment and Training, Department of Workforce Investment, ~~(department)~~** certifies to the other state the facts involved and that the claimant is liable to repay the benefits and the **office ~~(department)~~** requests the other state to recover the benefits; and
  - (b) Overpayments of unemployment benefits, as determined under the unemployment compensation law of another state, shall be recoverable (after such state has provided due notice and opportunity for appeal to the claimant) by offset from unemployment benefits otherwise payable under this chapter, in either the current or subsequent benefit year, in an amount equivalent to the amount of overpayment determined by such other state, provided such state certifies to the **office ~~(department)~~** the facts involved and that the individual is liable to repay the benefits and the state requests the **office ~~(department)~~** to recover the benefits; and
  - (c) Provided there is in effect a reciprocal agreement between this state and the United States Secretary of Labor, as authorized by Section 303(g)(2) of the Social Security Act, the overpayment of unemployment benefits or allowances for unemployment provided under a federal program administered by this state shall be recoverable by offset from benefits otherwise payable under this chapter or any such federal program. Such agreement shall also suffice to permit the offset from unemployment benefits, otherwise payable under a federal program administered by this state, the overpayment of unemployment benefits paid under this chapter.

If another state also has in effect a like agreement with the United States Secretary of Labor, then these provisions for cross-offset of state and federal unemployment benefits shall apply to benefits otherwise payable under this chapter, the laws of the other state or any federal unemployment program administered by either state.

Section 137. KRS 341.190 is amended to read as follows:

- (1) Each employing unit shall keep true and accurate work records of all workers employed by it, of the wages paid by it to each worker, and such other information as the secretary *of the Education Cabinet*~~for workforce development~~ considers necessary for the proper administration of this chapter. The records shall be open for inspection and subject to being copied by the secretary or his *or her* authorized representatives at any reasonable time and as often as necessary.
- (2) The secretary~~for workforce development~~ may require any employing unit to furnish to the cabinet at its central office from time to time information concerning the total amounts of wages paid, total number of persons employed, an individual record of each worker employed, an individual record of each worker whose employment has been terminated or who has been laid off, an individual wage and hour record of each worker employed part time entitled to benefits, and other related matters, including hours worked, which the secretary~~for workforce development~~ considers necessary to the effective administration of this chapter.
- (3) Information obtained from an employing unit or individual and other records made by the cabinet in the administration of this chapter are confidential and shall not be published or be open for public inspection, except as provided below:
  - (a) Information may be made available to public employees in the performance of their duties, but the agency receiving the information shall assure the confidentiality, as provided for in this section, of all information so released.
  - (b) A claimant or employing unit or his legal representative shall be provided upon request information or records maintained by the cabinet in the administration of his claim, his reserve account, his reimbursing employer account, or any proceeding under this chapter to which he is a party.
  - (c) Statistical information derived from information and records obtained or made by the cabinet may be published, if it in no way reveals the identity of any claimant or employing unit.
  - (d) Nothing in this section shall preclude the secretary or any employee of the cabinet from testifying in any proceeding under this chapter or in any court, or from introducing as evidence information or records obtained or made by the cabinet in an action for violation of state or federal law to which the cabinet is a party or upon order of the court.
- (4) No information or records held confidential under subsection (3) of this section shall be the subject matter or basis for any suit for slander or libel in any court, but no employer or employee, or his representative, testifying before the commission, the secretary, or any duly authorized representative thereof, shall be exempt from punishment for perjury.

Section 138. KRS 341.200 is amended to read as follows:

- (1) In the discharge of the duties imposed by this chapter members of the commission, the secretary or any duly authorized representative thereof, may administer oaths and affirmations, take depositions, certify official acts, and issue subpoenas to compel the attendance of witnesses and the production of books, papers, correspondence, memoranda, and other records considered necessary and relevant as evidence in connection with the administration of this chapter. Such subpoena shall be served in the same manner as a subpoena issued out of a Circuit Court, and the sheriff shall receive the same fee as provided by law for like service in civil actions. Witnesses subpoenaed shall be allowed witnesses' fees according to the rates prescribed by KRS 421.015 for each day their attendance is actually required at a hearing.
- (2) The secretary *or the commission*, or any *of their* authorized *representatives*~~representative of the secretary~~, shall have the power, in any and all counties of this Commonwealth, now granted by law to sheriffs within their respective jurisdictions, to execute and make due return of all notices, summonses, including summonses duces tecum, subpoenas, and executions in respect to all court actions instituted to enforce the provisions of this chapter. ~~Neither~~ *The secretary, a member of the commission, or any of their authorized representatives*~~nor his authorized representative~~ shall *not* be deemed to be an interested party in the action by reason of his official or representative capacity.

Section 139. KRS 341.230 is amended to read as follows:

The secretary may authorize the destruction of such original reports and records as have been properly recorded and summarized in the permanent records of the **Education Cabinet**~~[for Workforce Development]~~ or are no longer considered necessary for the proper administration of this chapter. Wage records of the individual worker or transcripts thereof may be destroyed or disposed of two (2) years after the expiration of the period covered by them or upon proof of death of the worker. Such destruction or disposition shall be made only by order of the secretary. Any money received from the disposition of such records shall be deposited to the credit of the unemployment compensation administration fund.

Section 140. KRS 341.243 is amended to read as follows:

- (1) There is created within the State Treasury a special fund known as the service capacity upgrade fund that shall be administered separate and apart from all public money or funds of the state.
- (2) The service capacity upgrade fund shall be used solely for acquisition and upgrading of the technology base, program integrity functions, and service delivery capacity in support of the programs administered by the **Office of**~~[Department for]~~ **Employment and Training**~~[Services]~~. The secretary shall have full power, authority, and jurisdiction over the fund, including all money, property, and securities belonging thereto, and shall perform any act necessary or convenient in the administration of the fund consistent with this section. The secretary shall provide an annual report to the Interim Joint Committee on Labor and Industry detailing all receipts and expenditures of the fund.
- (3) Any money collected under the provisions of this section shall be invested at interest in banks or other interest-bearing obligations of the United States. Investments shall at all times be made so that all the assets of the service capacity upgrade fund shall be convertible into cash when needed for the payment of expenses incurred in upgrading the service capacity of the **Office of**~~[Department for]~~ **Employment and Training**~~[Services]~~. All interest income received under this section shall be credited to the fund. The State Treasurer shall dispose of securities or other property belonging to the fund only under the direction of the secretary and the secretary of the Finance and Administration Cabinet.
- (4) Effective January 1, 1999, all rates otherwise established under KRS 341.270 and 341.272 shall be reduced by subtracting seventy-five thousandths percent (0.075%) from each rate, but only if the trust fund balance as of December 31 of the preceding year is equal to or greater than one and eighteen hundredths percent (1.18%) of the total wages paid in the state during the state fiscal year ended as of June 30 of that year.
  - (a) If the trust fund balance as of December 31, 1999, is less than the trust fund balance as of December 31, 1998, the amount of the rate reduction for calendar year 2000 shall be reduced by forty percent (40%) to the level of forty-five thousandths percent (0.045%).
  - (b) If the trust fund balance as of December 31, 2000, is less than the trust fund balance as of December 31, 1999, the amount of the rate reduction for calendar year 2001 shall be forty percent (40%) less than the amount of the rate reduction which was in effect in calendar year 2000.
- (5) For any calendar year in which all rates have been reduced in accordance with subsection (4) of this section, all contributory employers shall pay into the service capacity upgrade fund an amount equal to the percentage by which rates were reduced multiplied by their taxable wages paid during that calendar year. Payments shall be made at the same time and in the same manner as prescribed for payment of contributions under KRS 341.260 and all regulations prescribed by the secretary in support of that section. The restrictions in KRS 341.470(1) apply equally to the provisions of this section. Failure to make these payments shall be subject to interest and all other collection actions provided for failure to make contributions under KRS 341.300.
- (6) All payments required under subsection (5) of this section, along with any interest due to late payment of these assessments, shall be deposited in the service capacity upgrade fund.
- (7) The provisions of this section shall expire with regard to rates assigned for calendar years beginning after December 31, 2001, and any balance of moneys or property in the fund not expended or obligated for purposes consistent with this section by June 30, 2002, shall be deposited in the unemployment insurance trust fund.

Section 141. KRS 341.245 is amended to read as follows:

Subject to the provisions of KRS 56.440 to 56.550, inclusive, the secretary **of the Education Cabinet** is authorized and empowered to use all or any part of the funds accumulated under the provisions of KRS 341.295 for the purpose of acquiring suitable space for either central or district offices of the cabinet by way of purchase, lease, contract, or in

any other manner including the right to use said funds or any part thereof to assist in financing the construction of any building erected by the Commonwealth or any of its agencies wherein available space will be provided for the cabinet under lease or contract between the cabinet and the Commonwealth or such other agency whereby said cabinet will continue to occupy such space, rent free, after the cost of financing such building has been liquidated.

Section 142. KRS 341.250 is amended to read as follows:

- (1) Any employing unit that becomes subject to this chapter within any calendar year shall be considered a subject employer during the whole of that calendar year, except as specifically provided elsewhere in this section or this chapter.
- (2) Except as provided in subsections (3) and (5) of this section, a subject employer shall cease to be a subject employer only as of the first day of January of any calendar year if he files with the **Office of Employment and Training, Department of Workforce Investment**~~(department)~~, on or before the fifteenth day of April of that year, a written application for termination of coverage, and the covered employment performed for such subject employer within the preceding calendar year was not sufficient to render an employing unit a subject employer under KRS 341.070. The secretary may, however, after notifying such employer in writing at his last known address, terminate the coverage of any subject employer as of the first day of January of any calendar year if such subject employer has had no individuals in covered employment in this state at any time during the three (3) preceding calendar years, and the balance of such employer's reserve account may be immediately transferred to the pooled account.
- (3)
  - (a) Any employing unit not otherwise subject to this chapter that files with the ~~office~~~~(department)~~ its written election to become a subject employer for not less than two (2) calendar years shall, with the written approval of such election by the secretary, become subject hereto to the same extent as all other subject employers, as of the date stated in such approval, but not with respect to the period previous to such date. Such subject employer shall cease to be subject hereto as of January 1 of any calendar year subsequent to such two (2) calendar years, only if on or before April 15 of such year, it has filed with the ~~office~~~~(department)~~ a written notice to that effect.
  - (b) Any employing unit for which services that do not constitute covered employment are performed may file with the ~~office~~~~(department)~~ a written election that all such services performed by individuals in its employ in one (1) or more distinct establishments or places of business shall be considered to constitute covered employment by a subject employer for all the purposes of this chapter for not less than two (2) calendar years. Upon written approval of such election by the secretary, such services shall be considered to constitute covered employment from and after the date stated in such approval, but not with respect to the period previous to such date. Such services shall cease to be considered covered employment subject hereto as of January 1 of a calendar year subsequent to such two (2) calendar years, only if on or before April 15 of such year such employing unit has filed with the ~~office~~~~(department)~~ a written notice to that effect.
  - (c) Any employing unit having service performed in covered employment solely by reason of paragraph (h) of subsection (1) of KRS 341.050 may terminate such service as "covered employment" as of the first day of January of any calendar year if such service does not meet the provisions of paragraph (e), (f) or (g), but only if on or before April 15 of such year, the employing unit has filed with the ~~office~~~~(department)~~ a written request to terminate service as "covered employment."
- (4) An employing unit that becomes a subject employer under subsection (7) of KRS 341.070, shall become subject as of the date of acquisition.
- (5) Notwithstanding the provisions of subsections (1), (2), and (3) of this section, any subject employer whose entire reserve account has been transferred to a successor in interest as provided for in KRS 341.540 shall immediately cease to be a subject employer and shall thereafter become a subject employer only upon his future employment experience.

Section 143. KRS 341.260 is amended to read as follows:

- (1) Contributions shall accrue and become payable by each subject employer for each calendar year in which he is subject to this chapter. Such contributions shall be based upon wages paid during such calendar year for covered employment. Such contributions shall become due and be paid at the offices of the **Office of Employment and Training, Department of Workforce Investment**~~(department)~~ in Frankfort by each subject

employer to the ~~office~~~~[department]~~ for the fund in accordance with such regulations as the secretary prescribes, and shall not be deducted in whole or in part from the wages of workers in his employ. In the payment of any contributions, a fractional part of a cent shall be disregarded, unless it amounts to one-half cent (\$0.005) or more, in which case it shall be increased to one cent (\$0.01).

- (2) Any contractor, who is or becomes a subject employer under the provisions of this chapter, who contracts with any subcontractor, who also is or becomes a subject employer under the provisions of this chapter, shall withhold sufficient moneys on said contract to guarantee that all contributions, penalties, and interest are paid upon completion of said contract, or shall require of said subcontractor a good and sufficient bond guaranteeing payment of all contributions, penalties, and interest due, or to become due with respect to wages paid for employment on said contract. Failure to comply with the provisions of this section shall render said contractor directly liable for such contributions, penalties, and interest due from said subcontractor and the wages paid by said subcontractor shall be deemed wages paid by the said contractor with respect to the same periods for all purposes under this chapter, and liens of the same nature are attachable and enforceable in the same manner as liens under KRS 341.310 and 341.315. A person, employing unit, or entity that enters into a verbal or written agreement with another, or between which there exists an implied contract based upon the circumstances, conduct, or acts or relations of the parties:
  - (a) To have work performed consisting of the removal, excavation or drilling of soil, rock, or mineral, or the cutting or removal of timber from land, or
  - (b) To have work performed of a kind which is a customary or a recurrent part of the work of the trade, business, occupation, or profession of such person or entity, shall for the purposes of this subsection be deemed a contractor, and such other person or entity a subcontractor. This subsection shall not apply to the owner or lessee of land principally used for agriculture.

Section 144. KRS 341.270 is amended to read as follows:

- (1) Except as otherwise provided in this section, each employer's contribution rate shall be three percent (3%). Effective for employers who become subject to this chapter on or after January 1, 1999, except as otherwise provided in this section, each employer's contribution rate shall be two and seven-tenths percent (2.7%).
- (2) Except as otherwise provided in this section, no subject employer's contribution rate shall be less than two and seven-tenths percent (2.7%), unless he has been an employer subject to the provisions of this chapter for twelve (12) consecutive calendar quarters ended as of the computation date. In any calendar year in which the rate schedule prescribed in paragraph (3)(a) of this section is in effect, no subject employer who was assigned an entry rate of three percent (3.0%) under the provisions of subsection (1) of this section prior to January 1, 1999, shall have a contribution rate less than two and eight hundred fifty-seven thousandths percent (2.857%), unless subject to this chapter for the minimum time period specified above.
- (3) For the calendar year 2001 and each calendar year thereafter, employer contribution rates shall be determined in accordance with "Table A" set out in subsection (4) of this section. For each calendar year, the secretary shall determine the rate schedule to be in effect based upon the "trust fund balance" as of December 31 of the preceding year. If the "trust fund balance":
  - (a) Equals or exceeds one and eighteen hundredths percent (1.18%) of the total wages paid in covered employment in the state during the state fiscal year ended as of June 30 of that year, the rates listed in the "Trust Fund Adequacy Rates" schedule of "Table A" shall be in effect.
  - (b) Equals or exceeds three hundred fifty million dollars (\$350,000,000) but is less than the amount required to effectuate the "Trust Fund Adequacy Rates" schedule as provided in paragraph (a) of this subsection, the rates listed in "Schedule A" of "Table A" shall be in effect.
  - (c) Equals or exceeds two hundred seventy-five million dollars (\$275,000,000) but is less than three hundred fifty million dollars (\$350,000,000), the rates listed in "Schedule B" of "Table A" shall be in effect.
  - (d) Equals or exceeds two hundred fifty million dollars (\$250,000,000) but is less than two hundred seventy-five million dollars (\$275,000,000), the rates listed in "Schedule C" of "Table A" shall be in effect.
  - (e) Equals or exceeds one hundred fifty million dollars (\$150,000,000) but is less than two hundred fifty million dollars (\$250,000,000), the rates listed in "Schedule D" of "Table A" shall be in effect.

- (f) Is less than one hundred fifty million dollars (\$150,000,000), the rates listed in "Schedule E" of "Table A" shall be in effect.
- (4) For the calendar year 1982 and each calendar year thereafter, contribution rates shall be determined upon the basis of an individual employer's reserve ratio as of the computation date and the schedule of rates established under subsection (3) of this section. Except as otherwise provided in this section, the contribution rate for each subject employer for the calendar year immediately following the computation date shall be the rate in that "Schedule" of "Table A," as set out below, effective with respect to the calendar year, which appears on the same line as his reserve ratio as shown in the "Employer Reserve Ratio" column of the same table.

TABLE A  
Rate Schedule

Employer Reserve Ratio	Trust Fund Adequacy Rates	A	B	C	D	E
8.0% and over	0.000%	0.30%	0.40%	0.50%	0.60%	1.00%
7.0% but under 8.0%	0.000%	0.40%	0.50%	0.60%	0.80%	1.05%
6.0% but under 7.0%	0.008%	0.50%	0.60%	0.70%	0.90%	1.10%
5.0% but under 6.0%	0.208%	0.70%	0.80%	1.00%	1.20%	1.40%
4.6% but under 5.0%	0.508%	1.00%	1.20%	1.40%	1.60%	1.80%
4.2% but under 4.6%	0.808%	1.30%	1.50%	1.80%	2.10%	2.30%
3.9% but under 4.2%	1.008%	1.50%	1.70%	2.20%	2.40%	2.70%
3.6% but under 3.9%	1.308%	1.80%	1.80%	2.40%	2.60%	3.00%
3.2% but under 3.6%	1.508%	2.00%	2.10%	2.50%	2.70%	3.10%
2.7% but under 3.2%	1.608%	2.10%	2.30%	2.60%	2.80%	3.20%
2.0% but under 2.7%	1.708%	2.20%	2.50%	2.70%	2.90%	3.30%
1.3% but under 2.0%	1.808%	2.30%	2.60%	2.80%	3.00%	3.40%
0.0% but under 1.3%	1.908%	2.40%	2.70%	2.90%	3.10%	3.50%

-0.5% but

under -0.0%	6.500%	6.50%	6.75%	7.00%	7.25%	7.50%
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-1.0% but

under -0.5%	6.750%	6.75%	7.00%	7.25%	7.50%	7.75%
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-1.5% but

under -1.0%	7.000%	7.00%	7.25%	7.50%	7.75%	8.00%
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-2.0% but

under -1.5%	7.250%	7.25%	7.50%	7.75%	8.00%	8.25%
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-3.0% but

under -2.0%	7.500%	7.50%	7.75%	8.00%	8.25%	8.50%
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-4.0% but

under -3.0%	7.750%	7.75%	8.00%	8.25%	8.50%	8.75%
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-6.0% but

under -4.0%	8.250%	8.25%	8.50%	8.75%	9.00%	9.25%
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-8.0% but

under -6.0%	8.500%	8.50%	8.75%	9.00%	9.25%	9.50%
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Less

than -8.0%.	9.000%	9.00%	9.25%	9.50%	9.75%	10.00%
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(5) As used in this section and elsewhere in this chapter, unless the context clearly requires otherwise:

- (a) "Trust fund balance" means the amount of money in the unemployment insurance fund, less any unpaid advances made to the state under Section 1201 of the Social Security Act. In determining the amount in the fund as of a given date all money received by the ***Office of Employment and Training, Department of Workforce Investment,***~~[department]~~ on that date shall be considered as being in the fund on that date.
- (b) "Total wages" means all remuneration for services, as defined in KRS 341.030(1) to (7), paid by subject employers.
- (c) An employer's "reserve ratio" means the percentage ratio of his reserve account balance as of the computation date to his taxable payrolls for the twelve (12) consecutive calendar quarters ended as of September 30 immediately preceding the computation date.
- (d) For the purposes of this section, an employer's "reserve account balance" means the amount of contributions credited to his reserve account as of the computation date, less the benefit charges through September 30 immediately preceding the computation date. If benefits charged to an account exceed contributions credited to the account, the account shall be considered as having a debit balance and a reserve ratio of "less than zero."
- (e) "Computation date" is October 31 of each calendar year prior to the effective date of new rates of contributions.

Section 145. KRS 341.275 is amended to read as follows:

- (1) For the purpose of this section, a nonprofit organization is an organization (or group of organizations) described in Section 501(c)(3) of the United States Internal Revenue Code which is exempt from income tax under Section 501(a) of such code. For the purpose of this section, "cabinet" shall mean the ***Education Cabinet***~~[for Workforce Development]~~ and "secretary" shall mean the secretary ***of the Education Cabinet***~~[for workforce development]~~.
- (2) Any nonprofit organization which, pursuant to KRS 341.070(4), is, or becomes, a subject employer shall pay contributions under the provisions of KRS 341.270, unless it elects, in accordance with this section, to pay to the cabinet for the fund an amount equal to the amount of regular benefits and of one-half (1/2) of the extended



benefits paid to workers for weeks of unemployment that is attributable to service in the employ of the nonprofit organization, performed during the effective period of the election but only if the employer is the worker's most recent employer. No employer shall be deemed to be the most recent employer unless the eligible worker to whom benefits are payable shall have worked for that employer in each of ten (10) weeks whether or not consecutive.

- (a) Any nonprofit organization which is, or becomes, a subject employer on July 1, 1972, may elect to become liable for payments in lieu of contributions for a period of not less than the remainder of 1972 and the calendar year of 1973, provided it files with the cabinet a written notice of its election within the thirty (30) day period immediately following such date.
  - (b) Any nonprofit organization which becomes a subject employer after July 1, 1972, may elect to become liable for payments in lieu of contributions for a period of not less than the period of subjectivity during the year in which such subjectivity begins and the following calendar year by filing a written notice of its election with the cabinet not later than thirty (30) days immediately following the date of the determination of such subjectivity.
  - (c) Any nonprofit organization which makes an election in accordance with paragraph (a) or paragraph (b) of this subsection will continue to be liable for payments in lieu of contributions until it files with the secretary a written notice terminating its election not later than thirty (30) days prior to the beginning of the calendar year for which such termination shall first be effective, except that liability for payments in lieu of contributions shall continue thereafter with respect to wages paid prior to the effective date of such termination.
  - (d) Any nonprofit organization which has been paying contributions under this chapter for a period subsequent to July 1, 1972, may change to a reimbursable basis by filing with the cabinet not later than thirty (30) days prior to the beginning of any calendar year a written notice of election to become liable for payments in lieu of contributions. Such election shall not be terminable by such organization for that and the following year.
  - (e) The secretary may for good cause extend the period within which a notice of election, or a notice of termination, must be filed and may permit an election to be retroactive but not any earlier than with respect to benefits paid after December 31, 1969.
  - (f) The secretary shall notify each nonprofit organization of any determination which may be made of its status as an employer and of the effective date of any election which it makes and of any termination of such election. Such determinations shall be subject to appeal and review in accordance with the provisions of KRS 341.430(2).
- (3) Payments in lieu of contributions shall be made in accordance with the provisions of this subsection.
- (a) At the end of each calendar quarter, the cabinet shall bill each nonprofit organization (or group of such organizations) which has elected to make payments in lieu of contributions for an amount equal to the full amount of regular benefits plus one-half (1/2) of the amount of extended benefits paid during such quarter plus any prior period adjustments, which are attributable to service performed in covered employment in the employ of such organization.
  - (b) Payment of any bill rendered under paragraph (a) shall be made not later than thirty (30) days after such bill was mailed to the last known address of the nonprofit organization or was otherwise delivered to it, unless there has been an application for review in accordance with paragraph (d) of this subsection.
  - (c) Payments made by any nonprofit organization under the provisions of this subsection shall not be deducted or deductible, in whole or in part, from the remuneration of workers in the employ of the organization.
  - (d) The amount due specified in any bill from the secretary shall be conclusive on the organization unless, not later than fifteen (15) days after the bill was mailed to its last known address or otherwise delivered to it, the organization files an appeal to the ~~commission~~<sup>cabinet</sup>, setting forth the grounds for such appeal. Proceedings on appeal to the ~~commission~~<sup>cabinet</sup> from the amount of a bill rendered under this subsection shall be in accordance with the provisions of KRS 341.430 and the decision of the ~~commission~~<sup>cabinet</sup> shall be subject to review under the provisions of KRS 341.460(1).

- (e) Past-due payments of amounts in lieu of contributions shall be subject to the same interest, penalties, collection service, and lien provisions that, pursuant to KRS 341.300 to 341.310, apply to past-due contributions.
- (4) (a) The secretary may, in accordance with regulations prescribed by the cabinet, require any nonprofit organization that elects to become liable for payments in lieu of contributions to deposit with the cabinet, within thirty (30) days after the effective date of its election as a condition thereof, money equal to two percent (2%) of the organization's total wages paid for employment as defined in KRS 341.050(1)(e) for the four (4) calendar quarters immediately preceding the effective date of such election. If the nonprofit organization did not pay wages in each of such four (4) calendar quarters, the amount of the deposit shall be as determined by the secretary.
- (b) Money deposited in accordance with this subsection shall be retained by the cabinet in an escrow account until all possible liability to the fund under the election is terminated, at which time it shall be returned to the organization, less any deductions as hereinafter provided. The cabinet may deduct from the money deposited under this subsection by a nonprofit organization to the extent necessary to satisfy any due and unpaid payments in lieu of contributions and any applicable interest and penalties provided for in paragraph (e) of subsection (3) of this section. The secretary shall require the organization within thirty (30) days following any deduction from a money deposit under the provisions of this subsection to deposit sufficient additional money to make whole the organization's deposit at the prior level. The secretary may, at any time, review the adequacy of the deposit made by any organization. If, as a result of such review, he determines that an adjustment is necessary, he shall require the organization to make additional deposit within thirty (30) days of written notice of his determination or shall return to it such portion of the deposit as he no longer considers necessary, whichever action is appropriate.
- (c) If any nonprofit organization fails to make a deposit, or to increase or make whole the amount of a previously made deposit, as provided under this subsection, the secretary may terminate such organization's election to make payments in lieu of contributions and such termination shall continue for not less than the remainder of that calendar year and the following calendar year beginning with the quarter in which such termination becomes effective; provided, that the secretary may extend for good cause the applicable filing, deposit, or adjustment period by not more than sixty (60) days.
- (5) If any nonprofit organization is delinquent in making payments in lieu of contributions as required under subsection (3) of this section, the secretary may terminate such organization's election to make payments in lieu of contributions as of the beginning of the next calendar year, and such termination shall be effective for that and the next calendar year.
- (6) Notwithstanding any other section of this chapter, no employing unit electing to make payments in lieu of contributions under the provisions of this section shall be entitled to relief of benefit charges.

Section 146. KRS 341.300 is amended to read as follows:

- (1) Contributions unpaid on the date on which they are due and payable, as prescribed by the secretary, shall be subject to interest at the rate of one and five-tenths percent (1.5%) per month or fraction thereof, not to exceed ninety percent (90%) of the amount of such contributions, from and after such date until payment is received by the **Office of Employment and Training, Department of Workforce Investment**~~department~~, irrespective of whether such delinquency has been reduced to a judgment or not as provided in subsection (2) of this section or is the subject of an administrative appeal or court action. Such interest shall be paid into the unemployment compensation administration fund.
- (2) If, after due notice, any subject employer defaults in any payment of contributions, interest or penalties thereon, the amount due shall be collected by a civil action instituted in the Franklin Circuit Court or the Franklin District Court depending upon the jurisdictional amount in controversy including interest and penalties in the name of the state, and the subject employer adjudged in default shall pay the costs of the action. Civil actions brought under this section shall be heard by the court, without the intervention of a jury, at the earliest possible date, and shall be entitled to preference upon the calendar of the court over all other civil actions except petitions for judicial review under this chapter and cases arising under the workers' compensation law.
- (3) At or after the commencement of an action under subsection (2) of this section attachment may be had against the property of the liable subject employer for such contributions, interest and penalties without the execution

of a bond, or after judgment has been entered an execution may be issued against the property of such employer without the execution of a bond.

- (4) An action for the recovery of contributions, interest or penalties under this section shall be barred and any lien therefor shall be canceled and extinguished unless collected or suit for collection has been filed within five (5) years from the due date of such contributions, except in the case of the filing of a false or fraudulent report the contributions due shall not be barred and may at any time be collected by the methods set out in this chapter, including action in a court of competent jurisdiction.

Section 147. KRS 341.360 is amended to read as follows:

No worker may be paid benefits for any week of unemployment:

- (1) With respect to which a strike or other bona fide labor dispute which caused him to leave or lose his employment is in active progress in the establishment in which he is or was employed, except that benefits may be paid unless the employer notifies the **Office of Employment and Training, Department of Workforce Investment,**~~[department]~~ in writing within seven (7) days after the beginning of such alleged strike or labor dispute of the alleged existence of such strike or labor dispute. For the purpose of this subsection a lockout shall not be deemed to be a strike or a bona fide labor dispute and no worker shall be denied benefits by reason of a lockout;
- (2) For which he has received or is seeking unemployment compensation under an unemployment compensation law of another state or of the United States, except as otherwise provided by an arrangement between this state and such other state or the United States. But if the appropriate agency of such state or of the United States finally determines that he is not entitled to such unemployment compensation, this subsection shall not apply; or
- (3)
  - (a) Which, when based on service in an instructional, research, or principal administrative capacity in an institution of higher education as defined in subsection (2) of KRS 341.067 or in an educational institution as defined in subsection (4) of KRS 341.067, begins during the period between two (2) successive academic years, or during a similar period between two (2) regular terms, whether or not successive, or during a period of paid sabbatical leave provided for in the individual's contract, if the worker performs such services in the first of such academic years or terms and if there is a contract or a reasonable assurance that the worker will perform such services in any such capacity for any institution or institutions of higher education or an educational institution in the second of such academic years or such terms; or
  - (b) Which, when based on service other than as defined in paragraph (a) of this subsection, in an institution of higher education or an educational institution, as defined in subsection (2) or (4) of KRS 341.067, begins during the period between two (2) successive academic years or terms, if the worker performs such services in the first of such academic years or terms and there is a reasonable assurance that the worker will perform such services in the second of such academic years or terms; except that if benefits are denied to any worker under this paragraph and such worker was not offered an opportunity to perform such services for such institution of higher education or such educational institution for the second of such academic years or terms, such worker shall be entitled to a retroactive payment of benefits for each week for which the worker filed a timely claim for benefits and for which benefits were denied solely by reason of this paragraph; or
  - (c) Which, when based on service in any capacity defined in paragraphs (a) and (b) of this subsection, begins during an established and customary vacation period or holiday recess if the worker performs any such services in the period immediately before such vacation period or holiday recess, and there is a reasonable assurance that such worker will perform any such services in the period immediately following such vacation period or holiday recess; or
  - (d) Based on service in any capacity defined in paragraph (a) or (b) of this subsection when such service is performed by the worker in an institution of higher education or an educational institution, as defined in subsection (2) or (4) of KRS 341.067, while the worker is in the employ of an educational service agency, and such unemployment begins during the periods and pursuant to the conditions specified in paragraphs (a), (b), and (c) of this subsection. For purposes of this paragraph the term "educational service agency" means a governmental agency or governmental entity which is established and operated

exclusively for the purpose of providing such services to one (1) or more institutions of higher education or educational institutions.

- (4) Except that any benefits paid to a worker based on service other than as defined in subsection (3)(a) of this section performed in an institution of higher education as defined in subsection (2) of KRS 341.067 shall be deemed to have been paid as a result of **Office of Employment and Training, Department of Workforce Investment,**~~[departmental]~~ error and not recoverable by the cabinet or such institution if such payment is improper by virtue of the retroactive application to October 30, 1983, of subsection (3)(b) of this section.
- (5) Benefits shall not be paid to any individual on the basis of any services, substantially all of which consist of participating in sports or athletic events or training or preparing to so participate, for any week which commences during the period between two (2) successive sport seasons (or similar periods) and there is a reasonable assurance that such individual will perform such services in the later of such seasons (or similar periods).
- (6)
  - (a) Benefits shall not be paid on the basis of services performed by an alien unless such alien is an individual who was lawfully admitted for permanent residence at the time such services were performed, was lawfully present for purposes of performing such services, or was residing in the United States under color of law at the time such services were performed (including an alien who was lawfully present in the United States as a result of the application of the provisions of Section 203(a)(7) or Section 212(d)(5) of the Immigration and Nationality Act).
  - (b) Any data or information required of individuals applying for benefits to determine whether benefits are not payable to them because of their alien status shall be uniformly required from all applicants for benefits.
  - (c) In the case of an individual whose application for benefits would otherwise be approved, no determination that benefits to such individual are not payable because of his alien status shall be made except upon a preponderance of the evidence.
- (7) With respect to which the worker is suspended from work for misconduct, as defined in KRS 341.370(6), connected with the work.

Section 148. KRS 341.370 is amended to read as follows:

- (1) A worker shall be disqualified from receiving benefits for the duration of any period of unemployment with respect to which:
  - (a) He has failed without good cause either to apply for available, suitable work when so directed by the employment office or the secretary or to accept suitable work when offered him, or to return to his customary self-employment when so directed by the secretary; or
  - (b) He has been discharged for misconduct or dishonesty connected with his most recent work, or from any work which occurred after the first day of the worker's base period and which last preceded his most recent work, but legitimate activity in connection with labor organizations or failure to join a company union shall not be construed as misconduct; or
  - (c) He has left his most recent suitable work or any other suitable work which occurred after the first day of the worker's base period and which last preceded his most recent work voluntarily without good cause attributable to the employment. No otherwise eligible worker shall be disqualified from receiving benefits for leaving his next most recent suitable work which was concurrent with his most recent work, or for leaving work which is one hundred (100) road miles or more, as measured on a one (1) way basis, from his home to accept work which is less than one hundred (100) road miles from his home, or for otherwise accepting work which is a bona fide job offer with a reasonable expectation of continued employment.
- (2) A worker shall be disqualified from receiving benefits for any week with respect to which he knowingly made a false statement to establish his right to or the amount of his benefits, and, within the succeeding twenty-four (24) months, for the additional weeks immediately following the date of discovery, not to exceed a total of fifty-two (52), as may be determined by the secretary.
- (3) No worker shall be disqualified under paragraph (b) or (c) of subsection (1) of this section unless the employer, within a reasonable time as prescribed by regulations promulgated by the secretary, notifies the **Education Cabinet**~~[for Workforce Development]~~ and the worker in writing of the alleged voluntary quitting or the

discharge for misconduct. Nothing in this subsection shall restrict the right of the secretary to disqualify a worker whose employer has refused or failed to notify the **Education Cabinet**~~[for Workforce Development]~~ of the alleged voluntary quitting or discharge for misconduct, if the alleged voluntary quitting or discharge for misconduct is known to the secretary prior to the time benefits are paid to the worker. The exercise of the right by the secretary, in the absence of timely notice from the employer, shall not relieve the employer's reserve account or reimbursing employer's account of benefit charges under the provisions of subsection (3) of KRS 341.530.

- (4) As used in this section and in subsection (3) of KRS 341.530, "most recent" work shall be construed as that work which occurred after the first day of the worker's base period and which last preceded the week of unemployment with respect to which benefits are claimed; except that, if the work last preceding the week of unemployment was seasonal, intermittent, or temporary in nature, most recent work may be construed as that work last preceding the seasonal, intermittent, or temporary work.
- (5) No worker shall be disqualified or held ineligible under the provisions of this section or KRS 341.350, who is separated from employment pursuant to a labor management contract or agreement, or pursuant to an established employer plan, program, or policy, which permits the employer to close the plant or facility for purposes of vacation or maintenance.
- (6) "Discharge for misconduct" as used in this section shall include, but not be limited to, separation initiated by an employer for falsification of an employment application to obtain employment through subterfuge; knowing violation of a reasonable and uniformly enforced rule of an employer; unsatisfactory attendance if the worker cannot show good cause for absences or tardiness; damaging the employer's property through gross negligence; refusing to obey reasonable instructions; reporting to work under the influence of alcohol or drugs or consuming alcohol or drugs on employer's premises during working hours; conduct endangering safety of self or co-workers; and incarceration in jail following conviction of a misdemeanor or felony by a court of competent jurisdiction, which results in missing at least five (5) days work.
- (7) "Duration of any period of unemployment," as that term is used in this section, shall be the period of time beginning with the worker's discharge, voluntary quitting, or failure to apply for or accept suitable work and running until the worker has worked in each of ten (10) weeks, whether or not consecutive, and has earned ten (10) times his weekly benefit rate in employment covered under the provisions of this chapter or a similar law of another state or of the United States.

Section 149. KRS 341.410 is amended to read as follows:

The ~~secretary~~~~[commissioner]~~ acting through his duly authorized representatives shall, upon request, determine the insured status of a worker. If a worker is found to have fully insured status, as defined in subsection (3) of KRS 341.090, the Division of **Unemployment Insurance** shall notify all interested parties. If found to be not fully insured, the division shall notify the worker. The ~~secretary~~~~[commissioner]~~ may, at any time within a worker's benefit year, make such further determinations as may affect the worker's eligibility for benefits or may set aside, reconsider, modify, or amend a determination at any time on the basis of additional information or to correct a clerical mistake. The commission may by regulation prescribe what constitutes a determination as used in this section and subsections (2) and (3) of KRS 341.420.

Section 150. KRS 341.415 is amended to read as follows:

- (1) Any person who has received any sum as benefits under this chapter or any other state's unemployment insurance statutes or any United States Department of Labor unemployment insurance benefit program providing the secretary has signed a reciprocal agreement with such other state or the United States Department of Labor as provided in KRS 341.145, while any condition for the receipt of such benefits was not fulfilled in his case, or while he was disqualified from receiving benefits, or if he has received benefits in weeks for which he later receives a back pay award, shall, in the discretion of the secretary, either have such sum deducted from any future benefits payable to him under this chapter or repay the **Office of Employment and Training, Department of Workforce Investment**~~[department]~~ for the fund a sum equal to the amount so received by him. If after due notice the recipient of such sum fails to remit or arrange for remittance of the sum, the sum may be collected in the manner provided in KRS 341.300(2) for collection of past-due contributions and any sums so collected shall be credited to the pooled account or the appropriate reimbursing employer account. However, if the benefit was paid as a result of ~~office~~~~[departmental]~~ error as defined by administrative regulation, there shall be no recoupment or recovery of an improperly paid benefit, except by deduction from any future benefits payable to him under this chapter. For purposes of this section, overpayments as a result of

a reversal of entitlement to benefits in the appeal or review process shall not be construed to be the result of ~~office[departmental]~~ error.

- (2) At or after the commencement of an action under subsection (1) of this section, attachment may be had against property of the recipient of improperly paid benefits in the manner provided in KRS 341.300(3).
- (3) A lien on a parity with state, county, and municipal ad valorem tax liens, is hereby created in favor of the ~~office[department]~~ upon all property of any recipient of improperly paid benefits. This lien shall be for a sum equal to the amount of the overpayment finally determined and shall continue until the amount of the overpayment plus any subsequent assessment of additional improperly paid benefits, interest, and fees are fully paid. The lien shall commence from such time as the recipient has exhausted or abandoned the appeal procedure set forth in this chapter and the amount of the overpayment is finally fixed. A notice of lien may be filed in the same manner as that provided for in KRS 341.310.
- (4) Any amount paid to a person as benefits, which he has been found liable to repay or to have deducted from future benefits under subsections (1), (2), and (3) of this section, which has neither been repaid nor so deducted within a period of five (5) years following the last day of the benefit year within which it was paid, may be deemed to be uncollectible and shall be permanently charged to the pooled account, except that if such payment was made by reason of fraudulent representations, no future benefits shall be paid such person within a period of ten (10) years of the last day of the benefit year within which such payments were made at which time these amounts may be declared uncollectible. Nothing in this subsection shall be deemed to affect collection of improperly paid benefits pursuant to a judgment or other legal remedy.
- (5) In the event benefits have been paid as a result of false statement, misrepresentation, or concealment of material information by a recipient of benefits and have not been repaid by the recipient within one (1) calendar year from the date of the first notice, interest at the rate of one and five-tenths percent (1.5%) per month or any part thereof, shall be imposed on and added to the unpaid balance each successive month, providing due notice has been given to the recipient. Such interest shall be paid into the unemployment compensation administration account.
- (6) The deduction from future benefits specified in subsection (1) of this section shall be limited to twenty-five percent (25%) of the benefit amount otherwise payable under this chapter unless the overpayment resulted from a backpay award, false statement, misrepresentation, or concealment of material information by a recipient of benefits. In these instances, the rate of deduction shall be one hundred percent (100%). The rate of deduction from benefits payable by another state or the United States of America shall be determined by the applicable state or federal statute.

Section 151. KRS 341.420 is amended to read as follows:

- (1) The secretary shall appoint one (1) or more impartial referees according to KRS 341.125 to hear and decide appealed claims.
- (2) A party to a determination may file an appeal to a referee as to any matter therein within fifteen (15) days after the date such determination was mailed to his last known address.
- (3) If benefits are allowed by a determination of the secretary, or a decision of a referee, *the commission*, the secretary, or a reviewing-court, such benefits shall be paid promptly without regard to the pendency of an appeal or period for filing an appeal therefrom. If a determination or decision allowing benefits is modified or reversed by a subsequent determination or decision, benefits shall be paid or denied for weeks of unemployment thereafter in accordance with such modification or denial. No injunction, supersedeas, stay or other writ or process suspending payment of such benefits shall be issued.
- (4) Unless such appeal is withdrawn, a referee, after affording the parties reasonable opportunity for a fair hearing, shall affirm or modify the determination. The parties shall be duly notified of his decision, together with the reasons therefor, which shall be deemed to be the final decision unless within fifteen (15) days after the date of mailing of such decision, further appeal is initiated under KRS 341.430.
- (5) No finding of fact or law, judgment, conclusion, or final order made with respect to a claim for unemployment compensation under this chapter may be conclusive or binding in any separate or subsequent action or proceeding in another forum, except proceedings under this chapter, regardless of whether the prior action was between the same or related parties or involved the same facts.

Section 152. KRS 341.440 is amended to read as follows:

- (1) The manner in which appeals are presented and hearings and appeals conducted shall be in accordance with regulations prescribed by the secretary for determining the rights of the parties, *and* such hearings to be conducted in a summary manner. A complete record shall be kept of all proceedings in connection with any appeal. All testimony at any hearing upon an appeal shall be recorded either stenographically or mechanically, but need not be transcribed unless further appealed. No examiner, referee or member of the commission shall participate in any hearing in which he is an interested party.
- (2) Witnesses subpoenaed pursuant to proceedings under KRS 341.420 and 341.430 shall be allowed fees in accordance with rates allowed by law. Such fees and all expenses of proceedings before the ***Office of Employment and Training, Department of Workforce Investment,***~~[Department]~~ or commission involving disputed claims shall be deemed a part of the expense of administering this chapter.
- (3) In the absence of an appeal therefrom, decisions of the commission shall become final twenty (20) days after the date they are made.

Section 153. KRS 341.470 is amended to read as follows:

- (1) No agreement by a worker to waive, release, or commute his rights to benefits or any other rights under this chapter shall be valid. No agreement by any worker to pay any portion of a subject employer's contributions, required under this chapter from such subject employer, shall be valid. No subject employer shall directly or indirectly make or require or accept any deductions from wages to finance the subject employer's contributions required of him. In cases involving awards to a worker by an arbitrator, court, or other administrative body or mediator, the secretary may require the employer to withhold benefits paid under this chapter from the award and pay the amount withheld into the unemployment insurance trust fund. All subject employers are required to notify the ***Office of Employment and Training, Department of Workforce Investment,***~~[Department for Employment Services, Cabinet for Workforce Development]~~ prior to paying any back pay award.
- (2) No worker claiming benefits shall be charged fees of any kind in any proceeding under this chapter by the commission, the secretary, or his *or her* representatives. Any worker claiming benefits in any proceeding before a referee or the commission may represent himself *or herself* or may be represented by counsel or other agent duly authorized by such worker and shall be afforded the opportunity to participate in the proceeding without restriction; but no counsel or agent shall either charge or receive for such service more than an amount approved by the commission.
- (3)
  - (a) Any employer in any proceeding before a referee or the commission may represent himself or may be represented by counsel or other agent duly authorized by such employer; and
  - (b) Any person appearing in any proceeding before a referee or the commission who is an officer of, or who regularly performs in a managerial capacity for, a corporation or partnership which is a party to the proceeding in which the appearance is made shall be permitted to represent such corporation or partnership and shall be afforded the opportunity to participate in the proceeding without restriction.
- (4) No assignment, pledge, or encumbrance of any right to benefits due or payable under this chapter shall be valid; and such rights to benefits shall be exempt from levy, execution, attachment, or any other remedy for the collection of debt. Benefits received by any worker, as long as they are not mingled with other funds of the recipient, shall be exempt from any remedy for the collection of all debts except debts incurred for necessities furnished to such worker or his spouse or dependents during the time such worker was unemployed. No waiver of any exemption provided for in this subsection shall be valid.
- (5) The provisions of this section shall not be applicable to child support deductions made in accordance with KRS 341.392 and withholding for federal and state income tax in accordance with KRS 341.395.

Section 154. KRS 341.530 is amended to read as follows:

- (1) The ***Office of Employment and Training, Department of Workforce Investment,***~~[Department]~~ shall maintain a reserve account for each subject employer making contributions to the fund and a reimbursing employer account for each subject employer making payment in lieu of contributions, and shall, except as provided in KRS 341.590, credit to such account the total amount of all contributions or benefit reimbursement paid by the employer on his own behalf. Nothing in this section or elsewhere in this chapter shall be construed to grant any employer or individual who is or was in his employ prior claims or rights to the amounts paid by him into the fund.

- (2) Except as provided in subsection (3) of this section, all regular benefits paid to an eligible worker in accordance with KRS 341.380 plus the extended benefits paid in accordance with KRS 341.700 to 341.740, subject to the provisions of paragraphs (a) and (b) below, shall be charged against the reserve account or reimbursing employer account of his most recent employer. No employer shall be deemed to be the most recent employer unless the eligible worker to whom benefits are payable shall have worked for such employer in each of ten (10) weeks whether or not consecutive back to the beginning of the worker's base period.
  - (a) Subject employers, which are not governmental entities as defined in KRS 341.069, shall be charged one-half (1/2) of the extended benefits paid in accordance with KRS 341.700 to 341.740; and
  - (b) Subject employers which are governmental entities, as defined in KRS 341.069, shall be charged for all extended benefits paid in accordance with KRS 341.700 to 341.740 for compensable weeks occurring on or after January 1, 1979, and for one-half (1/2) of the extended benefits paid for compensable weeks occurring prior to such date.
- (3) Notwithstanding the provisions of subsection (2) of this section, benefits paid to an eligible worker and chargeable to a contributing employer's reserve account under such subsection shall be charged against the pooled account if such worker was discharged by such employer for misconduct connected with his most recent work for such employer, voluntarily left his most recent work with such employer without good cause attributable to the employment, or the employer has continued to provide part-time employment and wages, without interruption, to the same extent that was provided from the date of hire, and the employer within a reasonable time, as prescribed by regulation of the secretary, notifies the ~~office~~~~department~~, in writing, of the alleged voluntary quitting, discharge for misconduct or continuing part-time employment; provided, however, that no employer making payments to the fund in lieu of contributions shall be relieved of charges by reason of this subsection.
- (4) Each subject employer's reserve account or reimbursing account shall, unless terminated as of the computation date (as defined in subsection (5) of KRS 341.270), be charged with all benefits paid to eligible workers which are chargeable to such reserve account or reimbursing account under subsection (2) of this section. A subject employer's reserve account or reimbursing account shall be deemed to be terminated if he has ceased to be subject to this chapter, and his account has been closed and any balance remaining therein has been transferred to the fund's pooled account or to a successor's account as provided in KRS 341.540 or has been refunded if the employer is a reimbursing employer.
- (5) Notwithstanding subsection (1) of this section, two (2) or more nonprofit (Internal Revenue Code sec. 501(c)(3)) organizations may jointly request the secretary to establish a group reserve account or reimbursing account for such nonprofit organizations. Two (2) or more governmental entities may jointly request the secretary to establish a group reserve account or reimbursing account, and once established, such account shall remain in effect at least two (2) calendar years and thereafter until either dissolved at the discretion of the secretary or upon filing application for dissolution by the group members. Each member of a group shall be jointly and severally liable for all payments due under this chapter from each or all of such group members. The secretary shall prescribe such procedures as he deems necessary for the establishment, maintenance, and dissolution of a group reserve account or reimbursing account.
- (6) Any subject contributing employer may at any time make voluntary payments to the fund, additional to the contributions required under KRS 341.260 and 341.270. Notwithstanding any other provision of this chapter, contributions paid on or before the computation date and voluntary payments made within twenty (20) days following the mailing of notices of new rates shall be credited to an employer's reserve account as of the computation date, provided no voluntary payments shall be used in computing an employer's rate unless the payment is made prior to the expiration of one hundred and twenty (120) days after the beginning of the year for which the rate is effective. Voluntary contributions by any employer subject to a minimum rate as provided in KRS 341.270(2) or KRS 341.272(1) shall not exceed any negative balance they may have in their reserve account as of the computation date. Any employer who is delinquent in the payment of contributions, penalties, or interest as of the computation date shall be entitled to make voluntary payments only after the amount of the delinquency is paid in full.

Section 155. KRS 341.990 is amended to read as follows:

- (1) Any employee of any state ~~agency~~~~department~~ who violates any of the provisions of KRS 341.110 to 341.230 shall be guilty of a Class B misdemeanor.



- (2) Any person subpoenaed to appear and testify or produce evidence in an inquiry, investigation, or hearing conducted under this chapter who fails to obey the subpoena shall be guilty of a Class B misdemeanor.
- (3) Any subject employer, or officer or agent of a subject employer, who violates subsection (1) of KRS 341.470 shall be guilty of a Class A misdemeanor.
- (4) Any person who violates subsection (2) of KRS 341.470 shall be guilty of a Class A misdemeanor.
- (5) Any person who knowingly makes a false statement or representation of a material fact or knowingly fails to disclose a material fact to the secretary to obtain or increase any benefit under this chapter or under an employment security law of any other state, or of the federal government, either for himself or for any other person, business entity, or organization shall be guilty of a Class A misdemeanor unless the value of the benefits procured or attempted to be procured is one hundred dollars (\$100) or more, in which case he shall be guilty of a Class D felony.
- (6)
  - (a) Any person who knowingly makes a false statement or representation, or who knowingly fails to disclose a material fact to prevent or reduce the payment of benefits to any worker entitled thereto, or to avoid becoming or remaining subject to this chapter, or to avoid or reduce any payment required of an employing unit under this chapter shall be guilty of a Class A misdemeanor unless the liability avoided or attempted to be avoided is one hundred dollars (\$100) or more, in which case he shall be guilty of a Class D felony.
  - (b) Any person who willfully fails or refuses to furnish any reports required, or to produce or permit the inspection or copying of records required in this chapter shall be guilty of a Class B misdemeanor. Each such false statement, representation or failure and each day of failure or refusal shall constitute a separate offense.
- (7) In any prosecution for the violation of subsection (5) or (6) of this section, it shall be a defense if the person relied on the advice of an employee or agent of the *Office of Employment and Training, Department of Workforce Investment*~~department~~.
- (8) Any person who willfully violates any provision of this chapter or any rule or regulation under it, the violation of which is made unlawful or the observance of which is required under the terms of this chapter, and for which no specific penalty is prescribed in this chapter or in any other applicable statute, shall be guilty of a violation. Each day the violation continues shall constitute a separate offense.
- (9) In addition to the higher rates imposed under KRS 341.540(7), any person, whether or not an employing unit, who knowingly advises or assists an employing unit in the violation or attempted violation of KRS 341.540 or any other provision of this chapter related to determining the assignment of a contribution rate shall be subject to a civil monetary penalty of not less than five thousand dollars (\$5,000).
- (10) Proceeds from all penalties imposed under subsection (9) of this section and KRS 341.540 shall be deposited in the unemployment compensation administration account and shall be expended solely for the cost of administration of this chapter consistent with KRS 341.240.

Section 156. KRS 342.0011 is amended to read as follows:

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

- (1) "Injury" means any work-related traumatic event or series of traumatic events, including cumulative trauma, arising out of and in the course of employment which is the proximate cause producing a harmful change in the human organism evidenced by objective medical findings. "Injury" does not include the effects of the natural aging process, and does not include any communicable disease unless the risk of contracting the disease is increased by the nature of the employment. "Injury" when used generally, unless the context indicates otherwise, shall include an occupational disease and damage to a prosthetic appliance, but shall not include a psychological, psychiatric, or stress-related change in the human organism, unless it is a direct result of a physical injury.
- (2) "Occupational disease" means a disease arising out of and in the course of the employment.
- (3) An occupational disease as defined in this chapter shall be deemed to arise out of the employment if there is apparent to the rational mind, upon consideration of all the circumstances, a causal connection between the conditions under which the work is performed and the occupational disease, and which can be seen to have followed as a natural incident to the work as a result of the exposure occasioned by the nature of the

employment and which can be fairly traced to the employment as the proximate cause. The occupational disease shall be incidental to the character of the business and not independent of the relationship of employer and employee. An occupational disease need not have been foreseen or expected but, after its contraction, it must appear to be related to a risk connected with the employment and to have flowed from that source as a rational consequence.

- (4) "Injurious exposure" shall mean that exposure to occupational hazard which would, independently of any other cause whatsoever, produce or cause the disease for which the claim is made.
- (5) "Death" means death resulting from an injury or occupational disease.
- (6) "Carrier" means any insurer, or legal representative thereof, authorized to insure the liability of employers under this chapter and includes a self-insurer.
- (7) "Self-insurer" is an employer who has been authorized under the provisions of this chapter to carry his own liability on his employees covered by this chapter.
- (8) "Office" means the Office of Workers' Claims in the Department of Labor.
- (9) "Executive director" means the executive director of the Office of Workers' Claims.
- (10) "Board" means the Workers' Compensation Board.
- (11)
  - (a) "Temporary total disability" means the condition of an employee who has not reached maximum medical improvement from an injury and has not reached a level of improvement that would permit a return to employment;
  - (b) "Permanent partial disability" means the condition of an employee who, due to an injury, has a permanent disability rating but retains the ability to work; and
  - (c) "Permanent total disability" means the condition of an employee who, due to an injury, has a permanent disability rating and has a complete and permanent inability to perform any type of work as a result of an injury, except that total disability shall be irrebuttably presumed to exist for an injury that results in:
    - 1. Total and permanent loss of sight in both eyes;
    - 2. Loss of both feet at or above the ankle;
    - 3. Loss of both hands at or above the wrist;
    - 4. Loss of one (1) foot at or above the ankle and the loss of one (1) hand at or above the wrist;
    - 5. Permanent and complete paralysis of both arms, both legs, or one (1) arm and one (1) leg;
    - 6. Incurable insanity or imbecility; or
    - 7. Total loss of hearing.
- (12) "Income benefits" means payments made under the provisions of this chapter to the disabled worker or his dependents in case of death, excluding medical and related benefits.
- (13) "Medical and related benefits" means payments made for medical, hospital, burial, and other services as provided in this chapter, other than income benefits.
- (14) "Compensation" means all payments made under the provisions of this chapter representing the sum of income benefits and medical and related benefits.
- (15) "Medical services" means medical, surgical, dental, hospital, nursing, and medical rehabilitation services, medicines, and fittings for artificial or prosthetic devices.
- (16) "Person" means any individual, partnership, including a registered limited liability partnership, limited partnership, limited liability company, firm, association, trust, joint venture, corporation, limited liability company, or legal representative thereof.
- (17) "Wages" means, in addition to money payments for services rendered, the reasonable value of board, rent, housing, lodging, fuel, or similar advantages received from the employer, and gratuities received in the course of employment from persons other than the employer as evidenced by the employee's federal and state tax returns.

- (18) "Agriculture" means the operation of farm premises, including the planting, cultivation, producing, growing, harvesting, and preparation for market of agricultural or horticultural commodities thereon, the raising of livestock for food products and for racing purposes, and poultry thereon, and any work performed as an incident to or in conjunction with the farm operations. It shall not include the commercial processing, packing, drying, storing, or canning of such commodities for market, or making cheese or butter or other dairy products for market.
- (19) "Beneficiary" means any person who is entitled to income benefits or medical and related benefits under this chapter.
- (20) "United States," when used in a geographic sense, means the several states, the District of Columbia, the Commonwealth of Puerto Rico, the Canal Zone, and the territories of the United States.
- (21) "Alien" means a person who is not a citizen, a national, or a resident of the United States or Canada. Any person not a citizen or national of the United States who relinquishes or is about to relinquish his residence in the United States shall be regarded as an alien.
- (22) "Insurance carrier" means every insurance carrier or insurance company authorized to do business in the Commonwealth writing workers' compensation insurance coverage and includes the Kentucky Employers Mutual Insurance Authority and every self-insured group operating under the provisions of this chapter.
- (23) (a) "Severance or processing of coal" means all activities performed in the Commonwealth at underground, auger, and surface mining sites; all activities performed at tipple or processing plants that clean, break, size, or treat coal; and all activities performed at coal loading facilities for trucks, railroads, and barges. Severance or processing of coal shall not include acts performed by a final consumer if the acts are performed at the site of final consumption.
- (b) "Engaged in severance or processing of coal" shall include all individuals, partnerships, including registered limited liability partnerships, limited partnerships, limited liability companies, corporations, joint ventures, associations, or any other business entity in the Commonwealth which has employees on its payroll who perform any of the acts stated in paragraph (a) of this subsection, regardless of whether the acts are performed as owner of the coal or on a contract or fee basis for the actual owner of the coal. A business entity engaged in the severance or processing of coal, including, but not limited to, administrative or selling functions, shall be considered wholly engaged in the severance or processing of coal for the purpose of this chapter. However, a business entity which is engaged in a separate business activity not related to coal, for which a separate premium charge is not made, shall be deemed to be engaged in the severance or processing of coal only to the extent that the number of employees engaged in the severance or processing of coal bears to the total number of employees. Any employee who is involved in the business of severing or processing of coal and business activities not related to coal shall be prorated based on the time involved in severance or processing of coal bears to his total time.
- (24) "Premium" for every self-insured group means any and all assessments levied on its members by such group or contributed to it by the members thereof. For special fund assessment purposes, "premium" also includes any and all membership dues, fees, or other payments by members of the group to associations or other entities used for underwriting, claims handling, loss control, premium audit, actuarial, or other services associated with the maintenance or operation of the self-insurance group.
- (25) (a) "Premiums received" for policies effective on or after January 1, 1994, for insurance companies means direct written premiums as reported in the annual statement to the Office of Insurance by insurance companies, except that "premiums received" includes premiums charged off or deferred, and, on insurance policies or other evidence of coverage with provisions for deductibles, the calculated cost for coverage, including experience modification and premium surcharge or discount, prior to any reduction for deductibles. The rates, factors, and methods used to calculate the cost for coverage under this paragraph for insurance policies or other evidence of coverage with provisions for deductibles shall be the same rates, factors, and methods normally used by the insurance company in Kentucky to calculate the cost for coverage for insurance policies or other evidence of coverage without provisions for deductibles, except that, for insurance policies or other evidence of coverage with provisions for deductibles effective on or after January 1, 1995, the calculated cost for coverage shall not include any schedule rating modification, debits, or credits. The cost for coverage calculated under this paragraph by insurance companies that issue only deductible insurance policies in Kentucky shall be actuarially adequate to cover the entire liability of the employer for compensation under this chapter, including all

expenses and allowances normally used to calculate the cost for coverage. For policies with provisions for deductibles with effective dates of May 6, 1993, through December 31, 1993, for which the insurance company did not report premiums and remit special fund assessments based on the calculated cost for coverage prior to the reduction for deductibles, "premiums received" includes the initial premium plus any reimbursements invoiced for losses, expenses, and fees charged under the deductibles. The special fund assessment rates in effect for reimbursements invoiced for losses, expenses, or fees charged under the deductibles shall be those percentages in effect on the effective date of the insurance policy. For policies covering leased employees as defined in KRS 342.615, "premiums received" means premiums calculated using the experience modification factor of each lessee as defined in KRS 342.615 for each leased employee for that portion of the payroll pertaining to the leased employee.

- (b) "Direct written premium" for insurance companies means the gross premium written less return premiums and premiums on policies not taken but including policy and membership fees.
  - (c) "Premium," for policies effective on or after January 1, 1994, for insurance companies means all consideration, whether designated as premium or otherwise, for workers' compensation insurance paid to an insurance company or its representative, including, on insurance policies with provisions for deductibles, the calculated cost for coverage, including experience modification and premium surcharge or discount, prior to any reduction for deductibles. The rates, factors, and methods used to calculate the cost for coverage under this paragraph for insurance policies or other evidence of coverage with provisions for deductibles shall be the same rates, factors, and methods normally used by the insurance company in Kentucky to calculate the cost for coverage for insurance policies or other evidence of coverage without provisions for deductibles, except that, for insurance policies or other evidence of coverage with provisions for deductibles effective on or after January 1, 1995, the calculated cost for coverage shall not include any schedule rating modifications, debits, or credits. The cost for coverage calculated under this paragraph by insurance companies that issue only deductible insurance policies in Kentucky shall be actuarially adequate to cover the entire liability of the employer for compensation under this chapter, including all expenses and allowances normally used to calculate the cost for coverage. For policies with provisions for deductibles with effective dates of May 6, 1993, through December 31, 1993, for which the insurance company did not report premiums and remit special fund assessments based on the calculated cost for coverage prior to the reduction for deductibles, "premium" includes the initial consideration plus any reimbursements invoiced for losses, expenses, or fees charged under the deductibles.
  - (d) "Return premiums" for insurance companies means amounts returned to insureds due to endorsements, retrospective adjustments, cancellations, dividends, or errors.
- (26) "Insurance policy" for an insurance company or self-insured group means the term of insurance coverage commencing from the date coverage is extended, whether a new policy or a renewal, through its expiration, not to exceed the anniversary date of the renewal for the following year.
  - (27) "Self-insurance year" for a self-insured group means the annual period of certification of the group created pursuant to KRS 342.350(4) and 304.50-010.
  - (28) "Premium" for each employer carrying his own risk pursuant to KRS 342.340(1) shall be the projected value of the employer's workers' compensation claims for the next calendar year as calculated by the executive director using generally-accepted actuarial methods as follows:
    - (a) The base period shall be the earliest three (3) calendar years of the five (5) calendar years immediately preceding the calendar year for which the calculation is made. The executive director shall identify each claim of the employer which has an injury date or date of last injurious exposure to the cause of an occupational disease during each one (1) of the three (3) calendar years to be used as the base, and shall assign a value to each claim. The value shall be the total of the indemnity benefits paid to date and projected to be paid, adjusted to current benefit levels, plus the medical benefits paid to date and projected to be paid for the life of the claim, plus the cost of medical and vocational rehabilitation paid to date and projected to be paid. Adjustment to current benefit levels shall be done by multiplying the weekly indemnity benefit for each claim by the number obtained by dividing the statewide average weekly wage which will be in effect for the year for which the premium is being calculated by the statewide average weekly wage in effect during the year in which the injury or date of the last exposure occurred. The total value of the claims using the adjusted weekly benefit shall then be calculated by the

executive director. Values for claims in which awards have been made or settlements reached because of findings of permanent partial or permanent total disability shall be calculated using the mortality and interest discount assumptions used in the latest available statistical plan of the advisory rating organization defined in Subtitle 13 of KRS Chapter 304. The sum of all calculated values shall be computed for all claims in the base period.

- (b) The executive director shall obtain the annual payroll for each of the three (3) years in the base period for each employer carrying his own risk from records of the office and from the records of the *Office of Department for Employment and Training Services, Education Cabinet for Workforce Development*. The executive director shall multiply each of the three (3) years of payroll by the number obtained by dividing the statewide average weekly wage which will be in effect for the year in which the premium is being calculated by the statewide average weekly wage in effect in each of the years of the base period.
  - (c) The executive director shall divide the total of the adjusted claim values for the three (3) year base period by the total adjusted payroll for the same three (3) year period. The value so calculated shall be multiplied by 1.25 and shall then be multiplied by the employer's most recent annualized payroll, calculated using records of the office and the *Office of Department for Employment and Training Services* data which shall be made available for this purpose on a quarterly basis as reported, to obtain the premium for the next calendar year for assessment purposes under KRS 342.122.
  - (d) For November 1, 1987, through December 31, 1988, premium for each employer carrying his own risk shall be an amount calculated by the board pursuant to the provisions contained in this subsection and such premium shall be provided to each employer carrying his own risk and to the funding commission on or before January 1, 1988. Thereafter, the calculations set forth in this subsection shall be performed annually, at the time each employer applies or renews his application for certification to carry his own risk for the next twelve (12) month period and submits payroll and other data in support of the application. The employer and the funding commission shall be notified at the time of the certification or recertification of the premium calculated by the executive director, which shall form the employer's basis for assessments pursuant to KRS 342.122 for the calendar year beginning on January 1 following the date of certification or recertification.
  - (e) If an employer having fewer than five (5) years of doing business in this state applies to carry his own risk and is so certified, his premium for the purposes of KRS 342.122 shall be based on the lesser number of years of experience as may be available including the two (2) most recent years if necessary to create a three (3) year base period. If the employer has less than two (2) years of operation in this state available for the premium calculation, then his premium shall be the greater of the value obtained by the calculation called for in this subsection or the amount of security required by the executive director pursuant to KRS 342.340(1).
  - (f) If an employer is certified to carry his own risk after having previously insured the risk, his premium shall be calculated using values obtained from claims incurred while insured for as many of the years of the base period as may be necessary to create a full three (3) year base. After the employer is certified to carry his own risk and has paid all amounts due for assessments upon premiums paid while insured, he shall be assessed only upon the premium calculated under this subsection.
  - (g) "Premium" for each employer defined in KRS 342.630(2) shall be calculated as set forth in this subsection.
  - (h) Notwithstanding any other provision of this subsection, the premium of any employer authorized to carry its own risk for purposes of assessments due under this chapter shall be no less than thirty cents (\$0.30) per one hundred dollars (\$100) of the employer's most recent annualized payroll for employees covered by this chapter.
- (29) "SIC code" as used in this chapter means the Standard Industrial Classification Code contained in the latest edition of the Standard Industrial Classification Manual published by the Federal Office of Management and Budget.
- (30) "Investment interest" means any pecuniary or beneficial interest in a provider of medical services or treatment under this chapter, other than a provider in which that pecuniary or investment interest is obtained on terms equally available to the public through trading on a registered national securities exchange, such as the New

York Stock Exchange or the American Stock Exchange, or on the National Association of Securities Dealers Automated Quotation System.

- (31) "Managed health care system" means a health care system that employs gatekeeper providers, performs utilization review, and does medical bill audits.
- (32) "Physician" means physicians and surgeons, psychologists, optometrists, dentists, podiatrists, and osteopathic and chiropractic practitioners acting within the scope of their license issued by the Commonwealth.
- (33) "Objective medical findings" means information gained through direct observation and testing of the patient applying objective or standardized methods.
- (34) "Work" means providing services to another in return for remuneration on a regular and sustained basis in a competitive economy.
- (35) "Permanent impairment rating" means percentage of whole body impairment caused by the injury or occupational disease as determined by "Guides to the Evaluation of Permanent Impairment," American Medical Association, latest available edition.
- (36) "Permanent disability rating" means the permanent impairment rating selected by an administrative law judge times the factor set forth in the table that appears at KRS 342.730(1)(b).

Section 157. 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 Department of Labor, 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 self-insured group operating under the provisions of KRS 342.350(4) and Chapter 304, 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 self-insured group operating under the provisions of KRS 342.350(4) and Chapter 304, 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 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 self-insured group 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 self-insured group.
- (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 self-insured group 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 self-insured group 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 self-insured group from the obligation to furnish same to the funding commission. The ***Office of Employment and Training, Education Cabinet, [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, self-insured group, or insurance carrier shall provide any information and submit any reports the Department of Revenue 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 self-insured group operating

under the provision of KRS 342.350(4) and Chapter 304, and against the premium, as defined in KRS 342.0011, of every employer carrying his own risk.

Section 158. KRS 342.143 is amended to read as follows:

For the purposes of this chapter, the average weekly wage of the state shall be determined by the executive director as follows: On or before September 1 of each year, the total wages reported by subject employers under the Kentucky Unemployment Insurance Law for the preceding calendar year shall be divided by the average monthly number of insured workers (determined by dividing the total number of insured workers reported for the preceding year by twelve (12)). The average annual wage thus obtained shall be divided by fifty-two (52) and the average weekly wage thus determined rounded to the nearest cent. The average weekly wage shall be certified to the executive director by the **Education** Cabinet ~~for Workforce Development~~ in a manner prescribed by the executive director by administrative regulation. The average weekly wage as so determined shall be applicable for the full period during which income or death benefits are payable, when the date of occurrence of injury or of disability in the case of disease, or of death, falls within the calendar year commencing January 1 following the September 1 determination. Whenever a change in the average weekly wage of the state is of such amount that the minimum weekly income benefits for total disability or for death are increased or decreased by one dollar (\$1) or more, or the maximum weekly income benefits for total disability or for death are increased or decreased by two dollars (\$2) or more, computed in each case and rounded to the nearest dollar, an adjustment in those minimums or maximums which are affected in the requisite amount by the change in the average weekly wage of the state shall be made which will reflect this increase or decrease, but no change in such limitations shall otherwise be made. Notwithstanding the provisions of this section, KRS 342.140, 342.740, or any other provisions of this chapter to the contrary, the average weekly wage for calendar years 1995 and 1996 shall be determined to be no higher than the average weekly wage determined by the executive director to be in effect in the calendar year of 1994. If the average weekly wage calculated by the executive director is determined to be lower than the 1994 calendar year wage, the average weekly wage may be lowered as provided by this section. Beginning in calendar year 1997 and annually thereafter, the average weekly wage shall be calculated based upon the state average weekly wage in effect two (2) years prior to that calculation.

Section 159. KRS 342.710 is amended to read as follows:

- (1) One of the primary purposes of this chapter shall be restoration of the injured employee to gainful employment, and preference shall be given to returning the employee to employment with the same employer or to the same or similar employment.
- (2) The executive director shall continuously study the problems of rehabilitation, both physical and vocational, and shall investigate and maintain a directory of all rehabilitation facilities, both private and public.
- (3) An employee who has suffered an injury covered by this chapter shall be entitled to prompt medical rehabilitation services for whatever period of time is necessary to accomplish physical rehabilitation goals which are feasible, practical, and justifiable. When as a result of the injury he is unable to perform work for which he has previous training or experience, he shall be entitled to such vocational rehabilitation services, including retraining and job placement, as may be reasonably necessary to restore him to suitable employment. In all such instances, the administrative law judge shall inquire whether such services have been voluntarily offered and accepted. The administrative law judge on his own motion, or upon application of any party or carrier, after affording the parties an opportunity to be heard, may refer the employee to a qualified physician or facility for evaluation of the practicability of, need for, and kind of service, treatment, or training necessary and appropriate to render him fit for a remunerative occupation. Upon receipt of such report, the administrative law judge may order that the services and treatment recommended in the report, or such other rehabilitation treatment or service likely to return the employee to suitable, gainful employment, be provided at the expense of the employer or his insurance carrier. Vocational rehabilitation training, treatment, or service shall not extend for a period of more than fifty-two (52) weeks, except in unusual cases when by special order of the administrative law judge, after hearing and upon a finding, determined by sound medical evidence which indicates such further rehabilitation is feasible, practical, and justifiable, the period may be extended for additional periods.
- (4) Where rehabilitation requires residence at or near the facility or institution, away from the employee's customary residence, reasonable cost of his board, lodging, or travel shall be paid for by the employer or his insurance carrier.
- (5) Refusal to accept rehabilitation pursuant to an order of an administrative law judge shall result in a fifty percent (50%) loss of compensation for each week of the period of refusal.



- (6) The executive director shall cooperate on a reciprocal basis with the ~~Office~~~~[Department]~~ of Vocational Rehabilitation and the ~~Office of~~~~[Department for]~~ Employment ~~and Training~~~~[Services]~~ of the ~~Education~~~~[Kentucky]~~ Cabinet~~[ for Workforce Development]~~. In the event medical treatment, medical rehabilitation services, or vocational rehabilitation services are purchased for an injured employee by the ~~Office~~~~[Department]~~ of Vocational Rehabilitation or ~~Office of~~~~[Department for]~~ Employment ~~and Training~~~~[Services]~~ following the refusal by the employer or his insurance carrier to provide such services, the administrative law judge, after affording the parties an opportunity to be heard, may order reimbursement of the cost of such treatment or services by the employer or his insurance carrier as apportioned in the award. This section shall not be interpreted to require mandatory evaluation of employees based on length of disability. Any administrative regulations promulgated pursuant to this section that require mandatory referral to a qualified rehabilitation counselor shall expire on April 4, 1994.
- (7) An employee who is enrolled and participating in a program of rehabilitation training pursuant to this section may elect to receive an acceleration of benefits as awarded under KRS 342.730. Such acceleration shall be available to the employee during the period of retraining, but in no event shall be paid in a weekly amount greater than sixty-six and two-thirds percent (66-2/3%) of the average weekly wage upon which the award is based, not to exceed one hundred percent (100%) of the state average weekly wage. Upon successful completion of the rehabilitation program, the total of all accelerated benefits paid shall be deducted on a dollar-for-dollar basis, without discount, from weekly benefits otherwise due the employee subject to the maximum amount of the award. Such remaining benefits, if any, shall then be divided by the number of weeks remaining payable under the award, and that amount shall be the weekly benefit due the employee. If a program of rehabilitation training is terminated by the employee prior to completion, all sums paid on an accelerated basis shall be discounted at the rate set forth in KRS 342.265 and then deducted on a dollar-for-dollar basis from weekly benefits otherwise due the employee subject to the maximum amount of the award. Such remaining benefits, after the discount, shall be divided by the number of weeks remaining payable under the award, and that amount shall be the weekly benefit due the employee. In no event shall this subsection be construed as requiring payment of benefits in excess of the total of those benefits which would otherwise be payable under the award.

Section 160. KRS 342.732 is amended to read as follows:

- (1) Notwithstanding any other provision of this chapter, income benefits and retraining incentive benefits for occupational pneumoconiosis resulting from exposure to coal dust in the severance or processing of coal shall be paid as follows:
- (a) 1. If an employee has a radiographic classification of category 1/0, 1/1 or 1/2, coal workers' pneumoconiosis and spirometric test values of eighty percent (80%) or more, the employee shall be awarded a one (1) time only retraining incentive benefit which shall be an amount equal to sixty-six and two-thirds percent (66-2/3%) of the employee's average weekly wage as determined by KRS 342.740, but not more than seventy-five percent (75%) of the state average weekly wage, payable semimonthly for a period not to exceed one hundred four (104) weeks, except as provided in subparagraph 3. of this paragraph.
  2. Except as provided in subparagraph 3. of this paragraph, these benefits shall be paid only while the employee is enrolled and actively and successfully participating as a full-time student taking the equivalent of twelve (12) or more credit hours per week in a bona fide training or education program that if successfully completed will qualify the person completing the course for a trade, occupation, or profession and which program can be completed within the period benefits are payable under this subsection. The program must be approved under administrative regulations to be promulgated by the executive director. These benefits shall also be paid to an employee who is a part-time student taking not less than the equivalent of six (6) nor more than eleven (11) credit hours per week, except that benefits shall be an amount equal to thirty-three and one-third percent (33-1/3%) of the employee's average weekly wage as determined by KRS 342.740, but not more than thirty-seven and one-half percent (37-1/2%) of the state average weekly wage, payable biweekly for a period not to exceed two hundred eight (208) weeks.
  3. These benefits shall also be paid biweekly while an employee is actively and successfully pursuing a General Equivalency Diploma (GED) in accordance with administrative regulations promulgated by the executive director. These benefits shall be paid in the amount of sixty-six and two-thirds percent (66-2/3%) of the employee's average weekly wage not to exceed seventy-five

percent (75%) of the state average weekly wage for a maximum period not to exceed seventeen (17) weeks. These income benefits shall be in addition to the maximum amount of retraining incentive benefits payable under this paragraph.

4. The employer shall also pay, directly to the institution conducting the training or education program, instruction, tuition, and material costs not to exceed five thousand dollars (\$5,000).
  5. The period of weeks during which this benefit is payable shall begin no later than the thirtieth day after the administrative law judge's order awarding the benefit becomes final, except that an employee may elect to defer the beginning of such benefits up to the three hundred sixty-fifth day following the thirtieth day the order becomes final. Unless the employee has requested deferral of income benefits, those income benefits payable under subparagraphs 1. and 2. of this paragraph shall begin no later than thirty (30) days following conclusion of income benefits paid under subparagraph 3. if such benefits were paid.
  6. If an employee who is awarded retraining incentive benefits under this paragraph successfully completes a bona fide training or education program approved by the executive director, upon completion of the training or education program, the employer shall pay to that employee the sum of five thousand dollars (\$5,000) for successful completion of a program that requires a course of study of not less than twelve (12) months nor more than eighteen (18) months, or the sum of ten thousand dollars (\$10,000) for successful completion of a program that requires a course of study of more than eighteen (18) months. This amount shall be in addition to retraining incentive benefits awarded under this paragraph, and tuition expenses paid by the employer.
  7. An employee who is age fifty-seven (57) years or older on the date of last exposure and who is awarded retraining incentive benefits under subparagraph 1. to 4. of this paragraph, may elect to receive in lieu of retraining incentive benefits, an amount equal to sixty-six and two-thirds percent ( $66\frac{2}{3}\%$ ) of the employee's average weekly wage, not to exceed seventy-five percent (75%) of the state average weekly wage as determined by KRS 342.740 multiplied by the disability rating of twenty-five percent (25%) for a period not to exceed four hundred twenty-five (425) weeks, or until the employee reaches sixty-five (65) years of age, whichever occurs first, KRS 342.730(4) notwithstanding.
  8. A claim for retraining incentive benefits provided under this section may be filed, but benefits shall not be payable, while an employee is employed in the severance or processing of coal as defined in KRS 342.0011(23).
  9. If an employer appeals an award of retraining incentive benefits, upon an employee's motion, an administrative law judge may grant retraining incentive benefits pending appeal as interlocutory relief.
  10. If an employee elects to defer payment of retraining incentive benefits for a period of retraining longer than three hundred sixty-five (365) days, benefits otherwise payable shall be reduced week-for-week for each week retraining benefits are further deferred.
- (b)
1. If an employee has a radiographic classification of category 1/0, 1/1, or 1/2 coal workers' pneumoconiosis and respiratory impairment evidenced by spirometric test values of fifty-five percent (55%) or more but less than eighty percent (80%) of the predicted normal values, or category 2/1, 2/2, or 2/3 coal workers' pneumoconiosis and spirometric test values of eighty percent (80%) or more of the predicted normal values, there shall be an irrebuttable presumption that the employee has a disability rating of twenty-five percent (25%) resulting from exposure to coal dust, and the employee shall be awarded an income benefit which shall be an amount equal to sixty-six and two-thirds percent ( $66\frac{2}{3}\%$ ) of the employee's average weekly wage, but not to exceed seventy-five percent (75%) of the state average weekly wage as determined by KRS 342.740 multiplied by the disability rating of twenty-five percent (25%). The award shall be payable for a period not to exceed four hundred twenty-five (425) weeks.
  2. An employee who is awarded benefits under this paragraph may, at the time of the award or before benefit payments begin, elect to receive retraining incentive benefits provided under subparagraphs 1. to 6. of paragraph (a) of this subsection, in lieu of income benefits awarded under this paragraph, provided that such option is available one (1) time only and is not revokable, and provided that in no event shall income benefits payable under this paragraph be

stacked or added to retraining incentive income benefits paid or payable under subparagraphs 1. to 6. of paragraph (a) of this subsection to extend the period of disability.

- (c) If it is determined that an employee has a radiographic classification of category 1/0, 1/1, or 1/2, and respiratory impairment resulting from exposure to coal dust as evidenced by spirometric test values of less than fifty-five percent (55%) of the predicted normal values, or category 2/1, 2/2, or 2/3 coal workers' pneumoconiosis and respiratory impairment evidenced by spirometric test values of fifty-five percent (55%) or more but less than eighty percent (80%) of the predicted normal values, or category 3/2 or 3/3 coal workers' pneumoconiosis and spirometric test values of eighty percent (80%) or more, there shall be an irrebuttable presumption that the employee has a disability rating of fifty percent (50%) resulting from exposure to coal dust, and the employee shall be awarded an income benefit which shall be an amount equal to sixty-six and two-thirds percent (66-2/3%) of the employee's average weekly wage but not to exceed seventy-five percent (75%) of the state average weekly wage as determined by KRS 342.740 multiplied by the disability rating of fifty percent (50%). The award shall be payable for a period not to exceed four hundred twenty-five (425) weeks.
  - (d) If it is determined that an employee has a radiographic classification of category 2/1, 2/2, or 2/3 coal workers' pneumoconiosis, based on the latest ILO International Classification of Radiographics, and respiratory impairment as evidenced by spirometric test values of less than fifty-five percent (55%) of the predicted normal values or category 3/2 or 3/3 pneumoconiosis and respiratory impairment evidenced by spirometric test values of fifty-five percent (55%) or more but less than eighty percent (80%) of the predicted normal values, there shall be an irrebuttable presumption that the employee has a seventy-five percent (75%) disability rating resulting from exposure to coal dust and the employee shall be awarded income benefits which shall be equal to sixty-six and two-thirds percent (66-2/3%) of the employee's average weekly wage but not to exceed seventy-five percent (75%) of the state average weekly wage as determined by KRS 342.740 multiplied by the disability rating of seventy-five percent (75%). The award shall be payable for a period not to exceed five hundred twenty (520) weeks. Income benefits awarded under this paragraph shall be payable to the employee during the disability.
  - (e) If it is determined that an employee has radiographic classification of 3/2 or 3/3 occupational pneumoconiosis and respiratory impairment evidenced by spirometric test values of less than fifty-five percent (55%) of the predicted normal values, or complicated pneumoconiosis (large opacities category A, B, or C progressive massive fibrosis), there shall be an irrebuttable presumption that the employee is totally disabled resulting from exposure to coal dust, and the employee shall be awarded income benefits equal to sixty-six and two-thirds percent (66-2/3%) of the employee's average weekly wage but not more than one hundred percent (100%) of the state average weekly wage and not less than twenty percent (20%) of the average weekly wage of the state as determined by KRS 342.740. Income benefits awarded under this paragraph shall be payable to the employee during such disability.
- (2) The presence of respiratory impairment resulting from exposure to coal dust shall be established by using the largest forced vital capacity (FVC) value or the largest forced expiratory volume in one second (FEV1) value determined from the totality of all such spirometric testing performed in compliance with accepted medical standards.
  - (3) When valid spirometric tests are not provided and a physician certifies to the administrative law judge that spirometric testing is not medically indicated because of the permanent physical condition of the employee, the administrative law judge shall make his decision on the basis of evidence admitted which establishes the existence of a diagnosis of occupational pneumoconiosis and respiratory impairment due to the occupational pneumoconiosis. The evidence submitted by the employee shall include one (1) or more arterial blood gas studies performed in accordance with accepted medical standards. Income benefits shall not be awarded in the absence of valid spirometric tests if the claimant's PO2 arterial blood gas value is equal to or higher than one (1) standard deviation from the normal value obtained by the formula  $(103.5 - 0.42X)$ , where X equals the claimant's age at the time of the arterial blood gas study.
  - (4) Upon request, the executive director shall refer an employee who has been awarded retraining incentive benefits under subsection (1)(a) of this section to the ~~Office of the Department~~ of Vocational Rehabilitation for evaluation and assessment of the training, education, or other services necessary to prepare the employee for a trade, occupation, or profession that will return the employee to remunerative employment, or services necessary and appropriate to prepare and enable the employee to successfully complete a bona fide training or education program approved by the executive director. The executive director shall contract with the

~~Office~~~~Department~~ of Vocational Rehabilitation to provide vocational rehabilitation or education services commensurate with the skill levels and abilities of the employee. Services provided under this subsection shall be funded by the coal workers' pneumoconiosis fund, KRS 342.1242 notwithstanding.

- (5) The executive director shall promulgate administrative regulations sufficient to effectuate the provisions relating to retraining incentive benefits provided under subsection (1)(a) of this section. The administrative regulations shall:
  - (a) Define a "bona fide training or education program" to mean a postsecondary education or training program, including but not limited to the postsecondary programs registered with the Higher Education Assistance Authority, and successful completion of which will qualify the person completing the course for a trade, occupation, or profession, and which program can be completed within the period benefits are payable under subsection (1)(a) of this section;
  - (b) Establish requirements for approval and certification of a bona fide training or education program;
  - (c) Provide that funds paid to the training or education program by the employer as required under subsection (1)(a)4. of this section shall be applied only to instruction, tuition, material costs, and any fees necessary for the completion of the program;
  - (d) Establish requirements for successful participation in and completion of an approved and certified bona fide training or education program, and eligibility standards that must be satisfied to receive sums to be paid by the employer pursuant to subsection (1)(a)6. of this section; and
  - (e) Establish attendance, performance and progress standards, and reporting requirements in consultation with the ~~Kentucky Department of~~ Adult Education ***Program within the Council on Postsecondary Education and Literacy*** as conditions that must be satisfied to receive retraining incentive income benefits pursuant to subsection (1)(a)3. of this section.
- (6) In no event shall income benefits awarded under this section be stacked or added to income benefits awarded under KRS 342.730 to extend the period of disability and in no event shall income or retraining incentive benefits be paid to the employee while the employee is working in the mining industry in the severance or processing of coal as defined in KRS 342.0011(23)(a).

Section 161. KRS 342.740 is amended to read as follows:

- (1) For the purposes of this chapter, the average weekly wage of the state shall be determined by the executive director as follows: On or before September 1 of each year, the total wages reported by subject employers under the Kentucky Unemployment Insurance Law for the preceding calendar year shall be divided by the average monthly number of insured workers (determined by dividing the total number of insured workers reported for the preceding year by twelve (12)). The average annual wage thus obtained shall be divided by 52 and the average weekly wage thus determined rounded to the nearest cent. This average weekly wage shall be certified to the executive director by the ***Education Cabinet***~~for Workforce Development~~ in a manner prescribed by the executive director by administrative regulation. The average weekly wage as so determined shall be applicable for the full period during which income or death benefits are payable, when the date of occurrence of injury or of disablement in the case of disease, or of death, falls within the calendar year commencing January 1 following the September 1 determination.
- (2) Whenever a change in the average weekly wage of the state is of an amount that increases or decreases the minimum weekly income benefits for total disability or death by \$1 or more, or the maximum weekly income benefits for total disability or for death by \$2 or more, computed in each case and rounded to the nearest dollar, an adjustment in those minimums or maximums which are affected in the requisite amount by the change in the average weekly wage of the state shall be made which will reflect the increase or decrease, but no change in these limitations shall otherwise be made.

Section 162. KRS 347.040 is amended to read as follows:

- (1) The secretaries of the Cabinet for Health and Family Services and the ~~Education, Arts, and Humanities~~ Cabinet and the chief state school officer shall jointly develop and implement a statewide plan, with adequate opportunity for public comment, to serve all persons with developmental disabilities not otherwise entitled to and receiving the same services under another state or federal act, which will include provisions for:
  - (a) Identification and prompt and adequate interdisciplinary assessment;
  - (b) Case management services; and

- (c) Services and residential alternatives as defined by this chapter in the least restrictive, individually appropriate environment.
- (2) The first plan and annual updates shall be presented to the Legislative Research Commission which shall refer it to an appropriate committee for review and comment.
- (3) The plan shall include:
  - (a) The number of institution residents on waiting lists for placement in the community;
  - (b) The number of persons outside institutions on waiting lists for placement in the institution;
  - (c) The number of persons for whom no placement is made nor services provided because of a lack of community resources;
  - (d) The number, type, nature, and cost of services necessary for placement to occur;
  - (e) The status of compliance with the plan;
  - (f) The cabinets' specific efforts to increase residential and institutional services and documentation of the success of these efforts; and
  - (g) The specific plans for new efforts to enhance the opportunities for persons with developmental disabilities to move into less restrictive environments.
- (4) The state health plan shall be developed consistently with the plan required under this chapter.

Section 163. KRS 347.050 is amended to read as follows:

The Cabinet for Health and Family Services, ~~the Education, Arts, and Humanities~~ Cabinet, and the Department of Education shall promulgate and implement rules and regulations for the:

- (1) Enhancement and protection of the rights of persons receiving services and active treatment in both the public and private sectors under this chapter, including, but not limited to, the right to:
  - (a) Provision of services in the least restrictive, individually appropriate environment;
  - (b) An individualized service plan;
  - (c) Privacy and humane service;
  - (d) Confidentiality, access, referral, and transfer of records;
  - (e) Monitored active treatment in the least restrictive, individually appropriate environment;
  - (f) Notice of rights under this chapter; and
  - (g) A fair, timely, and impartial grievance procedure to resolve grievances concerning identification and evaluation, services and active treatment, residential alternatives, and the protection of the rights of persons with developmental disabilities under this chapter.
- (2) Implementation of this chapter providing for the orderly development of services and coordination among organizational units, administrative bodies, and service providers to assure effective provision of services in both the public and private sectors to persons with developmental disabilities.

Section 164. KRS 347.060 is amended to read as follows:

The Cabinet for Health and Family Services, the Education, ~~Arts, and Humanities~~ Cabinet, and the Department of Education may assess reasonable charges for services rendered under this chapter, based upon a sliding fee scale which takes into account the extensive services required as a result of, and the extraordinary expenses related to, a developmental disability; provided that no charges for services rendered under this chapter may be assessed for compliance with requirements and responsibilities mandated under any state or federal act as provided under subsection (5) of KRS 347.010.

Section 165. KRS 439.179 is amended to read as follows:

- (1) Any person sentenced to a jail for a misdemeanor, nonpayment of a fine or forfeiture, or contempt of court, may be granted the privilege of leaving the jail during necessary and reasonable hours for any of the following purposes:

- (a) Seeking employment; or
  - (b) Working at his employment; or
  - (c) Conducting his own business or other self-employment occupation including, in the case of a woman, housekeeping and attending the needs of her family; or
  - (d) Attendance at an educational institution; or
  - (e) Medical treatment.
- (2) Unless the privilege is expressly granted by the court, the prisoner shall be sentenced to ordinary confinement. The prisoner may petition the sentencing court for the privilege at the time of sentence or thereafter, and, in the discretion of the sentencing court, may renew his petition. The sentencing court may withdraw the privilege at any time by order entered with or without notice. The jailer shall advise the court in establishing criteria in determining a prisoner's eligibility for work release.
- (3) The jailer shall notify the ~~Office~~~~[Department]~~ for Employment *and Training*~~[Services]~~, ~~Department~~~~[Cabinet]~~ for Workforce *Investment*,~~[Development]~~ which shall endeavor to secure employment for unemployed prisoners under this section. If a prisoner is employed for wages or salary, they shall, by wage assignment, be turned over to the District Court which shall deposit the same in a trust checking account and shall keep a ledger showing the status of the account of each prisoner. The wages or salary shall not be subject to garnishment of either the employer or the District Court during the prisoner's term, and shall be disbursed only as provided in this section. For tax purposes they shall be the income of the prisoner.
- (4) Every prisoner gainfully employed shall be liable for the cost of his board in the jail, for an amount up to twenty-five percent (25%) of the prisoner's gross daily wages, not to exceed forty dollars (\$40) per day, but not less than twelve dollars (\$12) per day, established by the fiscal court of a county or the urban-county council if an urban-county government. If he defaults, his privilege under this section shall be automatically forfeited. All moneys shall be paid directly to the jailer and paid to the county treasury for use on the jail as provided in KRS 441.206. The fiscal court of a county or the urban-county council if an urban-county government may, by ordinance, provide that the county furnish or pay for the transportation of prisoners employed under this section to and from the place of employment and require that the costs be repaid by the prisoner.
- (5) The sentencing court may order the defendant's employer to deduct from the defendant's wages or salary payments for the following purposes:
- (a) The board of the prisoner and transportation costs incurred by the county;
  - (b) Support of the prisoner's dependents, if any;
  - (c) Payment, either in full or ratably, of the prisoner's obligations acknowledged by him in writing or which have been reduced to judgment;
  - (d) The balance, if any, to the prisoner upon his discharge.
- (6) The sentencing court shall not direct that any payment authorized under this section be paid through the circuit clerk.
- (7) The Department of Corrections shall, at the request of the District Judge, investigate and report on the amount necessary for the support of the prisoner's dependents, and periodically review the prisoner's progress while on leave from the jail and report its findings to the District Judge.
- (8) The jailer may refuse to permit the prisoner to exercise his privilege to leave the jail as provided in subsection (1) for any breach of discipline or other violation of jail regulations for a period not to exceed five (5) days.
- (9) In counties containing an urban-county form of government, the duties, responsibilities, and obligations vested herein in the Department of Corrections shall be performed by the adult misdemeanor probation and work release agency of the urban-county government.

Section 166. KRS 533.210 is amended to read as follows:

- (1) The program described in KRS 533.200 shall be administered by the *Kentucky Adult Education Program within the Council on Postsecondary Education*,~~[Department for Adult Education and Literacy within the Cabinet for Workforce Development]~~ which shall promulgate administrative regulations, pursuant to KRS Chapter 13A, relative to the conduct of the program including, but not limited to, the costs of participation in the program by persons sentenced to the program.

- (2) The ***Kentucky Adult Education Program*** ~~[Department for Adult Education and Literacy within the Cabinet for Workforce Development]~~ shall license qualified persons or organizations to conduct the program described in KRS 533.200 on behalf of the agency. Qualifications, the manner of licensing, and all other matters shall be set by administrative regulation.

Section 167. KRS 151B.400 is repealed and reenacted as a new section of KRS Chapter 164, to read as follows:

The General Assembly of the Commonwealth of Kentucky finds and declares that:

- (1) The economic future of the Commonwealth and the prosperity of its citizens depend on the ability of Kentucky businesses to compete effectively in the world economy;
- (2) A well-educated and highly trained workforce provides businesses in the Commonwealth with the competitive edge critical for their success; and
- (3) Too many adult Kentuckians are not full participants in the labor pool because they lack a high school diploma, its equivalent, or the workplace knowledge necessary to assure self-sufficiency for themselves and their families.

Section 168. KRS 151B.405 is repealed and reenacted as a new section of KRS Chapter 164 to read as follows:

As used in KRS 151B.400 to 151B.410, unless the context indicates otherwise:

- (1) "Adult education" means for programs funded under the Federal Workforce Investment Act of 1998, services or instruction below the postsecondary level for individuals:
  - (a) Who have attained the age of sixteen (16) years of age;
  - (b) Who are not enrolled or required to be enrolled in secondary school under state law; and
  - (c) Who:
    1. Lack sufficient mastery of basic educational skills to enable the individuals to function effectively in society;
    2. Are unable to speak, read, or write the English language; or
    3. Do not have a secondary school diploma or its recognized equivalent, and have not achieved an equivalent level of education;
- (2) "Family literacy services" means services that are of sufficient intensity in terms of hours, and of sufficient duration, to assist a family to make sustainable increases in its literacy level, and integrate the activities described in KRS 158.360; and
- (3) "Literacy" means an individual's ability to read, write, and speak in English and compute and solve problems at levels of proficiency necessary to function on the job and in society to achieve one's goals and develop one's knowledge and potential.

SECTION 169. A NEW SECTION OF KRS CHAPTER 12 IS CREATED TO READ AS FOLLOWS:

***The following organizational units and administrative bodies shall be governed by their respective substantive chapters as set out below:***

- (1) ***Board of Directors for the Center for School Safety under KRS Chapter 158;***
- (2) ***Council on Postsecondary Education under KRS Chapter 164;***
- (3) ***Department of Education under KRS Chapters 156, 157, 158, 161, 163, and 167;***
- (4) ***Education Professional Standards Board under KRS Chapter 161;***
- (5) ***Kentucky Board of Education under KRS Chapters 156 and 157;***
- (6) ***Kentucky Commission on Deaf and Hard of Hearing under KRS Chapter 163; and***
- (7) ***Kentucky Educational Television under KRS Chapter 168.***

Section 170. The following KRS sections are repealed:

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12.401 Office of Early Childhood Development.

151B.023 Department for Adult Education and Literacy.

151B.215 Kentucky Occupational Information Coordinating Committee.

151B.260 Department for Training and Reemployment -- Appointment of commissioner.

156.120 Superintendent of Public Instruction -- Location of office -- Traveling expenses -- Salary.

156.497 Interagency Task Force on Family Resource Centers and Youth Services Centers -- Formulation of five-year plan -- Implementation.

156.666 Council for Education Technology -- Membership -- Duties.

200.711 Early Childhood Professional Development Council.

Section 171. 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 established to the new entities by this Act and may consult with officers of the affected agencies, or their designees, to receive suggestions.

Section 172. The General Assembly confirms the Governor's Executive Order 2005-576, dated June 20, 2005, as it relates to the Education Cabinet to the extent provided and not superseded in this Act. The General Assembly further confirms that executive order as follows:

Within the Department of Education the organizational and administrative structure shall be:

- (1) Office of the Commissioner;
- (2) Bureau of Operations and Support Services;
- (3) Office of Internal Administration and Support;
  - (a) Division of Budgets;
  - (b) Division of Financial and Material Management;
  - (c) Division of Administrative Services;
  - (d) Division of Human Resources;
  - (f) Division of Project Management;
- (4) Office of Education Technology;
  - (a) Division of KETS Engineering and Management;
  - (b) Division of KETS Operations and Services;
- (5) Office of Legal and Legislative Services;
- (6) Office of Communications;
  - (a) Division of Publications and Web Services;
  - (b) Division of Video and Multi-Media Services;
- (7) Bureau of Learning and Results Services;
- (8) Office of Special Instructional Services;
  - (a) Division of Exceptional Children Services;
  - (b) Division of Career and Technical Education;
  - (c) Division of Federal Programs and Instructional Equity;
  - (d) Division of Kentucky School for the Blind;
  - (f) Division of Kentucky School for the Deaf;
- (9) Office of Leadership and School Improvement;
  - (a) Division of Leadership and Instructional Support;



- (b) Division of Scholastic Assistance;
- (c) Division of Educator Quality and Diversity;
- (10) Office of Assessment and Accountability;
  - (a) Division of Assessment Implementation;
  - (b) Division of Assessment Support;
- (11) Office of Teaching and Learning;
  - (a) Division of Curriculum Development;
  - (b) Division of Secondary and Virtual Learning;
  - (c) Division of Early Childhood Development;
- (12) Office of District Support Services;
  - (a) Division of Audit and Transportation Services;
  - (b) Division of Facilities Management;
  - (c) Division of School Finance;
  - (d) Division of Nutrition and Health Services;
  - (e) Division of Policy Management and Research.

The Office of Employment and Training within the Department of Workforce Investment shall include the Division of Unemployment Insurance and the Division of Workforce and Employment Services.

Within the Council on Postsecondary Education, the following organizational units are abolished:

- (1) Executive Assistant for Operations;
- (2) Division of Finance;
- (3) Division of Governmental Affairs;
- (4) Division of Planning and Policy Studies; and
- (5) Division of Academic Affairs.

Within the Education Professional Standards Board, the Office of the Executive Director is hereby created. The Division of Technology within the Education Professional Standards Board is hereby abolished.

**Approved April 21, 2006.**

## CHAPTER 212

**(HB 414)**

AN ACT relating to hunting and fishing licenses.

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

Section 1. KRS 150.175 is amended to read as follows:

The kinds of licenses and tags authorized by this chapter, and the acts authorized to be performed under the licenses and tags, subject to the other provisions of this chapter and subject to administrative regulations promulgated under this chapter, shall be as follows:

- (1) Statewide resident sport fishing license, which authorizes the holder to take fishes by angling, or take crayfish by a minnow seine, or by hand, to take minnows by the use of a minnow seine, minnow trap, or dip net, or to take fishes by grabbing, gigging, snagging, snaring, jugging, and bow and arrow, and to take frogs and turtles from any waters in any county of this state open for such purposes and subject to the limitations in this chapter and additional limitations that the department may from time to time prescribe. This license shall not authorize the holder to sell fish;

- (2) A short-term sport fishing license, ~~which may be issued only to a nonresident and~~ which authorizes the holder to perform all acts authorized by a statewide sport fishing license and subject to the same limitations or prescribed administrative regulations. This license shall not authorize the holder to sell fish;
- (3) A resident commercial fishing license and a nonresident commercial fishing license, which authorize a holder to perform any act authorized by a sport fishing license and to take rough fishes from the waters of the state by the use of commercial fishing gear as prescribed by administrative regulation. The license shall also authorize the holder to sell rough fishes, other than those protected by administrative regulation;
- (4) A commercial fishing gear tag, which shall be attached to each piece of commercial fishing gear including hoop nets, slat traps, trotline, wing nets, and to each one hundred (100) feet of linear gear or portion thereof in use, including commercial seines, gill nets, or trammel nets. Commercial gear tags may be issued only to a person holding a resident or nonresident commercial fishing license;
- (5) Live fish and bait dealer's licenses, resident and nonresident, which authorize the holder to sell bait and live fish as may be prescribed by administrative regulation;
- (6) Musseling licenses, resident and nonresident, which authorize the holder to take mussels for commercial purposes as may be prescribed by administrative regulation;
- (7) A statewide resident hunting license, which authorizes the holder to take or pursue wild animals, wild birds, frogs, and turtles with gun, bow and arrow, dog, or falcon, or to participate in a fox-hunting party engaged in the hunting or pursuing of foxes with dogs for sport, according to the provisions of the laws and administrative regulations of the department;
- (8) A junior statewide hunting license, which may be issued to a person before he has reached his sixteenth birthday, and which authorizes the holder to exercise all the privileges authorized by a statewide hunting license. No junior hunting license shall be issued without the written permission of parent, guardian, or person having custody of the person under sixteen (16) years of age;
- (9) Trapping licenses, resident and nonresident, which authorize the holder to take wild animals by trapping upon his own lands or upon the lands of another person, if the holder of the license shall have first obtained a written consent as provided in KRS 150.092;
- (10) Taxidermist licenses, commercial and noncommercial, which authorize the holder to engage in the act of preparing, stuffing, and mounting the skins of wildlife;
- (11) A commercial guide's license, which authorizes the holder to guide hunting and fishing parties according to the provisions of the laws and administrative regulations of the department;
- (12) Fur buyer's licenses, resident and nonresident, which authorize the holder to buy raw furs from licensed trappers and hunters and to sell raw furs so purchased. Applicants for the license shall state the number of premises to be used and shall display at each a copy of the license as furnished by the department, except that the commissioner may limit the number of copies furnished and may revoke the license for violation;
- (13) A fur processor's license, which may be issued only to a resident, a partnership, firm, or corporation of this state and which authorizes the holder to buy raw furs when in legal possession for processing, manufacture, or retention in cold storage or for resale;
- (14) A nonresident sport fishing license, which authorizes the holder to perform any act authorized by a resident statewide sport fishing license. This license shall not authorize the holder to sell fish;
- (15) A nonresident annual hunting license, which authorizes the holder to perform any act authorized by a resident statewide hunting license;
- (16) Shoot-to-retrieve field trial permits, four (4) day and single day, which authorize a permit holder to conduct a shoot-to-retrieve field trial on private or government-owned lands. With a four (4) day permit, all participants, whether residents or nonresidents, shall not be required to possess any other license to participate in the permitted field trial, and the permit shall expire four (4) days after the date on which the field trial began. With the single day permit, the permit is valid for one (1) day and all participants shall have a valid resident or nonresident annual Kentucky hunting license. A permit is not required to conduct a shoot-to-retrieve field trial on a licensed shooting preserve; however, all participants that take or attempt to take game shall have in their possession a resident or nonresident annual Kentucky hunting license ~~or a nonresident shooting preserve license~~;

- (17)~~[(17)]~~ ~~A special license to nonresidents for the purpose of hunting on licensed hunting preserves. This license shall be good only for the preserve for which it was issued and shall remain in effect only for one (1) year. These licenses shall be issued in ink by the preserve manager, and he shall ensure that each hunter is properly licensed before going into the field. When the hunter owns either a nonresident or resident statewide hunting license for the current year, the special license shall not be required. The commissioner, with the approval of the commission, may establish and regulate hunting preserves, either private or commercial;~~
- (18)~~[(18)]~~ Game permits and junior game permits, which, in combination with a valid statewide hunting license or a valid junior statewide hunting license, authorize the holder to take or pursue the specified game species in any designated open area of this state, during the open season and according to the provisions of the laws and administrative regulations governing the hunting;
- (19)~~[(19)]~~ A combination hunting and fishing license, which authorizes only resident holders to perform all acts valid under either a sport fishing or hunting license;
- (20)~~[(20)]~~ A trout permit, which in combination with a valid statewide fishing license, authorizes the holder to take trout by angling or as may be prescribed by administrative regulation;
- (21)~~[(21)]~~ A commercial waterfowl permit, which authorizes the holder to establish and operate a commercial waterfowl hunting preserve;
- (22)~~[(22)]~~ A short-term hunting license, which may be issued only to a nonresident and which authorizes the holder to perform all acts authorized by a statewide hunting license according to the provisions of the laws and administrative regulations of the department;
- (23)~~[(23)]~~ A joint statewide resident sport fishing license issued to a husband and wife which authorizes them to take fish as provided in subsection (1) of this section. The license fee for this joint license shall be ten percent (10%) less than the license fee set by the commission for two (2) statewide resident sport fishing licenses;
- (24)~~[(24)]~~ A Kentucky waterfowl permit, which in combination with a valid statewide hunting license and compliance with applicable federal law, authorizes the holder to take or pursue waterfowl and migratory shore or upland game birds;
- (25)~~[(25)]~~ A pay lake license which authorizes the holder to operate privately owned impounded waters for fishing purposes for which a fee is charged;
- (26)~~[(26)]~~ A migratory game bird permit, which, in combination with a statewide hunting license and compliance with applicable federal law, allows the holder to take migratory shore or upland game birds;
- (27)~~[(27)]~~ A senior/disabled combination hunting and fishing license, which authorizes the holder to perform all acts valid under a sport fishing license, a sport hunting license, or a state permit to take deer, turkey, trout, waterfowl, or migratory shore or upland game birds, and which shall be available to a Kentucky resident who is:
- (a) Sixty-five (65) years of age or older; or
  - (b) An American veteran at least fifty percent (50%) disabled as a result of a service-connected disability; or
  - (c) Declared permanently and totally disabled by the Federal Social Security Administration, the United States Office of Personnel Management, the Teachers' Retirement System of the State of Kentucky, the Office of Workers' Claims, or its equivalent from another state, or the United States Railroad Retirement Board.
- The senior/disabled combination license shall not be valid unless the holder carries proof of residency and proof of age or disability, as the department may require by administrative regulation, on his or her person while performing an act authorized by the license; and
- (28)~~[(28)]~~ A sportsman's license for residents that includes an annual hunting and fishing license and such permits as allowed by administrative regulations promulgated by the department.

**Approved April 21, 2006.**

**CHAPTER 213****(HB 181)**

AN ACT relating to prescription drugs.

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

SECTION 1. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

- (1) ***Any health benefit plan that provides benefits for prescription drugs shall include an exceptions policy or an override policy that provides coverage for the refill of a covered drug dispensed prior to the expiration of the insured's supply of the drug. The insurer shall provide notice in existing written or electronic communications to pharmacies doing business with the insurer, the pharmacy benefit manager if applicable, and to the insured regarding the exceptions policy or override policy. This subsection shall not apply to controlled substances as classified by KRS Chapter 218A.***
- (2) ***Nothing in this section shall prohibit an insurer from limiting payment to no more than three (3) refills of a covered drug in a ninety (90) day period.***

**Approved April 21, 2006.**

**CHAPTER 214****(HB 640)**

AN ACT relating to grain assessments.

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

Section 1. KRS 251.610 is amended to read as follows:

For the purposes of KRS 251.410, 251.430, 251.440, 251.451, 251.490, and 251.600 to 251.740, unless the context requires otherwise:

- (1) "Board" means the governing body of the Kentucky Grain Insurance Corporation;
- (2) "Claimant" means any producer who is a participant in the grain insurance program, and:
  - (a) Possesses warehouse receipts covering grain owned or stored by the licensed grain dealer or licensed warehouseman ~~which was produced in Kentucky, except that a producer who establishes by clear and convincing evidence that he has paid an assessment authorized by KRS 251.640 shall not be required to establish that the grain was produced in Kentucky~~;
  - (b) Has written evidence of ownership of grain ~~produced in Kentucky~~, other than warehouse receipts, disclosing a storage obligation of a licensed grain dealer or licensed warehouseman, including scale tickets, settlement sheets, and ledger cards ~~except that a producer who establishes by clear and convincing evidence that he has paid an assessment authorized by KRS 251.640 shall not be required to establish that the grain was produced in Kentucky~~;
  - (c) Has lent money to a licensed grain dealer or licensed warehouseman and was to receive a warehouse receipt as security for that loan but the grain dealer or warehouseman failed within twenty-one (21) days after receiving the loan moneys and no warehouse receipt was issued;
  - (d) Has surrendered warehouse receipts as a part of a sale of grain produced in Kentucky with a licensed grain dealer or licensed warehouseman who failed within twenty-one (21) days after surrendering the receipt and the person surrendering the warehouse receipt was not fully paid for the grain; or
  - (e) Possesses written evidence of the sale of grain ~~produced in Kentucky~~ to a failed licensed grain dealer or failed licensed grain warehouseman, not limited to scale tickets, settlement sheets, price later contracts, basis contracts, or similar grain delivery contracts, but did not get fully paid for the grain and who is unable to secure satisfaction of financial obligations due from a person licensed by the Department of Agriculture in accordance with the Grain Storage Establishment License Act and KRS 251.410, 251.430, 251.440, 251.451, 251.490, and 251.600 to 251.740 ~~except that a producer who~~

~~establishes by clear and convincing evidence that he has paid an assessment authorized by KRS 251.640 shall not be required to establish that the grain was produced in Kentucky};~~

- (3) "Warehouseman" means an operator or the warehouse of an operator who stores grain for the public and is authorized to issue negotiable or both negotiable and nonnegotiable warehouse receipts;
- (4) "Cooperative agreement" means any agreement made by the board with a person, local unit of government, state or federal agency, or other states as may be reasonable and proper to carry out the provisions of KRS 251.410, 251.430, 251.440, 251.451, 251.490, and 251.600 to 251.740;
- (5) "Commissioner" means the Commissioner of the Department of Agriculture;
- (6) "Corporation" means the Kentucky Grain Insurance Corporation;
- (7) "Department" means the Department of Agriculture of the Commonwealth of Kentucky;
- (8) "Failure" means:
  - (a) An inability to financially satisfy a claimant in accordance with applicable statute or administrative regulation and the time limits provided by the statute or administrative regulation, if any;
  - (b) A declaration of insolvency;
  - (c) A revocation of license and leaving of outstanding indebtedness to claimants;
  - (d) A failure to pay claimants in the ordinary course of business where a bona fide dispute does not exist between a grain dealer or grain warehouseman and a customer;
  - (e) A failure to apply for license renewal;
  - (f) A denial of license renewal; or
  - (g) A voluntary surrendering of a license;
- (9) "Fund" means the Kentucky grain insurance fund established by the corporation in accordance with KRS 251.640;
- (10) "Grain" means corn, wheat, oats, rye, soybeans, barley and grain sorghums, popcorn, and other agricultural commodities as approved by the department;
- (11) "Grain assets" means:
  - (a) All grain owned or stored by a failed grain dealer or failed warehouseman, including grain in transit which was shipped by the failed grain dealer or failed warehouseman and for which payment has not been received;
  - (b) Redeposited grain;
  - (c) Proceeds from sale of grain due or to become due;
  - (d) Equity, less any secured financing directly associated with the equity, in assets in commodity exchange grain margin accounts;
  - (e) Moneys due or to become due, less any secured financing directly associated with the moneys, from any future contracts on any recognized commodity exchange;
  - (f) Other unencumbered funds, property, or equity of the failed grain dealer or warehouseman in funds or property, wherever located, which can be directly traced as being from the sale of grain by the failed grain dealer or failed warehouseman. No funds, property, or equity in funds or property shall be deemed to be encumbered unless the encumbrance results from good and valuable consideration advanced by any secured party on a bona fide basis, and is not the result of the taking of the funds, property, or equity in the funds or property as additional collateral for an antecedent debt; or
  - (g) Other unencumbered funds, property, or equity in assets;
- (12) "Grain dealer" means any person engaged in the business of buying grain from producers for resale, milling, or processing. A producer of grain buying grain for his own use as seed or feed shall not be considered as being engaged in the business of buying grain for resale, milling, or processing;

- (13) "Grain indemnity trust fund" or "trust fund" means a trust fund established by the commissioner;
- (14) "Grain warehouseman" or "warehouseman" means any person who owns, controls, operates, or manages any public grain warehouse in which grain is stored for a compensation and includes any grain warehouse licensed under the United States Warehouse Act that has entered into a cooperative agreement with the department;
- (15) "Incidental grain dealer" means any grain dealer who purchases grain from producers only in connection with, or as an incident to, a grain milling operation and whose total purchases of grain during any fiscal year do not exceed two hundred fifty thousand dollars (\$250,000);
- (16) "Participant in the grain insurance program" means any producer who has contributed to the grain fund in accordance with KRS 251.640 and has never requested a refund, or has entered the program in accordance with KRS 251.642;
- (17) "Person" means any person, grain dealer, warehouseman, partnership, firm, association, corporation, or other business organization;
- (18) "Producer" or "grain producer" means the owner, tenant, or operator of land~~[in Kentucky]~~ who has an interest in and receives all or any part of the proceeds from the sale of the grain~~[produced on land in Kentucky, except that a producer who establishes by clear and convincing evidence that he has paid an assessment authorized by KRS 251.640 shall not be required to establish that the grain was produced in Kentucky];~~
- (19) "Program" means the Kentucky Grain Insurance Program;
- (20) "United States Warehouse Act" means the United States Warehouse Act, enacted August 11, 1916, as amended;
- (21) "Valid claim" means a claim arising from a failure of a grain dealer or warehouseman which occurs after July 13, 1984, and adjudicated valid by the department, less all credits and offsets;
- (22) "Warehouse receipt" means:
  - (a) A warehouse receipt issued under the Public Grain Warehouse and Warehouse Receipts Act in accordance with the Uniform Commercial Code; or
  - (b) A warehouse receipt issued under the United States Warehouse Act, provided a cooperative agreement has been signed by the federal licensee and the department to authorize participation in the fund;
- (23) "Seed" means grain set apart to be used for the purpose of producing new plants; and
- (24) "Gross value" means the value of grain to be assessed, after any quality discounts have been deducted such as excessive moisture or foreign matter, but before any storage or marketing charges have been deducted.

Section 2. KRS 251.640 is amended to read as follows:

- (1) It is declared to be in the public interest and highly advantageous to the agricultural economy of the state that **all** producers of grain shall be assessed at a rate of .0025 times the gross value of all marketed grain~~[which is produced in Kentucky]~~ and provide for the collection of the assessment for the purpose of financing or contributing to the financing of the Kentucky grain insurance fund, which is hereby created.~~[Producers of grain produced outside of Kentucky shall not be subject to the assessment if they certify to the grain dealer or warehouseman that the grain was not produced in Kentucky. The department shall establish the form to be completed, signed, and given to the grain dealer or warehouseman in order to obtain the exemption. The information required by the department shall include at a minimum, the date, the producer's name, business address, phone number, quantity of grain, and type of grain. A copy of the form shall be kept as a part of the books and records by the grain dealer or warehouseman and in addition a copy of the form shall be supplied to the department.]~~
- (2) Upon the establishment of the Kentucky Grain Insurance Corporation, the Commissioner shall notify by certified mail, all persons in this state engaged in the business of purchasing grain from producers, that on and after the date specified in the letter, the specified assessment shall be deducted from the producer's payment by the purchaser, or his agent or representative, from the purchase price of the grain. The deducted assessment shall, on or before the fifteenth day of the month following the end of the month in which the grains are sold to the purchaser, be remitted by the purchaser to the grain insurance fund. The books and records of all purchasers of grain, which shall clearly indicate the producer assessment, shall at all times be open for inspection by the Commissioner of Agriculture or his duly authorized agents during regular business hours.

The Commissioner or his agents may take steps as are reasonably necessary to verify the accuracy of books and records of purchasers of grain.

- (3) If and when the fund is more than four million dollars (\$4,000,000), no fees shall be assessed by the department unless the amount in the fund drops below four million dollars (\$4,000,000). If the fund is more than four million dollars (\$4,000,000), no later than April 30 of each year, the board shall meet and certify the fund is in excess of four million dollars (\$4,000,000). Upon this certification, no assessment shall be assessed or collected for that licensed year. If at any time after the board has certified the four million dollar (\$4,000,000) amount, the board receives notification of the fund being less than three million dollars (\$3,000,000), the board shall within thirty (30) days certify that the fund has less than three million dollars (\$3,000,000), and the assessment shall be reinstated. Upon notification from the board, the department shall within thirty (30) days reinstate the assessment fee of .0025 times the gross value of the grain purchased.
- (4) Any producer upon and against whom the assessment is levied and collected under the provisions of this section, if dissatisfied with the assessment, may demand of and receive from the treasurer of the grain insurance corporation a refund of assessment collected from the producer, if the demand for refund is made in writing within thirty (30) days from the date on which the assessment is collected from the producer. By voluntarily submitting to a refund, the producer forgoes any protection or compensation provided for by the grain insurance corporation.
- (5) When in the judgment of the board or the duly certified association, a purchaser has engaged in or is about to engage in any acts or practices that constitute a violation of any of the provisions of KRS 251.410, 251.430, 251.440, 251.451, 251.490, and 251.600 to 251.740, the Grain Insurance Corporation may make application to the Franklin Circuit Court for an order enjoining the acts or practices, and obtain a restraining order and preliminary injunction against the purchaser.
- (6) The assessments by the department in accordance with this section are in addition to any other fees or assessments required by law.

**Approved April 21, 2006.**

## CHAPTER 215

**(HB 442)**

AN ACT relating to eggs.

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

Section 1. KRS 260.550 is amended to read as follows:

- (1) No person shall buy, sell, trade, traffic, or process eggs in Kentucky without a license issued pursuant to the egg marketing law, with the following exceptions:
  - (a) Hatcheries purchasing eggs to be used exclusively for hatching purposes;
  - (b) Hotels, restaurants, and other eating places where all eggs purchased are served in the establishment;
  - (c) Bakeries, confectioneries, and ice cream manufacturers who use eggs in a manufactured product;
  - (d) Consumers buying eggs for their own consumption; or
  - (e) Producers who sell only directly to consumers and do not exceed a sales limit of sixty (60) dozen eggs per calendar week.
- (2) Any person engaged in the act of selling shell eggs or egg products under any of the following circumstances shall have all shell eggs and egg products placed under a stop order:
  - (a) Selling or otherwise marketing shell eggs or egg products without a license;
  - (b) ***Selling or otherwise marketing shell eggs or egg products without first submitting an emergency recall plan to the department;***
  - (c) Failing to remit or pay fines owed to the department; or

~~(d)(c)~~ Failing to properly label shell eggs or egg products.

- (3) Any person natural or otherwise engaged in the act of selling shell eggs or egg products that has been cited by an inspector or agent of the department for a cause listed in KRS 260.640(8)(a) or (b) shall be placed under a withdraw from sale order until such time as the department or an authorized agent of the department rescinds the order.

Section 2. KRS 260.610 is amended to read as follows:

- (1) All eggs bought or sold by or to retailers, consumers, and institutional users by licensees shall be identified according to grade and size, using USDA standards and weight classes for consumer grades.
- (2) Eggs to be offered for sale for human consumption shall be handled to maintain and preserve the quality and grade in which they are to be offered for sale, including but not limited to, storage, transportation, temperature, and sanitation.
- (3) No person shall sell, offer or expose for sale, or have in his possession for sale, for human consumption, eggs that are inedible, including eggs that are unfit for human food in whole or in part, addled or moldy, containing black rot, white rot, or blood ring, adherent yolks, or bloody whites, incubated beyond the blood ring stage, or consisting to any extent of filthy decomposed substance.
- (4) ***No later than June 30 of each year, all packing plants and distributors shall submit an emergency recall plan to the department. The plan shall address policies and procedures that will be followed in the event of a recall of eggs or egg products pursuant to an inedible product designation, as described in subsection (3) of this section.***

Section 3. KRS 260.990 is amended to read as follows:

- (1) Any person who knowingly violates any of the provisions of KRS 260.040 to 260.120 shall, for the first offense, be fined not less than ten dollars (\$10), nor more than twenty-five dollars (\$25), for the second offense, he shall be fined not less than twenty-five dollars (\$25), nor more than fifty dollars (\$50), and for the third and each subsequent offense, he shall be fined not less than fifty dollars (\$50), nor more than two hundred dollars (\$200). Whenever a violation is with respect to a lot or shipment consisting of fifty (50) or more closed packages, there may be imposed in addition to the above penalties twenty-five cents (\$0.25) for the first offense, fifty cents (\$0.50) for the second offense and one dollar (\$1) for each subsequent offense for each package in excess of fifty (50) with respect to which the violation is committed.
- (2) Any person who violates a stop order in violation of KRS 260.550(2) shall be fined one hundred dollars (\$100) for the first offense, be fined two hundred fifty dollars (\$250) for the second offense, and have his or her license revoked or suspended or, if the person has no license, be fined one thousand dollars (\$1,000) for each subsequent offense.
- (3) Any person who violates a withdraw from sale order in violation of KRS 260.550(3) shall be guilty of a Class B misdemeanor.
- (4) ***Any person who violates KRS 260.600(4), involving an untimely payment of an assessment fee, shall be charged a penalty of ten percent (10%) of the original amount and shall be required to pay this penalty in addition to the original assessment fee. The original assessment fee and penalties shall be compounded by ten percent (10%) monthly until paid in full. Any assessment fee and penalties remaining unpaid for three (3) successive months shall result in a license revocation.***
- (5) ***Any person who fails to comply with subsection (4) of Section 2 of this Act shall be in violation of the egg marketing law and shall be subject to license suspension or revocation. In the event of a suspension or revocation, a stop order shall be issued prohibiting the sale of the product. In the event that the original producer or plant is not required to be licensed because of having no direct distribution in the state and the product is distributed through other distribution channels, the producer or plant shall have its product placed under stop order and returned to the distributor. Further distribution in the state shall be prohibited until the department receives an emergency recall plan from the original producer or plant.***



- (6) *Any person who violates any of the shell egg labeling requirements set out in KRS 260.630 more than three (3) times within a calendar year shall have his license revoked. During the revocation period, the person whose license has been revoked shall not sell, trade, traffic, or distribute eggs within the Commonwealth. A new application for consideration of reinstatement of an egg license may be submitted to the board for approval during the usual license renewal period.*

**Approved April 21, 2006.**

## CHAPTER 216

**(HB 645)**

AN ACT relating to the National Truck Network.

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

SECTION 1. A NEW SECTION OF KRS CHAPTER 177 IS CREATED TO READ AS FOLLOWS:

*The United States Route 431 from the junction of the Wendell H. Ford Western Kentucky Parkway to the Kentucky and Tennessee border shall be designated as part of the National Truck Network established pursuant to the federal Surface Transportation Assistance Act of 1982.*

**Approved April 21, 2006.**

## CHAPTER 217

**(SB 122)**

AN ACT relating to recreational vehicles.

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

SECTION 1. A NEW SECTION OF KRS CHAPTER 227 IS CREATED TO READ AS FOLLOWS:

- (1) *All recreational vehicles sold, leased, or offered for sale or lease by a retailer to a consumer in this state shall be constructed in accordance with the most recent ANSI standards on recreational vehicles.*
- (2) *All park vehicles sold, leased, or offered for sale or lease by a retailer to a consumer in this state shall be constructed in accordance with the most recent ANSI standards on park vehicles.*

Section 2. KRS 227.550 is amended to read as follows:

As used in this section to KRS 227.660, 227.990, and 227.992, unless the context requires a different definition:

- (1) "Board" means the Manufactured Home Certification and Licensure Board~~{ or the Recreational Vehicle Certification and Licensure Board}~~.
- (2) "Seal" means the United States Department of Housing and Urban Development seal for manufactured homes~~{ and the Class A Seal for recreational vehicles}~~.
- (3) "Class B1 Seal" and "Class B2 Seal" mean seals issued pursuant to subsection (1)~~{(3)}~~ of KRS 227.600.
- (4) "Retailer" means any person, firm, or corporation, who sells or offers for sale two (2) or more manufactured homes, mobile homes, or recreational vehicles in any consecutive twelve (12) month period. The term "retailer" shall not include:
  - (a) A manufacturer, as defined in this section;
  - (b) Any bank, trust company, or lending institution that is subject to state or federal regulation, with regard to the disposition of its own repossessed manufactured housing; or
  - (c) A licensed real estate agent who acts as a negotiator between an owner and a prospective purchaser and does not acquire ownership or possession of manufactured homes for resale purposes.
- (5) "Established place of business" means a fixed and permanent place of business in this state, including an office building and hard surface lot of suitable character and adequate facilities and qualified personnel, for the

purpose of performing the functional business and duties of a retailer, which shall include the books, records, files, and equipment necessary to properly conduct such business, or a building having sufficient space therein in which the functional duties of a retailer may be performed. The place of business shall not consist of a residence, tent, temporary stand, or open lot. It shall display a suitable sign identifying the retailer and his business.

- (6) "Federal act" means the National Manufactured Housing Construction and Safety Standards Act of 1974, 42 U.S.C. secs. 5401 et seq., as amended, and rules and regulations issued thereunder.
- (7) "Manufactured home" means a single-family residential dwelling constructed in accordance with the federal act, manufactured after June 15, 1976, and designed to be used as a single-family residential 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. The manufactured home may also be used as a place of business, profession, or trade by the owner, the lessee, or the assigns of the owner or lessee and may comprise an integral unit or condominium structure. Buildings the construction of which is not preempted by the federal act are subject to building code requirements of KRS Chapter 198B.
- (8) "Factory-built housing" means manufactured homes, mobile homes,~~[-recreational vehicles,]~~ or mobile office units.
- (9) "Manufacturer" means any person who manufactures manufactured homes~~[-or recreational vehicles]~~ and sells to Kentucky retailers.
- (10) "Mobile home" means a factory-built structure manufactured prior to June 15, 1976, which was not required to be constructed in accordance with the federal act.
- (11) "Office" means the office of the state fire marshal.
- (12) "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 ***not requiring a special permit for movement on Kentucky highways.***~~[- It shall include recreational vehicles which are regulated as to length, width, and registration by KRS Chapter 186.]~~ The basic entities are: travel trailer, camping trailer, truck camper, motor home, and park vehicle.
  - (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 campers: 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 pickup truck.
  - (d) Park vehicle: A vehicle which:
    1. Is built on a single chassis mounted on wheels;
    2. Is primarily designed as temporary living quarters for seasonal or destination camping and which may be connected to utilities necessary for operation of installed fixtures and appliances;
    3. Has a gross trailer area not exceeding four hundred (400) square feet in the set-up mode;
    4. Has a gross trailer area not less than two hundred forty (240) square feet and is certified by the manufacturer as complying with ANSI A119.5, Park Vehicles.
  - (e) 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.
- (13) "Secretary" means the Secretary of the Federal Department of Housing and Urban Development.
- (14) "ANSI" means the American National Standards Institute.

Section 3. KRS 227.580 is amended to read as follows:

- (1) It is unlawful for any manufacturer to manufacture, import, or sell manufactured homes ~~or recreational vehicles~~ within this state unless such manufacturer has been issued a certificate of acceptability for such manufactured homes ~~or recreational vehicles~~ from the office. This provision shall not, however, apply to manufactured homes ~~or recreational vehicles~~ manufactured in this state and designated for delivery to and sale in *another* ~~a~~ state ~~that has a code that is inconsistent with KRS 227.550 to 227.660~~.
- (2) The office shall require that the manufacturer establish and submit to the office for approval systems for quality control for recreational vehicles prior to the issuance of a certificate of acceptability. {
  - ~~(a) The office shall issue a certificate of acceptability to any manufacturer within or without this state upon receipt of an application from such manufacturer to which is attached an affidavit certifying that any recreational vehicle manufactured by the applicant shall be built in compliance with the applicable code adopted by the Recreational Vehicle Certification and Licensure Board.~~
  - ~~(b) Certificates of acceptability shall be numbered and a record shall be kept by the office, by number, of the certificates issued to manufacturers.~~
- (3) No manufacturer to which a certificate of acceptability has been issued shall modify in any way its manufacturing specifications without prior written approval of the office.
- ~~{(4) The office may determine that the standards for recreational vehicles established by a state or a recognized body or agency of the federal government or other independent third party are at least equal to those standards adopted by the Recreational Vehicle Certification and Licensure Board. If the office finds that such standards are actually enforced then it may issue a certificate of acceptability for such recreational vehicles.}~~

Section 4. KRS 227.590 is amended to read as follows:

- (1) The board shall make and the office shall enforce rules and regulations reasonably required to effectuate the provisions of KRS 227.550 to 227.660 and to carry out their responsibilities as a state administrative agency for the enforcement and administration of the federal act.
- (2) At least thirty (30) days before the adoption or promulgation of any change in or addition to the rules and regulations authorized in subsection (5) of this section the office shall mail to all manufacturers possessing valid certificates of acceptability and retailers possessing valid licenses a notice including a copy of the proposed changes and additions and the time and place that the board will consider any objections to the proposed changes and additions. After giving the notice required by this section, the board shall afford interested persons an opportunity to participate in the rule making through submission of written data, views, or arguments with or without opportunity to present the same orally in any manner.
- (3) Every rule or regulation or modification, amendment, or repeal of a rule or regulation adopted by the board shall state the date it shall take effect.
- (4) Notwithstanding the provisions of KRS 227.550 to 227.660, the board shall have the authority to promulgate rules and regulations exempting manufacturers and retailers from the provisions of KRS 227.550 to 227.660 when manufactured homes *or* ~~,~~ mobile homes ~~, and recreational vehicles~~ are brought into this state for exhibition only.
- (5) All rules, regulations, codes, fees, and charges adopted by the board pursuant to KRS 227.550 to 227.660 shall be prepared and filed in accordance with KRS Chapter 13A.
- (6) The board shall have the authority to promulgate rules and regulations to issue temporary licenses, not to exceed thirty (30) days, to out-of-state retailers for the purpose of participating in manufactured home ~~and recreational vehicle~~ shows in the Commonwealth of Kentucky.

Section 5. KRS 227.600 is amended to read as follows:

- ~~(1) No manufacturer who has received a certificate of acceptability from the office may sell or offer for sale in this state any recreational vehicles unless they bear a seal of approval issued by and purchased from the office.~~
- ~~(2) Seals issued by the office shall be numbered and shall be affixed by the manufacturer to the recreational vehicle in a conspicuous place.~~

- ~~(3)}~~ Any retailer who has acquired a previously owned manufactured home, mobile home, or recreational vehicle without a seal shall apply to the office for the appropriate seal by submitting an affidavit that the unit has been brought up to or meets reasonable standards established by the board for previously owned manufactured homes, mobile homes, or recreational vehicles. Those manufactured homes or mobile homes taken in trade must be reinspected and certified. A numbered Class B1 Seal shall be affixed by the retailer to the unit prior to sale. A seal will not be required if such retailer submits an affidavit that the unit will not be resold for use as such by the public. A retailer shall not transport or install a manufactured or mobile home which is to be used for residential purposes which does not have a Class B1 Seal.
- ~~(2){(4)}~~ The owner of any manufactured home or mobile home which is not covered by the federal act *and which was*~~for a recreational vehicle~~ purchased in another state and not bearing a seal of approval shall purchase a seal from the office. Application to purchase a seal of approval shall be made to the office or other person or agency authorized by the state fire marshal.
- ~~(3){(5)}~~ The office shall make available suitable forms for application for seals of approval for~~new and previously owned recreational vehicles and for~~ previously owned manufactured homes or mobile homes which are not covered by the federal act and *for previously owned* recreational vehicles.
- ~~(4){(6)}~~ The clerk of the county in which a manufactured home, mobile home, or *previously owned* recreational vehicle is sought to be registered after June 1, 1976, which was purchased out of Kentucky, shall require production of proof of purchase of a seal of approval as provided in subsection ~~(2){(4)}~~ of this section before registering or issuing a license for any manufactured home, mobile home, or *previously owned* recreational vehicle.

Section 6. KRS 227.620 is amended to read as follows:

- (1) No retailer shall engage in business as such in this state without a license therefor as provided in KRS 227.550 to 227.660.
- (2) Application for license shall be made to the board at such time, in such form and contain such information as the board shall require and shall be accompanied by the required fee. The board may require in such application, or otherwise, such information as it deems commensurate with the safeguarding of the public interest in the locality in which said applicant proposes to engage in business, all of which may be considered by the board in determining the fitness of said applicant to engage in business as set forth in KRS 227.550 to 227.660.
- (3) All licenses shall be granted or refused within thirty (30) days after application. The initial license for a retailer shall expire on the last day of the licensee's birth month in the following year. The board may reduce the license fee on a pro rata basis for initial licenses issued for less than twelve (12) months. Renewed licenses shall expire on the last day of the licensee's birth month of each year after the date of issuance of the renewed license.
- (4) The license fee for such calendar year or part thereof shall be established by the board, subject to the following maximums:
  - (a) For manufacturers a "certificate of acceptability" shall be subject to a maximum of five hundred dollars (\$500).
  - (b) For retailers the maximum license fee shall be two hundred fifty dollars (\$250) for each established place of business.
  - (c) The fee for a ~~"Class A Seal" or a~~ "Class B Seal" for recreational vehicles shall be~~established by the board subject to a maximum of~~ twenty-five dollars (\$25) per seal *and the application form and seal shall be made available from the office.*
  - (d) The fee for a "Class B1 Seal" and "Class B2 Seal" for manufactured and mobile homes shall be established by the board subject to a maximum of twenty-five dollars (\$25) per seal.
  - (e) The office may establish a monitoring inspection fee in an amount established by the secretary. This monitoring inspection fee shall be an amount paid by each manufactured home manufacturer in this state for each manufactured home produced by the manufacturer in this state. The monitoring inspection fee shall be paid by the manufacturer to the secretary or the secretary's agent, who shall distribute the fees collected from all manufactured home manufacturers among the states approved and conditionally approved by the secretary based on the number of new manufactured homes whose first location after

leaving the manufacturing plant is on the premises of a distributor, retailer, or purchaser in that state, and the extent of participation of the state in the joint team monitoring program established under the National Manufactured Housing Construction and Safety Standards Act of 1974, as amended.

- (5) All revenues raised through the provisions of subsections (4)(a), (b), and (c), and funds paid to the state by the secretary under the provisions of subsection (4)(d) of this section shall be deposited in a trust and agency fund and shall be used solely for the purpose of carrying out the provisions of KRS 227.550 to 227.660 and other departmental responsibilities. No amount of such trust and agency fund shall lapse at the end of any fiscal year.
- (6) The licenses of retailers shall specify the location of the established place of business and must be conspicuously displayed there. In case such location be changed, the retailer shall notify the office of any change of location, and the office shall endorse the change of location on the license without charge if it be within the same municipality. A change of location to another municipality or to a county which is not adjacent to the county where the business is located shall require a new license.
- (7) Every retailer licensed in accordance with the provisions of this section shall make reports to the office at such intervals and showing such information as the office may require.
- (8) Each manufacturer, distributor of manufactured homes or mobile homes, and retailer of manufactured or mobile homes shall establish and maintain such records, make such reports, and provide such information as the office or the secretary may reasonably require to be able to determine whether such manufacturer, distributor, or retailer has acted or is acting in compliance with KRS 227.550 to 227.660 or the federal act and shall, upon request of a person duly designated by the office or secretary, permit such person to inspect appropriate books, papers, records, and documents relevant to determining whether such manufacturer, distributor, or retailer has acted or is acting in compliance with KRS 227.550 to 227.660 or the federal act.

Section 7. KRS 227.640 is amended to read as follows:

- (1) The board may deny the application for a license, certification, or certificate of acceptability within thirty (30) days after receipt thereof by written notice to the applicant, stating the grounds for such denial.
- (2) No license, certification, or certificate of acceptability shall be suspended or revoked by the board unless the licensee or certificate holder is afforded the opportunity for a hearing to be conducted in accordance with KRS Chapter 13B.
- (3) Any manufacturer, certified installer, or licensed retailer who violates or fails to comply with KRS 227.550 to 227.660 or any administrative regulations promulgated thereunder shall be notified in writing setting forth facts describing the alleged violation and instructed to correct the violation, if it is correctable, within twenty (20) days. Should the manufacturer, certified installer, or retailer fail to make the necessary corrections within the specified time or if the violation is not correctable, the board may, after notice and hearing in accordance with KRS Chapter 13B, suspend or revoke any certificate of acceptability, certification, or license if it finds that:
  - (a) The manufacturer, certified installer, or retailer has failed to pay the fees authorized by KRS 227.550 to 227.660; or that
  - (b) The manufacturer, certified installer, or retailer, either knowingly or without the exercise of due care to prevent the same, has violated any provision of KRS 227.550 to 227.660 or any administrative regulation or order lawfully made pursuant to and within the authority of KRS 227.550 to 227.660; or that
  - (c) The manufacturer has shipped or imported into this state a manufactured home ~~or a~~ mobile home ~~or a recreational vehicle~~ to any person other than to a duly licensed retailer.

The office shall set out, through the promulgation of administrative regulations in accordance with the provisions of KRS Chapter 13A, and shall provide for a dispute resolution process which may be used prior to a formal hearing under KRS Chapter 13B. The dispute resolution process shall be nonbinding on the licensee, certified installer, or manufacturer and shall be conducted after application for a KRS Chapter 13B hearing, but prior to the convening of the KRS Chapter 13B hearing.

- (4) Any person aggrieved by any final order of the state fire marshal may appeal to the Franklin Circuit Court in accordance with KRS Chapter 13B.

Section 8. KRS 227.650 is amended to read as follows:

- (1) The office is empowered to inspect all mobile homes which are not covered by the federal act and ***previously owned*** recreational vehicles for which it has issued a seal of approval.
- (2) The office may establish and require such training programs in the concept, techniques, and inspection of manufactured homes, mobile homes, and ***previously owned*** recreational vehicles for the personnel of local governments, as the office considers necessary.
- (3) The staff of the office, upon showing proper credentials and in the discharge of their duties pursuant to KRS 227.550 to 227.660 or the federal act, is authorized with the consent of the manufacturer or by proper warrant to enter and inspect all factories, warehouses, or establishments in this state in which manufactured homes are manufactured or stored.

Section 9. KRS 227.660 is amended to read as follows:

The office, subject to the provisions of Chapter 18A and Chapter 64 of the Kentucky Revised Statutes, may set qualifications, employ, and fix the compensation of such state inspectors as the office deems necessary to carry out the functions of KRS 227.550 to 227.650. To carry out the provisions of KRS 227.550 to 227.650, the office may authorize the state inspectors to travel within or without the state for the purposes of inspecting the manufacturing facilities for manufactured homes ~~and recreational vehicles~~ or for any other purpose in connection with KRS 227.550 to 227.650.

Section 10. The following KRS section is repealed:

227.565 Recreational Vehicle Certification and Licensure Board -- Membership -- Compensation -- Meetings.

**Approved April 21, 2006.**

## CHAPTER 218

(HB 462)

AN ACT relating to mortgage banking.

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

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

Unless the context otherwise requires:

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

(8) "Mortgage loan broker" means any person who for compensation or gain, or in the expectation of compensation or gain, directly or indirectly:

- (a) Holds himself out as being able to serve as an agent for any person in an attempt to obtain a loan which will be secured by a mortgage on residential real property; or
- (b) Holds himself out as being able to serve as an agent for any person who has money to loan, which loan is or will be secured by a mortgage on residential real property.

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

- (9) "Loan officer" or "originator" means an individual who discusses or negotiates the rates, terms, and conditions of a loan with a borrower or prospective borrower. The term does not mean a person who performs functions of a loan processor, nor does it mean an individual who performs only clerical functions such as delivering a loan application to a mortgage loan broker or mortgage loan company or gathering information related to a mortgage loan application on behalf of the prospective borrower, mortgage loan broker, or mortgage loan company;
- (10) "Loan processor" means an individual who works under the instruction of a loan officer or mortgage loan broker and performs only clerical functions such as gathering information, requesting information, word processing, sending correspondence, or assembling files; and
- (11) "Classroom" means a physical classroom environment in which teachers and participants are physically present for the teaching of a course. Courses taught through the Internet, mail, or correspondence classes shall not be considered to be courses taught in a classroom.

Section 2. KRS 294.020 is amended to read as follows:

(1) The following shall be exempt from this chapter:

- (a) Any person duly licensed, chartered, or otherwise subject to regular examination at least once every two (2) years by a state or federal financial institution regulatory agency under the laws of this state or any other state or the United States as a bank, bank holding company, trust company, credit union, savings and loan association, service corporation subsidiary of savings and loan associations, ~~consumer loan or finance company, industrial loan company,~~ insurance company, real estate investment trust as defined in 26 U.S.C. sec. 856, an institution of the farm credit system organized under the Farm Credit Act of 1971 as amended, or any wholly owned subsidiary or affiliate, or any mortgage loan broker, loan officer, originator, or loan processor employed by any such person, or by a subsidiary or affiliate of any ~~person~~ **institution** listed in this paragraph ~~if the institution maintains a place of business in Kentucky~~;
- (b) An attorney-at-law licensed to practice law in Kentucky who is not principally engaged in the business of negotiating mortgage loans, when the person renders services in the course of his practice as an attorney-at-law;
- (c) Any person doing any act under order of any court;
- (d) The United States of America, the Commonwealth of Kentucky, or any other state, ***district, territory, commonwealth or possession of the United States of America***, and any ~~Kentucky~~ city, county, or other political subdivision, and any agency, division, or corporate instrumentality of any of the foregoing;
- (e) The Federal National Mortgage Association (FNMA), the Federal Home Loan Mortgage Corporation (FHLMC), and the Government National Mortgage Association (GNMA); ~~and~~
- (f) Any mortgage loan involving housing initially transferred by certificate of title under KRS Chapter 186A;
- (g) ***A consumer loan or finance company or an industrial loan company licensed under KRS Chapter 288 or 291 whose primary business is originating consumer or industrial loans as provided under KRS Chapter 288 or 291, or any wholly owned subsidiary or affiliate of such a consumer loan or finance company or an industrial loan company, or any mortgage loan broker, loan officer,***

*originator, or loan processor employed by any such person, or by a wholly owned subsidiary or affiliate of any such consumer loan or finance company or an industrial loan company, except that they shall be subject to the prohibited acts of paragraphs (e) and (f) of subsection (2) of Section 6 of this Act and KRS 294.110(4); and*

- (h) *A nonprofit organization that is recognized as tax-exempt under 26 U.S.C. sec. 501(c)(3) and authorized to do business in this Commonwealth, and that has affordable housing as a primary purpose in its operations, except that any mortgage loan broker, loan officer, or originator who is an employee of a mortgage loan company, mortgage loan broker, or a nonprofit organization shall be subject to the provisions of Sections 7 and 8 of this Act.*
- (2) The following shall be exempt from all the provisions of this chapter except that they shall be subject to the examination or investigation provisions of KRS 294.170(4), (5), and (6), 294.180, and 294.190 if it appears on grounds satisfactory to the executive director~~[, on written complaint,]~~ that an examination or investigation is necessary; and they shall be subject to the prohibited acts provisions of KRS 294.220; and any mortgage loan broker, loan officer, or originator who is an employee of a mortgage loan company or mortgage loan broker regulated by the Department of Housing and Urban Development shall be subject to KRS 294.255 and 294.260:
  - (a) A mortgage loan ~~company[companies]~~ or mortgage loan **broker approved and**~~[brokers]~~ regulated by the *United States* Department of Housing and Urban Development **to perform business in this Commonwealth;**
  - (b) *Any branch of a mortgage loan company or mortgage loan broker listed in paragraph (a) of this subsection, provided the branch is approved and regulated by the United States Department of Housing and Urban Development to perform business in this Commonwealth;*
  - (c) Any natural person making a mortgage loan with his or her own funds for the person's own investment without intent to resell the mortgage loan;
  - (d)~~[(e)]~~ Any person doing business under the laws of this state or the United States relating to any broker-dealer, agent, or investment adviser duly registered with the Office of Financial Institutions;
  - ~~[(d)]~~ ~~Any person licensed in this state as a real estate broker or real estate sales associate, not actively engaged in the business of negotiating loans secured by real property, when the person renders the services in the course of his or her practice as a real estate broker or real estate associate;]~~ and
  - (e) Any person making less than five (5) mortgage loans per year, who shall notify the Office of Financial Institutions of each loan made, in such written form and manner as required by the office.
- (3) Any person relying upon an exemption under subsection (1)(h), (2)(a), (b)~~[(c)]~~, or (d) of this section shall file with the executive director a claim of exemption. The executive director shall ~~allow~~~~[thereafter determine the availability of the claimed exemption and he shall not disallow]~~ an exemption that is validly claimed.
- (4) *Any person relying upon an exemption under paragraph (a) or (b) of subsection (2) of this section shall fund or broker a minimum of twelve (12) Federal Housing Administration-insured loans on Kentucky properties each year in order to maintain its exemption.*
- (5) *Any person relying upon an exemption under paragraph (a) or (b) of subsection (2) of this section who ceases to be approved or regulated by the Department of Housing and Urban Development shall notify the executive director, in writing, within ten (10) days after it ceases to be regulated by the United States Department of Housing and Urban Development.*
- (6) Any person listed in subsection (1)(a), (b), (c), (d),~~[(e)]~~ (e), (f), or (g) of this section shall not be required to file with the executive director a claim of exemption.
- (7)~~[(5)]~~ (a) Any natural person making a loan under subsection (2)(c)~~[(b)]~~ of this section shall make the following disclosure, on a separate sheet of paper in minimum eighteen (18) point type, to the borrower:

#### DISCLOSURE

(Name and address of lender) is not licensed or regulated by the Kentucky Office of Financial Institutions.

(Name of lender) is making this mortgage loan with his or her own funds, for the person's own investment, without intent to resell the mortgage loan.



(The phone number and address of the Kentucky Office of Financial Institutions.)

- (b) A copy of the disclosure, signed by the borrower, shall be maintained by the natural person for a period not to exceed three (3) years after the date the mortgage loan is paid in full.
- (c) This subsection shall not apply to a natural person under subsection (2)(c)(b) of this section making less than five (5) mortgage loans per year.

- (8) ***Any person relying upon an exemption under paragraph (a) or (b) of subsection (2) of this section shall provide a list of funded or brokered Federal Housing Administration-insured loans for the previous calendar year to the executive director by January 15 of each year on a form prescribed by the executive director.***

Section 3. KRS 294.032 is amended to read as follows:

- (1) A license as a mortgage loan company or a mortgage loan broker may be obtained by filing a written application with the executive director.
- (2) The application shall:
  - (a) Be sworn to;
  - (b) State the name of the applicant and each of the applicant's affiliates engaged in business as a mortgage loan company or a mortgage loan broker;
  - (c) State the name under which the applicant will conduct business in Kentucky;
  - (d) State the location of the applicant's principal office and branch offices in Kentucky;
  - (e) List the name, residence, and business address of each person having an interest in the business as principal, partner, officer, trustee, and director, specifying the capacity and title of each;
  - (f) Indicate the general plan and character of the business;
  - (g) Contain a corporate surety bond or other instrument as prescribed by KRS 294.060;
  - (h) If applying for a mortgage loan broker license, contain a compiled financial statement of the applicant; or, if applying for a mortgage loan company license, contain a reviewed or audited financial statement of the applicant prepared by a licensed or certified public accountant;
  - (i) Require payment of the appropriate registration fees; and
  - (j) Require such other information as the executive director determines necessary.
- (3) No mortgage loan company license may be granted unless the applicant has and maintains, so long as the license is in effect, a minimum, documented funding source of ***one million dollars (\$1,000,000)*** ~~five hundred thousand dollars (\$500,000)~~. If a mortgage loan company has a net worth in excess of ***one million dollars (\$1,000,000)*** ~~five hundred thousand dollars (\$500,000)~~, an additional funding source is not required.
- (4) A license issued to a mortgage loan company or a mortgage loan broker shall entitle all officers and employees of the person, if a corporation, and all members, partners, trustees, and employees, if an association, partnership, natural person, or trust, to engage in the mortgage loan business licensed pursuant to this chapter, subject to the applicable registration requirements of KRS 294.255 and 294.260.
- (5) If a licensee desires to establish a branch office in Kentucky not already approved, the licensee shall file a registration statement with the executive director that includes the address and telephone number of the branch office, the name of the prospective manager, the anticipated opening date, and any other information prescribed by the executive director.
- (6) ***Each applicant for a mortgage loan broker license shall have at least one (1) owner who owns at least twenty percent (20%) of the applicant and shall provide the executive director sufficient proof of a minimum of two (2) years' experience working in the mortgage industry. The executive director shall determine from the application whether an applicant has sufficient experience to meet this requirement.***
- (7) All applicants for a mortgage loan broker license shall have successfully completed an educational training course, approved by the office, of not less than thirty (30) classroom hours' duration. Mortgage loan brokers who have held a license for at least one (1) year shall be exempt from this requirement. This section shall not

become effective until the office has approved at least one (1) educational training course. This section shall not apply to renewals of existing licenses.

- (8)(7) (a) On and after June 24, 2003, the application for a mortgage loan broker license shall state the address of the physical location where the business is to be located in compliance with KRS 294.250 and whether such location is a residence. Photographs of the exterior, interior, and exterior sign of each location shall accompany the application. If the physical location is not a residence and is leased, the lease shall be for a term of at least one (1) year and a copy of the lease and the names of all employees conducting business under the lease shall accompany the application. If the physical location is a residence, proof that the location is a residence, in a form as required by the executive director, shall accompany the application. Proof of residence shall confirm that the mortgage loan broker owns or leases the residence and lives in the residence as the mortgage loan broker's main residence. Proof of physical location shall include proof that local zoning requirements are satisfied.
- (b) The information required by paragraph (a) of this subsection shall be required for renewals of existing licenses which will expire on June 30, 2004~~, and for all renewals of licenses thereafter~~.
- (c) At least ten (10) days prior to the effective date of an address change of the mortgage loan broker's physical location, the mortgage loan broker shall notify the executive director in writing of the address change and shall include the information required by paragraph (a) of this subsection.

Section 4. KRS 294.060 is amended to read as follows:

- (1) Except as otherwise provided in this section, at the time of filing an application *or renewal* for registration as a mortgage loan company or mortgage loan broker, the applicant shall post corporate surety bonds in an amount not less than *two hundred fifty thousand dollars (\$250,000)*~~one hundred thousand dollars (\$100,000)~~ for mortgage loan companies and not less than fifty thousand dollars (\$50,000) for mortgage loan brokers. Every bond shall provide for suit thereon by any person who has a cause of action under this chapter. The total liability of the surety, to all persons, cumulative or otherwise, shall not exceed the amount specified in the bond. Every bond shall provide that no suit shall be maintained to enforce any liability on the bond unless brought within three (3) years after the act upon which it is based.
- (2) In lieu of posting corporate surety bonds, the applicant may:
- (a) Deposit with the executive director an irrevocable letter of credit for an amount equal to the required bond upon which the applicant is the obligor, issued by a bank approved by the executive director, whose deposits are insured by the Federal Deposit Insurance Corporation;
  - (b) Establish an account payable to the executive director in a federally insured financial institution in this state and deposit money of the United States in an amount equal to the amount of the required bond; or
  - (c) Deposit with the executive director an escrow agreement for a savings certificate of a federally insured financial institution in this state for an amount payable which is equal to the amount of the required bond and which is not available for withdrawal except by direct order of the executive director. Interest earned on the certificate accrues to the applicant.
- (3) If the executive director or the executive director's representative shall at any time reasonably determine that the bond or securities aforesaid are insecure, deficient in amount, or exhausted in whole or part, he may by written order require the filing of a new or supplemental bond or the deposit of new or additional securities in order to secure compliance with this chapter, the order to be complied with within thirty (30) days following service thereof upon the registrant.

Section 5. KRS 294.090 is amended to read as follows:

- (1) The executive director may~~deny,~~ suspend,~~or~~ revoke, *place on probation, condition, refuse to issue or renew a license, registration, or exemption, or accept surrender of a license, registration, or exemption in lieu of revocation or suspension, or issue a cease and desist order, if the executive director finds that the applicant, licensee, mortgage loan company, mortgage loan broker, or loan officer*~~any license when the applicant or licensee~~:
- (a)~~(1)~~ Does not meet or has failed to comply with the requirements of this chapter;
  - (b)~~(2)~~ Is unfit through lack of financial responsibility or experience to conduct the business of a mortgage loan company or mortgage loan broker, as the case may be;

- (c)~~[(3)]~~ Does not conduct his business in accordance with law or the method of business includes or would include activities which are illegal where performed, or has willfully violated any provision of this chapter or any regulation hereunder;
  - (d)~~[(4)]~~ Collects interest at a usurious rate;
  - (e)~~[(5)]~~ Is in such financial condition that he cannot continue in business with safety to his customers;
  - (f)~~[(6)]~~ Has been guilty of fraud in connection with any transaction governed by this chapter, or is the subject of an administrative cease and desist order or similar order, or a permanent or temporary injunction of any court of competent jurisdiction entered under any other federal or state act applicable to the registrant; but the executive director may not institute a proceeding under this subsection more than one (1) year from the date of the order or injunction relied on, and he may not enter an order under this subsection on the basis of an injunction entered under any other state act unless that order or injunction was based on facts which would currently constitute a ground for an order under this section;
  - (g)~~[(7)]~~ Has made any misrepresentations or false statements to, or concealed any essential or material fact from, any person in the course of acting as a mortgage loan company or mortgage loan broker, or has engaged in a course of business which has worked or tended to work a fraud upon any person or would so operate;
  - (h)~~[(8)]~~ Has ~~knowingly~~ made or caused to be made to the executive director any false representation of material fact or has suppressed or withheld from the executive director any information which the applicant or licensee **or mortgage loan broker or loan officer** possesses, and which if submitted by him would have rendered the applicant or licensee **or mortgage loan broker or loan officer** ineligible to be licensed **or registered** under this chapter;
  - (i)~~[(9)]~~ Has failed to account to persons interest for all funds received for the escrow account required under KRS 294.130;
  - (j)~~[(10)]~~ Has refused to permit an examination by the executive director of his books and affairs or has refused or failed, within a reasonable time, to furnish any information or make any report that may be required by the executive director under the provisions of this chapter;
  - (k)~~[(11)]~~ Has been convicted of any misdemeanor of which an essential element is fraud, **breach of trust, or dishonesty**, or any felony, or has pending against him any felony charge;~~[-or]~~
  - (l)~~[(12)]~~ Has had any license **or registration** related to the financial services industry denied, suspended, or revoked under the laws of this state or any other state or the United States, **or has surrendered or terminated any license or registration issued by this state or any other jurisdiction under threat of administrative action**;
  - (m) **Has employed or contracted with a person who has failed to register or has had a license or registration denied, revoked, or suspended in this Commonwealth or another state; or**
  - (n) **Has demonstrated incompetence or untrustworthiness to act as a licensee or registrant.**
- (2) ***Persons whose license, registration, or claim of exemption has been denied, suspended, revoked, or surrendered in lieu of revocation or suspension under this section are prohibited from participating in any business activity of a registrant or licensee under this chapter and from engaging in any business activity on the premises where a licensee or registrant under this chapter is conducting its business.***
  - (3) ***The executive director shall execute a written order whenever a license, registration, or claim of exemption issued pursuant to this chapter is suspended or revoked. The executive director shall serve the written order upon the licensee, registrant, or person claiming the exemption. The written order shall be sent by certified mail, return receipt requested, postage prepaid, to the last known principal business address of such licensee, registrant, or person claiming the exemption, as set forth in the records of the executive director. The written order shall be deemed to have been received by the licensee, registrant, or person claiming the exemption three (3) business days following the mailing thereof.***
  - (4) ***Any person who continues to participate in any business activity covered by this chapter after such person's license, registration, or claim of exemption has been revoked, suspended, or denied shall be subject to the penalties in KRS 294.990 and shall be in violation of KRS 367.170.***

- (5) *Any person who has had a license, registration, or claim of exemption denied by the executive director shall not be eligible to apply for a license, registration, or claim of exemption under this chapter until after expiration of one (1) year from the date of denial.*
- (6) *Any person who has had a license, registration, or claim of exemption revoked by the executive director shall not be eligible to apply for a license, registration, or claim of exemption under this chapter until after expiration of three (3) years from the date of revocation. A person whose license, registration, or claim of exemption has been revoked twice shall be deemed permanently revoked and shall not again be eligible for a license, registration, or claim of exemption under this chapter.*
- (7) *The provisions of this section shall be in addition to any other penalties or remedies available, including the penalties of KRS 294.990.*
- (8) *The executive director may notify the Department of Revenue which may institute an action in the name of the Commonwealth of Kentucky, in the Franklin Circuit Court, or any court of competent jurisdiction, for the recovery of any civil penalty, fine, cost, or fee assessed or levied under this chapter.*
- (9) *The executive director may file a complaint in the Franklin Circuit Court, or any court of competent jurisdiction, for a temporary restraining order or injunction, against any person, where the executive director has reason to believe from evidence satisfactory to the executive director that such person has violated, or is about to violate, a provision in this chapter, for the purpose of restraining and enjoining such person from continuing or engaging in the violation or doing any act in furtherance thereof. The court shall have jurisdiction over the proceeding and shall have the power to enter an order or judgment awarding preliminary or final injunctive relief that is proper. Any person who violates a temporary restraining order or injunction issued by the court entered as a result of a violation of this chapter shall be held in contempt of court.*

Section 6. KRS 294.220 is amended to read as follows:

- (1) It shall be unlawful for any person to make or cause to be made, in any document filed with the executive director or in any proceeding under this chapter, any statement which is, at the time and in light of the circumstances under which it is made, false or misleading in any material respect.
- (2) It shall be unlawful for any mortgage loan company or mortgage loan broker, in connection with the operation of a mortgage loan business or the management or servicing of mortgage contracts, directly or indirectly:
  - (a) To employ a device, scheme, or artifice to defraud;
  - (b) To engage in any act, practice, or course of business which operates or would operate as a fraud or deceit upon any person;
  - (c) To fail to disburse funds in accordance with a loan commitment;
  - (d) To delay closing of any mortgage loan for the purpose of increasing interest, costs, fees, or charges payable by the borrower;
  - (e) Upon receipt of a customer's written request, to delay beyond *five (5)*~~two (2)~~ business days the issuance of a written loan payoff amount or to delay beyond ten (10) business days the issuance of a payment history; or
  - (f) To charge a fee for the issuance of an initial written loan payoff amount or payment history for each calendar quarter as set out in paragraph (e) of this subsection.
- (3) Unless exempted by KRS 294.020, and, if required by KRS 294.020(3) to file a claim of exemption, has filed a claim of exemption and the filed claim of exemption has been allowed by the executive director, it shall be unlawful for any person to transact any mortgage loan business in this state unless it:
  - (a) Qualifies to do business in Kentucky as required by KRS Chapter 271B; and
  - (b) Complies with the provisions of this chapter.

Section 7. KRS 294.255 is amended to read as follows:

- (1) Beginning July 1, 2004, and annually thereafter, no mortgage loan broker and no loan officer shall originate mortgage loans in Kentucky unless such mortgage loan broker or loan officer is registered with the office and has been issued a certificate of registration by the office. The office shall maintain a registry of all mortgage

loan brokers and loan officers originating mortgage loans in Kentucky. The office shall issue a certificate of registration to all registered mortgage loan brokers and loan officers.

- (2) The registration shall:
  - (a) Be on a form prescribed by the executive director;
  - (b) Be accompanied by a registration fee in the amount of fifty dollars (\$50) which shall be used solely by the office to establish and maintain the registry system required by this section and any excess funds shall be retained by the office and shall not lapse to the general fund;
  - (c) In the case of initial registrations of loan officers *or mortgage loan brokers*, be accompanied by satisfactory evidence that the applicant has successfully completed twelve (12) classroom hours of education courses related directly to the mortgage loan process or brokerage business, as approved by the executive director. This paragraph shall not apply to renewals of existing certificates of registration; and
  - (d) Beginning July 1, 2005, in the case of renewals of certificate of registrations by registered mortgage loan brokers and registered loan officers, be accompanied by satisfactory evidence that the individual has successfully met the continuing education requirements of KRS 294.260 and by a renewal fee in the amount of fifty dollars (\$50). The renewal fee shall be used solely by the office to establish and maintain the registry system required by this section and any excess funds shall be retained by the office and shall not lapse to the general fund.
- (3) *The executive director may issue for good cause a temporary certificate of registration for a period not to exceed one hundred eighty (180) days to a mortgage loan officer or mortgage loan broker who is awaiting the completion of a criminal records background check or is in the process of fulfilling the initial education requirements pursuant to this section. The temporary certificate of registration shall expire automatically by operation of law in one hundred eighty (180) days from the date of issuance if the application is not complete. No more than one (1) temporary certificate of registration will be issued within an eighteen (18) month period.*
- (4) *A certificate of registration shall be renewed by June 20 of each year. Any certificate of registration shall automatically expire by operation of law by midnight on June 30 of the same year, if a properly completed renewal application is not submitted, with a renewal fee as required in this section. Any certificate of registration that has expired may be reinstated by the executive director upon payment of the annual registration fee, and a reinstatement fee of two hundred fifty dollars (\$250), within thirty (30) days of the expiration of the certificate of registration.*
- (5) *The office shall provide a registrant with a duplicate copy of any certificate of registration upon satisfactory showing of its loss and payment of a ten dollar (\$10) replacement fee.*
- (6) All mortgage loan brokers and loan officers subject to the registration requirements of this section shall also be subject to KRS 294.090(1)(a), (c), (f), (g), (h), (j), (k), (l), (m), and (n) ~~[(3), (6), (7), (8), (10), (11), and (12)]~~, 294.220(1) and (2), and 294.990.

Section 8. KRS 294.260 is amended to read as follows:

- (1) Beginning July 1, 2004, all registered mortgage loan brokers and registered loan officers shall complete at least twelve (12) hours of continuing professional education, a minimum of six (6) of which must be classroom hours, by June 30, 2005, and annually thereafter.
- (2) Up to twelve (12) hours of continuing professional education may be carried forward from one (1) continuing education year to the next continuing education year. The continuing education year shall begin on July 1 and end on June 30 of the following year.
- (3) *The completion of the educational requirement in the case of initial registrations under paragraph (c) of subsection (2) of Section 7 of this Act shall satisfy the continuing education requirement of this section for the first renewal registration.*
- (4) Fifty (50) minutes of classroom contact shall equal one (1) hour of continuing professional education. Each continuing professional education course, other than classroom hours, shall equal the number of hours approved and designated by the Office of Financial Institutions for that course. Course sponsors shall maintain records of attendees for two (2) years after completion of the course.

- (5)(4) Every registered mortgage loan broker and every registered loan officer subject to this section shall furnish to the executive director written certification as to each continuing professional education course satisfactorily completed. The certification shall be signed by the teacher or sponsoring organization of the course showing the *date the course was completed*, the number of hours of the course, and the number of hours attended. The certification shall be on a form prescribed by the executive director.
- (6)(5) Only courses approved by the office shall qualify to satisfy the continuing professional education requirement of this section.
- (7)(6) An individual teaching any approved continuing professional education course shall qualify for the same number of hours of continuing professional education as would be granted to a mortgage loan broker or loan officer taking and satisfactorily completing the course.
- (8)(7) For good cause shown, the executive director may grant an extension during which the continuing education requirement of this section may be completed, but the extension may not exceed *thirty (30) days*~~one (1) year~~. What constitutes good cause for the extension of time rests within the discretion of the executive director.
- (9)(8) The certificate of registration of any mortgage loan broker and any loan officer failing to comply with the continuing professional education requirements of this section and who has not been granted an extension of time to comply in accordance with subsection (8)(7) of this section shall ~~expire~~*terminate* and shall be promptly surrendered to the executive director without demand. The mortgage loan broker or loan officer shall not originate any mortgage loans while not registered.~~[The executive director may reinstate the certificate of registration if the mortgage loan broker or loan officer submits proof of compliance with the professional education requirements and pays a reinstatement fee in the amount of two hundred fifty dollars (\$250).]~~

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

- (1) *Any person having knowledge or believing that a violation of this chapter or any other illegal act or practice is being or has been committed may provide the executive director a report of information pertinent to his or her knowledge or belief and any additional relevant information the executive director may request.*
- (2) *Documents, materials, or other information in the possession or control of the executive director that is provided according to this chapter shall be confidential by law, privileged, and shall not be subject to the Kentucky Open Records Act, KRS 61.872 to 61.884. These documents, materials, or other information shall not be subject to subpoena, and shall not be subject to discovery or admissible as evidence in any civil action, unless, after written notice to the executive director and a hearing, a court of competent jurisdiction determines the executive director would not be unduly prejudiced.*
- (3) *Neither the executive director nor any person who received documents, materials, or other information while acting under the authority of the executive director shall be permitted or required to testify in any civil action concerning any confidential documents, materials, or other information subject to subsection (2) of this section.*
- (4) *In order to assist in the performance of the executive director's duties, the executive director may:*
  - (a) *Use the documents, materials, or other information in the furtherance of any regulatory or legal action brought as part of the executive director's official duties;*
  - (b) *Share the documents, materials, or other information, including confidential and privileged documents, materials, or other information subject to subsections (2) and (3) of this section, with other state, federal, and international law enforcement authorities or the Conference of State Bank Supervisors or its affiliate, if the recipient agrees to maintain the confidentiality and privileged status of the documents, materials, and other information; and*
  - (c) *Enter into agreements governing the sharing and use of information including the furtherance of any regulatory or legal action brought as part of the recipient's official duties.*
- (5) *No waiver of any applicable privilege or claim of confidentiality in the documents, materials, or information shall occur as a result of disclosure to the executive director under this section or as a result of sharing as authorized in subsection (4) of this section.*

SECTION 10. A NEW SECTION OF KRS CHAPTER 294 IS CREATED TO READ AS FOLLOWS:

- (1) *In the absence of malice, fraud, or negligence, a person shall not be subject to civil liability for libel, slander, or any other relevant tort by virtue of filing reports or furnishing other information required by this chapter or requested by the executive director.*
- (2) *This section shall not abrogate or modify any common law or statutory privileges or immunity enjoyed by any person.*

Section 11. KRS 294.030 is amended to read as follows:

- (1)
  - (a) It is unlawful for any person to transact business in this state, either directly or indirectly, as a mortgage loan company or mortgage loan broker if he is not licensed under this chapter and registered in accordance with KRS 294.255, unless that person is exempt under KRS 294.020 and, if required by KRS 294.020(3) to file a claim of exemption, has filed a claim of exemption and the filed claim of exemption has been allowed by the executive director.
  - (b) It is unlawful for any natural person to make a loan under KRS 294.020(2)(c)~~(b)~~ without making the disclosure required by KRS 294.020(7)~~(5)~~.
  - (c) It is unlawful for any loan officer, unless otherwise exempted, to originate mortgage loans in Kentucky if the loan officer is not registered in accordance with KRS 294.255.
- (2) Neither the fact that a license has been issued nor the fact that any person, business, or company is effectively registered, constitutes a finding by the executive director that any document filed under this chapter is true, complete, and not misleading. Nor does such fact directly or indirectly imply approval of the registrant by the executive director or the Commonwealth of Kentucky. It is unlawful to make or cause to be made to any prospective customer or client any representation inconsistent with this subsection.
- (3) Any person who willfully transacts business in this state in violation of subsection (1) of this section shall have no right to collect, receive, or retain any interest or charges whatsoever on a loan contract, but the unpaid principal of the loan shall be paid in full.

Section 12. KRS 294.034 is amended to read as follows:

- (1) An applicant for a license under this chapter shall provide the executive director with separate checks payable to the Kentucky State Treasurer for:
  - (a) An investigation fee of three hundred dollars (\$300) for the principal office and one hundred fifty dollars (\$150) for each branch office; and
  - (b) A license fee of four hundred fifty dollars (\$450) for the principal office and two hundred fifty dollars (\$250) for each branch in Kentucky if the applicant applies for a license on or between July 1 and December 31 or of one hundred fifty dollars (\$150) for the principal office and one hundred dollars (\$100) for each branch if the applicant applies for a license on or between January 1 and June 30.
- (2) A license under this chapter shall expire June 30 next after the date of issuance if it is not renewed.
- (3) A license may be renewed by paying the annual fee for renewing a license which is three hundred fifty dollars (\$350) for the main office and two hundred fifty dollars (\$250) for each branch office in Kentucky, and submitting an annual report of activity as prescribed by the executive director, and any other information required by the executive director. The executive director shall not approve the renewal of a mortgage loan broker's license if the executive director has not received the information on physical location as required in KRS 294.032(8)~~(7)~~.
- (4) The information and payment shall be received by the executive director on or before June 20 prior to the June 30 expiration date. The executive director may reinstate the license if the licensee pays the filing fee and a reinstatement fee of two hundred fifty dollars (\$250).
- (5) The office shall provide a licensee with a duplicate copy of any license upon a satisfactory showing of its loss and payment of a ten dollar (\$10) replacement fee.

Section 13. KRS 294.250 is amended to read as follows:

- (1) For purposes of this section, "physical location" means an actual office where the business of mortgage lending or the business of taking or soliciting mortgage loan applications is conducted. The office shall have a street address. A post office box or similar designation shall not meet the requirements of this section. The office

shall be accessible to the general public as a place of business and shall hold itself open on a regular basis during posted hours, unless the office is in the residence of the mortgage loan broker and proof of residence has been submitted as required by KRS 294.032(8){(7)}.

- (2) (a) Each mortgage loan broker licensed under this chapter shall maintain a physical location in this state.
- (b) Any mortgage loan broker licensed under this chapter who, on June 24, 2003, does not maintain a physical location in this state shall have ninety (90) days after June 24, 2003, in which to establish one. After the ninety (90) day period, a mortgage loan broker licensed under this chapter on June 24, 2003, shall not transact business in Kentucky if the licensed mortgage loan broker does not maintain a physical location in this state.
- (3) The license certificate of a mortgage loan broker shall be at all times prominently displayed at the mortgage loan broker's physical location.

SECTION 14. A NEW SECTION OF KRS CHAPTER 294 IS CREATED TO READ AS FOLLOWS:

*In addition to other duties imposed upon the executive director in this chapter, the executive director shall be authorized to participate in the establishment and implementation of a multistate automated licensing system for mortgage loan brokers, mortgage loan companies, loan officers, or originators. For such purpose, the executive director is authorized to waive or modify, in whole or in part, by rule or by order, any or all of the requirements of this chapter and to establish new requirements as reasonably necessary to carry out the purpose of this section. These new requirements shall include the fingerprinting of applicants and the submission of those fingerprints, along with any fee required to perform the criminal background record review, to the Federal Bureau of Investigation and Kentucky State Police or an equivalent state department law enforcement agency for state and national criminal background record review of the applicant. The executive director shall not be authorized under this section to require a person or individual who is exempt under subsection (1)(a) or (g) of Section 2 of this Act to submit information or participate in the uniform multistate licensing program.*

Section 15. The following KRS section is repealed:

294.265 Denial, suspension, or revocation of license of mortgage loan company, mortgage loan broker, or loan officer.

**Approved April 21, 2006.**

## **CHAPTER 219**

**(HB 656)**

AN ACT relating to wireless enhanced 911 systems.

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

Section 1. 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 KRS 11.505;
- (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 *an end user*~~[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. *The term includes both facilities-based resellers and nonfacilities-based resellers*~~[, 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 *end* 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; *and*
- (20) *"Tier III CMRS provider" means a non-nationwide Commercial Mobile Radio Service provider with no more than five hundred thousand (500,000) subscribers as of December 31, 2001.*

Section 2. 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 *ten (10)*~~[eight (8)]~~ members, appointed by the Governor as follows: *two (2)*~~[three (3)]~~ members shall be employed by or representative of the interest of CMRS providers, *of which, one (1) shall be a representative of a Tier III CMRS provider*; 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; *one (1) member shall be a director of a certified public safety answering point operated by a local governmental entity or a consolidated group of local governmental entities appointed from lists of candidates submitted to the*

***Governor by the Kentucky Firefighters Association, the State Association of Chiefs of Police, and the Kentucky Ambulance Providers Association; two (2) members***~~[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; ***and one (1) member shall be a director of a certified public safety answering point operated by a local government entity or a consolidated group of local governmental entities.*** 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. ***Any member missing three (3) consecutive meetings may be removed by a majority vote of the remaining voting members.***
- (3) In addition to the administrator, the ***Office for Security Coordination***~~[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 ***Office for Security Coordination***~~[Commonwealth Office of 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 3. KRS 65.7625 is amended to read as follows:

- (1) The executive director of the Office of the 911 Coordinator shall be the state administrator of commercial mobile radio service emergency telecommunications. 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 4. KRS 65.7629 is amended to read as follows:

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

- (1) To review, evaluate, and approve or disapprove the plans or plan modifications that are submitted to the board for complying with the wireless E911 service requirements established by the FCC order and by any rules or regulations which are or may be adopted by the Federal Communications Commission in carrying out the FCC order;
- (2) To develop standards to be followed by the board in reviewing, evaluating, approving, or disapproving the plans or plan modifications that are submitted to the board;

- (3) To collect the CMRS service charge from each CMRS connection:
- (a) With a place of primary use, as defined in 4 U.S.C. sec. 124, within the Commonwealth; **or**
  - (b) ***For prepaid CMRS connections:***
    - 1. ***With a place of primary use, as defined in 4 U.S.C. sec. 124, within the Commonwealth, or***
    - 2. ***With a geographical location associated with the first six (6) digits, or NPA/NXX, of the mobile telephone number is inside the geographic boundaries of the Commonwealth.***

The CMRS service charge shall be seventy cents (\$0.70) per month per CMRS connection, and shall be collected in accordance with KRS 65.7635 beginning August 15, 1998. The amount of the CMRS service charge shall not be increased except by act of the General Assembly;

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

The independent certified public accountant shall make a report of the audits to the board and to the appropriate chief executive officer or officers of the CMRS providers and PSAPs. The board shall incorporate

the auditor's findings in its studies of the CMRS service charge required by subsection (4) of this section. All information with respect to the audits shall be released to the public or published only in aggregate amounts which do not identify or allow identification of numbers of subscribers or revenues attributable to individual CMRS providers;

- (14) To ensure that all carriers have an equal opportunity to participate in the wireless E911 system;
- (15) To ensure that wireless E911 systems are compatible with wireline E911 systems; ~~and~~
- (16) To determine the appropriate method for disbursing funds to PSAP's based on wireless workload under KRS 65.7631(3)~~(2)~~(b);
- (17) *To develop standards and protocols for the improvement and increased efficiency of 911 services in Kentucky; and*
- (18) *To provide direct grants or state matches for federal, state, or private grants for the establishment or improvement of the 911 emergency telecommunications system in the Commonwealth.*

Section 5. KRS 65.7631 is amended to read as follows:

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

- (1) Not more than two and one-half percent (2.5%) of the total monthly revenues deposited into the CMRS fund shall be disbursed or reserved for disbursement by the board to pay the administrative costs and expenses incurred in the operation of the board, including the compensation of the administrator and expenses incurred pursuant to KRS ~~11.512~~, 65.7629(10), (11), (13), ~~and~~ (16), *(17), and (18)*. An additional sum, not to exceed two hundred fifty thousand dollars (\$250,000), shall be available to the board from the fund to implement the wireless workload formula under subsection (3)~~(2)~~(b) of this section.
- (2) (a) *Not more than ten percent (10%) of the total monthly revenues deposited into the CMRS Fund shall be disbursed or reserved for disbursement by the board to provide direct grants or matching money.*
  - 1. *For the establishment and improvement of E911 services in the Commonwealth;*
  - 2. *For incentives to create more efficient delivery of E911 services by local governments receiving funding under subsection (3) of this section;*
  - 3. *For improvement of 911 infrastructure by wireless carriers receiving funding under subsection (4) of this section; and*
  - 4. *For consolidation reimbursement of one hundred thousand dollars (\$100,000) per PSAP, not to exceed two hundred thousand dollars (\$200,000) per county, to any PSAP that consolidates with a CMRS-certified PSAP, or creates a newly consolidated Phase II compliant PSAP. Funds shall be applied toward the cost of consolidating. If a PSAP consolidates and receives reimbursement, the CMRS Board shall not certify a new PSAP within the same county for a period of ten (10) years.*
- (b) *When the balance of money collected under paragraph (a) of this subsection and not yet disbursed for direct grants or matching moneys exceeds two million dollars (\$2,000,000), the excess amount shall be allocated under the provisions of subsections (3) and (4) of this section.*
- (3) From the balance of the total monthly revenues deposited into the CMRS fund after the amounts disbursed or reserved for disbursement under ~~subsections~~~~subsection~~ (1) *and* (2) of this section have been subtracted, *eighty percent (80%)*~~fifty percent (50%)~~ shall be distributed to PSAPs eligible to receive disbursement from the CMRS fund under subsection (5)~~(4)~~ of this section who actually request disbursement, as follows:
  - (a) *Forty percent (40%)*~~Twenty five percent (25%)~~ shall be distributed according to the "PSAP pro rata formula," whereby each receives a percentage determined by dividing one (1) by the total number of PSAPs eligible to request and actually requesting disbursements under subsection (5)~~(4)~~ of this section. Any PSAPs *certified before January 1, 2004, or for more than three (3) years*, that choose to consolidate their operations~~after July 15, 1998, shall have a twenty four (24) month period in which they~~ shall continue to receive pro-rata shares as if they remained separate and distinct entities.~~The twenty four (24) month period shall run from a date set by the board.~~ The consolidated entity must be certified to receive funds under subsection (5)~~(4)~~ of this section; and

- (b) **Forty (40%)**~~Twenty five percent (25%)~~ shall be distributed according to a method chosen by the board and based on the wireless workload of the PSAP. Methods to be considered may be based on the number of wireless 911 calls answered by each PSAP, the number of wireless phone users served by each PSAP, or any other method deemed by the board to be reasonable and equitable. The method chosen shall be promulgated as a regulation under KRS 65.7633.

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

- ~~(4)~~~~(3)~~ The balance of the total monthly revenues deposited into the CMRS fund which remains after the disbursements or disbursement reservations prescribed by subsections (1),~~(2)~~, **and (3)** of this section have been made shall be distributed to CMRS providers licensed to do business in the Commonwealth solely for the purpose of reimbursing the actual expenses incurred by the CMRS providers in complying with the wireless E911 service requirements established by the FCC order and any rules and regulations which are or may be adopted by the Federal Communications Commission in carrying out the FCC order, including, but not limited to, costs and expenses incurred for designing, upgrading, purchasing, leasing, programming, testing, installing, or maintaining all necessary data, hardware, and software required in order to provide wireless E911 service. Sworn invoices shall be presented to the board in connection with any request for reimbursement under this subsection, and approval by a majority vote of the board shall be required prior to any disbursement, which approval shall not be withheld unreasonably. No payment shall be made to any provider who is not in compliance with all requirements of this chapter and the FCC order. In no event shall any invoice for reimbursement be approved for payment of costs that are not related to compliance with requirements established by the FCC order~~, or for payment of any costs incurred by a CMRS provider exceeding one hundred twenty five percent (125%) of the CMRS emergency service charges remitted by that CMRS provider, unless prior approval for the expenditures was given by the CMRS Board~~. If the total amount of invoices submitted to the CMRS Board and approved for payment exceeds the amount in the CMRS fund in any month, CMRS providers that have invoices approved for payment shall receive a pro rata share of the fund available that month, based on approved invoices, and the balance of the payments shall be carried over to the following months until all of the approved payments are made.

- ~~(5)~~~~(4)~~ Notwithstanding any other provision of the law, no PSAP shall be eligible to request or receive a disbursement from the CMRS fund under subsection ~~(3)~~~~(2)~~ of this section unless and until the PSAP:

- (a) Is expressly certified as a PSAP by the CMRS Board, upon written application to the CMRS Board;
- (b) Demonstrates that the PSAP is providing **E911**~~911~~ services to a local government that has adopted an ordinance either imposing a special tax, license, or fee as authorized by KRS 65.760(3) or has established other means of funding wireline 911 emergency telephone service;
- (c) Demonstrates that the administrator of the PSAP sent a request for wireless, E911 service to a CMRS provider, and that the infrastructure of the local exchange carrier will support wireless E911 service;
- (d) Provides an accounting of the number of wireless E911 calls received by the PSAP during the prior calendar year if requested by the board; and
- (e) ~~Either~~ Demonstrates that the PSAP has made the investment which is necessary to allow the PSAP to receive and utilize the data elements associated with wireless E911 service~~, or provides to the board a binding resolution, duly adopted by the governing authority of the PSAP, committing the PSAP to expend funds to lease or purchase emergency telephone equipment, including necessary computer hardware and software, for database provisioning, for addressing, and for the other nonrecurring costs of establishing wireless E911 service~~.

Section 6. KRS 65.7633 is amended to read as follows:

- (1) The CMRS Board shall implement the provisions of KRS 65.7621 to 65.7643 through the promulgation of administrative regulations in accordance with the provisions of KRS Chapter 13A.

- (2) As soon as practicable after its creation, the board shall promulgate regulations:
- (a) Establishing procedures for the submission of plans or modifications of plans to the board, for its review and approval or disapproval, for complying with the wireless E911 service requirements established by the FCC order and any rules and regulations which are or may be adopted by the Federal Communications Commission in carrying out the FCC order, including, but not limited to, projections of anticipated costs and expenses necessary for designing, upgrading, purchasing, leasing, programming, testing, installing, or maintaining on an ongoing basis all necessary data, hardware, and software required in order to provide this service;
  - (b) Establishing procedures and guidelines to be followed by the board in reviewing, evaluating, and approving or disapproving the plans or modifications of plans that are submitted to it in accordance with the procedures promulgated under paragraph (a) of this subsection;
  - (c) Establishing procedures and guidelines to be followed by the board in reviewing, evaluating, and approving or disapproving disbursements from the CMRS fund and requests for disbursements under KRS 65.7631(2), ~~and~~ (3), **and (4)**; and
  - (d) Establishing procedures and guidelines for resolving disputes regarding reimbursable costs and expenses under KRS 65.7631(2), ~~and~~ (3), **and (4)**.

Section 7. KRS 65.7635 is amended to read as follows:

- (1) Each CMRS provider shall act as a collection agent for the CMRS fund. ~~and~~ ***From its customers, the provider*** shall, as part of the provider's ~~normal monthly~~ billing process, collect the CMRS service charges levied upon CMRS connections under KRS 65.7629(3) from each CMRS connection to whom the billing provider provides CMRS. Each billing provider shall list the CMRS service charge as a separate entry on each bill which includes a CMRS service charge. If a CMRS provider receives a partial payment for a monthly bill from a CMRS customer, the provider shall first apply the payment against the amount the CMRS customer owes the CMRS provider. ***For CMRS customers who purchase CMRS services on a prepaid basis, the CMRS service charge shall be determined according to one (1) of the following methodologies as elected by the CMRS provider:***
  - (a) ***The CMRS provider shall collect, on a monthly basis, the CMRS service charge specified in KRS 65.7629(3) from each active customer whose account balance is equal to or greater than the amount of service charge; or***
  - (b) ***The CMRS provider shall divide its total earned prepaid wireless telephone revenue received with respect to its prepaid customers in the Commonwealth within the monthly 911 emergency telephone service reporting period by fifty dollars (\$50), multiply the quotient by the service charge amount, and pay the resulting amount to the board; or***
  - (c) ***In the case of CMRS providers that do not have the ability to access or debit end user accounts, and do not have retail contact with the end user or purchaser of pre-paid wireless airtime, the CMRS service charge and collection methodology may be determined by administrative regulations promulgated by the board to collect the service charge from such end users.***
- (2) A CMRS provider has no obligation to take any legal action to enforce the collection of the CMRS service charges for which any CMRS customer is billed. Collection actions to enforce the collection of the CMRS service charge against any CMRS customer may, however, be initiated by the state, on behalf of the board, in the Circuit Court of the county where the bill for CMRS service is regularly delivered, and the reasonable costs and attorneys' fees which are incurred in connection with any such collection action may be awarded by the court to the prevailing party in the action.
- (3) State and local taxes shall not apply to CMRS service charges.
- (4) To reimburse itself for the cost of collecting and remitting the CMRS service charge, each CMRS provider may deduct and retain from the CMRS service charges it collects during each calendar month an amount not to exceed one and one-half percent (1.5%) of the gross aggregate amount of CMRS service charges it collected that month.
- (5) All CMRS service charges imposed under KRS 65.7621 to 65.7643 collected by each CMRS provider, less the administrative fee described in subsection (3) ~~(4)~~ of this section, are due and payable to the board monthly and shall be remitted on or before sixty (60) days after the end of the calendar month. Collection actions may

be initiated by the state, on behalf of the board, in the Franklin Circuit Court or any other court of competent jurisdiction, and the reasonable costs and attorneys' fees which are incurred in connection with any such collection action may be awarded by the court to the prevailing party in the action.

Section 8. KRS 11.512 is amended 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) ~~Recommend~~~~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.

**Approved April 22, 2006.**

## CHAPTER 220

### (HB 178)

AN ACT relating to the relocation of a city in a county containing a city of the first class or a consolidated local government.

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

Section 1. KRS 81.380 is amended to read as follows:

- (1) Any city, located in a county containing a city of the first class or a consolidated local government, which is located within an area which is adversely affected by a public project that was initiated by a city of the first class, or by action of a joint agency of a city of the first class and its county, after June 30, 1998, or upon the expiration of the initial twelve (12) year term provided in KRS 79.310(2) of a cooperative compact which is in effect in the county pursuant to KRS 79.310 to 79.330, may by ordinance relocate the corporate boundaries of the city to an unincorporated area of the county. The ordinance shall set out by metes and bounds that unincorporated area of the county where the city will be relocated. The area designated for relocation shall not exceed the acreage within the then existing boundaries of the relocating city.
- (2) All financial assets and legal obligations of the city shall not be altered or interrupted by a relocation.
- (3) A city of the first class or a consolidated local government shall relinquish all priority rights or any rights pursuant to the terms of a cooperative compact for annexation to that unincorporated area which is designated for the relocation of a city as provided for in subsection (1) of this section. Any priority rights or any rights pursuant to the terms of a cooperative compact for annexation which are relinquished for the relocation of a city shall then be attached in the name of the city of the first class or the consolidated local government to that area which has been abandoned by the relocating city pursuant to subsection (5) of this section. The relocating city shall forward a copy of the ordinance adopted pursuant to subsection (1) of this section to the mayor of the consolidated local government or the mayor of the city of the first class and the county judge/executive of the county.
- (4) The right of a city to relocate is in no way meant to amend any provision of the statutes which govern the formation and operation of a cooperative compact created pursuant to KRS 79.310 to 79.330.
- (5) Upon the relocation of a city, the city clerk shall forward to the Secretary of State within one (1) year from the date of the relocation, a document listing the name of the city, the date of the relocation, the present classification of the city, and a certified copy of the ordinance adopted pursuant to subsection (1) of this

section. If a city fails to comply with this subsection, it shall be barred from receiving state moneys until the city complies.

- (6) Until ninety percent (90%) of the residential properties located within the relocating city's boundaries are acquired for the public project, the boundaries of the city shall include both the old city site and the area designated for the location of the new site of the city.
- (7) After ninety percent (90%) of the residential properties have been acquired as set forth in subsection (6) of this section, the boundaries of the city shall no longer include the area where the city existed before relocation.
- (8) A city that *is relocating, or* has been relocated, according to the provisions of this section may change the name of the city by the adoption of an ordinance by the city legislative body. Any person objecting to renaming the *relocating or* relocated city under this section may present a petition objecting to the renaming of the city by submitting the petition to the county clerk of the county in which the city is located. The petition shall be in the following form: "The registered voters living within (provide the name of the existing *relocating or* relocated city) hereby object to the question of the renaming of the city." If the petition is signed and dated by at least twenty-five percent (25%) of the registered voters residing in the *relocating or* relocated city, an election shall be held on the question of renaming the city. The county clerk shall examine the petition and verify the validity of the signatures. If a petition containing at least twenty-five percent (25%) of the registered voters residing in the *relocating or* relocated city is submitted to the county clerk, and certified by the county clerk as sufficient, by the second Tuesday in August, the question of renaming the *relocating or* relocated city shall be placed on the ballot for the next general election. The ballot shall contain at least two (2) but no more than four (4) names as potential new names for the *relocating or* relocated city.
- (9) Upon the act of renaming a city, the city clerk shall forward to the Secretary of State, within one (1) year from the date of the renaming, a document listing the new name of the city, the date of the renaming, the present classification of the city, and a certified copy of the ordinance adopted in accordance with KRS 83A.060. If a city fails to comply with the provisions of this subsection, it shall be barred from receiving state moneys until the city complies.

**Approved April 22, 2006.**

## **CHAPTER 221**

### **(HB 341)**

AN ACT relating to education.

WHEREAS, Kentucky has a statewide system of public education made up of 176 local school districts that have great deal of local control and decision making but are still required to provide data and information that can be used to manage the statewide system; and

WHEREAS, technology has become an integral part of the education process in Kentucky's public schools providing a broad spectrum of instructional, administrative and communications tools; and

WHEREAS, seamless integration of these components is essential to Kentucky's statewide system of public education allowing technology to address specific local needs while effectively addressing the needs of the statewide system;

NOW, THEREFORE.

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

Section 1. The Kentucky Department of Education shall conduct a study of the requirements for data security and a notification process when a breach of data security occurs, and to determine costs, benefits, feasibility and implications of adoption of specifications for statewide education data designed to facilitate the exchange of information among different instructional and administrative software applications at the local, state, and federal levels. The study shall recommend proposed priorities for implementation and the associated timelines. Included in the study shall be a review of the Department of Education's policy for product standardization and the feasibility of providing more flexibility and local choice through the adoption of the interoperable education data standards. The study shall include recommendations for procedures to notify parents and other affected individuals when personal information is lost, inadvertently shared, or otherwise compromised due to a data security breach.



Section 2. The Department of Education shall establish a committee of stakeholders to guide the completion of the study. Included shall be representatives of large and small school districts, rural and urban school districts, the Kentucky Association of School Administrators, the Kentucky School Boards Association, and the Kentucky Association of School Superintendents. The representatives shall have expertise in school technology with geographic representation across the state. The study shall assess the effectiveness of appropriate certification and standardization for software used by school districts. The study shall also include a review of the National Educational Technology Plan as developed by the United States Department of Education.

Section 3. A written interim report shall be presented to the Interim Joint Committee on Education no later than August 1, 2006. The study shall be completed no later than November 1, 2006, with a final written report sent to the Interim Joint Committee on Education by December 1, 2006.

SECTION 4. A NEW SECTION OF KRS CHAPTER 161 IS CREATED TO READ AS FOLLOWS:

- (1) *Notwithstanding any provision of the Kentucky Revised Statutes to the contrary, a teacher who has been reprimanded or otherwise disciplined by the teacher's employer because the teacher engaged in misconduct involving the illegal use of controlled substances shall, as a condition of retaining employment, submit to random or periodic drug testing in accordance with administrative regulations promulgated by the Kentucky Board of Education for a period not to exceed twelve (12) months from the date such reprimand or disciplinary action occurred.*
- (2) *Notwithstanding any provision of the Kentucky Revised Statutes to the contrary, a teacher whose certificate has been suspended or revoked by the Education Professional Standards Board because the teacher engaged in misconduct involving the illegal use of controlled substances shall, as a condition of reinstatement or reissuance of the certificate, submit to drug testing in accordance with administrative regulations promulgated by the Education Professional Standards Board.*
- (3) *No teacher may be subject to drug testing under this section unless and until it has been determined in an administrative or judicial proceeding that the teacher engaged in misconduct involving the illegal use of controlled substances.*
- (4) *For purposes of this section, the term "teacher" shall mean any person for whom certification is required as a basis for employment in the public schools of the Commonwealth.*
- (5) *Nothing in this section shall be interpreted or construed to limit the authority of the Education Professional Standards Board to impose or require additional conditions for the reissuance or reinstatement of a certificate.*
- (6) *The administrative regulations promulgated pursuant to this section shall contain provisions that ensure due process under the law.*

Section 5. KRS 160.380 is amended to read as follows:

- (1) As used in this section:
  - (a) "Relative" shall mean father, mother, brother, sister, husband, wife, son, daughter, aunt, uncle, son-in-law, and daughter-in-law.
  - (b) "Vacancy" shall mean any certified position opening created by the resignation, dismissal, nonrenewal of contract, transfer, or death of a certified staff member of a local school district, or a new position created in a local school district for which certification is required. However, if an employer-employee bargained contract contains procedures for filling certified position openings created by the resignation, dismissal, nonrenewal of contract, transfer, or death of a certified staff member, or creation of a new position for which certification is required, a vacancy shall not exist, unless certified positions remain open after compliance with those procedures.
- (2) (a) All appointments, promotions, and transfers of principals, supervisors, teachers, and other public school employees shall be made only by the superintendent of schools, who shall notify the board of the action taken. All employees of the local district shall have the qualifications prescribed by law and by the administrative regulations of the Kentucky Board of Education and of the employing board. Supervisors, principals, teachers, and other employees may be appointed by the superintendent for any school year at any time after February 1 preceding the beginning of the school year. No superintendent of schools shall appoint or transfer himself to another position within the school district.

- (b) When a vacancy occurs in a local school district, the superintendent shall notify the chief state school officer thirty (30) days before the position shall be filled. The chief state school officer shall keep a registry of local district vacancies which shall be made available to the public. The local school district shall post position openings in the local board office for public viewing.
- (c) When a vacancy needs to be filled in less than thirty (30) days' time to prevent disruption of necessary instructional or support services of the school district, the superintendent may seek a waiver from the chief state school officer. If the waiver is approved, the appointment shall not be made until the person recommended for the position has been approved by the chief state school officer. The chief state school officer shall respond to a district's request for waiver or for approval of an appointment within two (2) working days.
- (d) When a vacancy occurs in a local district, the superintendent shall conduct a search to locate minority teachers to be considered for the position. The superintendent shall, pursuant to administrative regulations of the Kentucky Board of Education, report annually the district's recruitment process and the activities used to increase the percentage of minority teachers in the district.
- (e) No relative of a superintendent of schools shall be an employee of the school district. However, this shall not apply to a relative who is a classified or certified employee of the school district for at least thirty-six (36) months prior to the superintendent assuming office, or prior to marrying a relative of the superintendent, and who is qualified for the position the employee holds. A superintendent's spouse who has at least twenty (20) years of service in school systems may be an employee of the school district. A superintendent's spouse who is employed under this provision shall not hold a position in which the spouse supervises certified or classified employees. A superintendent's spouse may supervise teacher aides and student teachers. However, the superintendent shall not promote a relative who continues employment under an exception of this subsection.
- (f) No superintendent shall employ a relative of a school board member of the district, unless on July 13, 1990, the board member's relative is an employee of the district, the board member is holding office, and the relative was not initially hired by the district during the tenure of the board member. A relative employed in 1989-90 and initially hired during the tenure of a board member serving on July 13, 1990, may continue to be employed during the remainder of the board member's term. However, the superintendent shall not promote any relative of a school board member who continues employment under the exception of this subsection.
- (g)
  - 1. No principal's relative shall be employed in the principal's school, except a relative who is not the principal's spouse and who was employed in the principal's school during the 1989-90 school year.
  - 2. No spouse of a principal shall be employed in the principal's school, except:
    - a. A principal's spouse who was employed in the principal's school during the 1989-90 school year for whom there is no position for which the spouse is certified to fill in another school operated in the district; or
    - b. A principal's spouse who was employed in the 1989-90 school year and is in a school district containing no more than one (1) elementary school, one (1) middle school, and one (1) high school.
  - 3. A principal's spouse who is employed in the principal's school shall be evaluated by a school administrator other than the principal.
  - 4. The provisions of KRS 161.760 shall not apply to any transfer made in order to comply with the provisions of this paragraph.
- (3) No superintendent shall employ in any position in the district any person who is a violent offender or has been convicted of a sex crime as defined by KRS 17.165 which is classified as a felony. The superintendent may employ, at his discretion, persons convicted of sex crimes classified as a misdemeanor.
- (4) (a) A superintendent shall require a national and state criminal background check on all new certified hires in the school district and student teachers assigned within the district. Excluded are certified individuals who were employed in another certified position in a Kentucky school district within six (6) months of the date of hire and who had previously submitted to a national and state criminal background check for the previous employment.

- (b) The superintendent shall require that each new certified hire and student teacher, as set forth in paragraph (a) of this subsection, submit to a national and state criminal history background check by the Kentucky State Police and the Federal Bureau of Investigation.
  - (c) All fingerprints requested under this section shall be on an applicant fingerprint card provided by Kentucky State Police. The fingerprint cards shall be forwarded to the Federal Bureau of Investigation from the Kentucky State Police after a state criminal background check is conducted. The results of the state and federal criminal background check shall be sent to the hiring superintendent. Any fee charged by the Kentucky State Police and the Federal Bureau of Investigation shall be an amount no greater than the actual cost of processing the request and conducting the search.
  - (d) The Education Professional Standards Board may promulgate administrative regulations to impose additional qualifications to meet the requirements of Public Law 92-544.
- (5) A superintendent shall require a state criminal background check on all classified initial hires.
- (a) The superintendent shall require that each classified initial hire submit to a state criminal history background check by the Kentucky State Police. If an applicant has been a resident of Kentucky twelve (12) months or less, the superintendent may require a national criminal history background check as a condition of employment.
  - (b) Any request for records under this section shall be on an applicant fingerprint card provided by Kentucky State Police. The results of the state criminal background check and the results of the national criminal history background check, if requested under the provisions of paragraph (a) of this subsection, shall be sent to the hiring superintendent. Any fee charged by the Kentucky State Police shall be an amount no greater than the actual cost of processing the request and conducting the search.
- (6)
- (a) If a school term has begun and a certified or classified position remains unfilled or if a vacancy occurs during a school term, a superintendent may employ an individual, who will have supervisory or disciplinary authority over minors, on probationary status pending receipt of the criminal history background check. Application for the criminal record of a probationary employee shall be made no later than the date probationary employment begins.
  - (b) Employment shall be contingent on the receipt of the criminal history background check documenting that the probationary employee has no record of a sex crime nor as a violent offender as defined in KRS 17.165.
  - (c) Notwithstanding KRS 161.720 to 161.800 or any other statute to the contrary, probationary employment under this section shall terminate on receipt by the school district of a criminal history background check documenting a record of a sex crime or as a violent offender as defined in KRS 17.165 and no further procedures shall be required.
  - (d) The provisions of KRS 161.790 shall apply to terminate employment of a certified employee on the basis of a criminal record other than a record of a sex crime or as a violent offender as defined in KRS 17.165.
- (7)
- (a) Each application or renewal form, provided by the employer to an applicant for a classified position, shall conspicuously state the following: "FOR THIS TYPE OF EMPLOYMENT, STATE LAW REQUIRES A STATE CRIMINAL HISTORY BACKGROUND CHECK AS A CONDITION OF EMPLOYMENT. UNDER CERTAIN CIRCUMSTANCES, A NATIONAL CRIMINAL HISTORY BACKGROUND CHECK MAY BE REQUIRED AS A CONDITION OF EMPLOYMENT."
  - (b) Each application or renewal form, provided by the employer to an applicant for a certified position, shall conspicuously state the following: "FOR THIS TYPE OF EMPLOYMENT, STATE LAW REQUIRES A NATIONAL AND STATE CRIMINAL HISTORY BACKGROUND CHECK AS A CONDITION OF EMPLOYMENT."
  - (c) Each application form for a district position shall require the applicant to:
    - 1. Identify the states in which he or she has maintained residency, including the dates of residency; and
    - 2. Provide picture identification.

- (8) The provisions of subsections (4), (5), (6), and (7) of this section shall apply to a nonfaculty coach or nonfaculty assistant as defined under KRS 161.185.
- (9) *Notwithstanding any provision of the Kentucky Revised Statutes to the contrary, when an employee of the school district is charged with any offense which is classified as a felony, the superintendent may transfer the employee to a second position until such time as the employee is found not guilty, the charges are dismissed, the employee is terminated, or the superintendent determines that further personnel action is not required. The employee shall continue to be paid at the same rate of pay he or she received prior to the transfer. If an employee is charged with an offense outside of the Commonwealth, this provision may also be applied if the charge would have been treated as a felony if committed within the Commonwealth. Transfers shall be made to prevent disruption of the educational process and district operations and in the interest of students and staff and shall not be construed as evidence of misconduct.*

Approved April 22, 2006

## CHAPTER 222

(SB 204)

AN ACT relating to public officers.

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

Section 1. KRS 69.360 is amended to read as follows:

- (1) A county attorney may, as funding allows, employ one (1) or more county detectives. County detectives in counties containing a consolidated local government shall have the power of arrest in the county and the right to execute process statewide. They shall assist the county attorney in all matters pertaining to his office in the manner he designates and shall assist him in the preparation of all criminal cases in District Court by investigating the evidence and facts connected with such cases.
- (2) A county detective in a county containing a consolidated local government who has the power of arrest in the county and right to execute process statewide, as set out in subsection (1) of this section, shall be certified in accordance with KRS 15.380 to KRS 15.404.
- (3) *A county detective certified in accordance with KRS 15.380 to 15.404 shall have the right to execute civil process statewide.*
- (4) *A county detective who is not certified in accordance with KRS 15.380 to 15.404 shall have the right to serve civil process only in the county in which the county attorney is elected.*
- (5) *The provisions of subsections (3) and (4) of this section shall not apply to a county detective appointed pursuant to subsections (1) and (2) of this section.*

Section 2. KRS 61.365 is amended to read as follows:

The following persons who are employed by the federal government as law enforcement or investigative officers who have the power of arrest and who are residents of the Commonwealth of Kentucky shall be deemed peace officers and shall have the same powers and duties of any other peace officer in the Commonwealth, except that they shall not be required to serve process unless permitted to do so by their respective agencies:

- (1) Federal Bureau of Investigation special agents;
- (2) United States Secret Service special agents;
- (3) United States Marshal's service deputies;
- (4) Drug Enforcement Administration special agents;
- (5) Bureau of Alcohol, Tobacco, and Firearms special agents;
- (6) United States Forest Service special agents and law enforcement officers;
- (7) Special agents and law enforcement officers of the Office of the Inspector General of the United States Department of Agriculture;~~and~~
- (8) United States Customs Service special agents; *and*

- (9) *United States National Park Service law enforcement rangers.*

Approved April 22, 2006.

## CHAPTER 223

(SB 171)

AN ACT relating to public safety and declaring an emergency.

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

SECTION 1. A NEW SECTION OF KRS CHAPTER 11 IS CREATED TO READ AS FOLLOWS:

- (1) *To the extent funds are made available, the Commonwealth Office of Technology shall establish a statewide planning and mapping system for public buildings in this state for use by response agencies who are called to respond to an act of terrorism or an emergency.*
- (2) *The statewide planning and mapping system for public buildings shall include:*
  - (a) *Floor plans, fire protection information, building evacuation plans, utility information, known hazards, and information on how to contact emergency personnel;*
  - (b) *The manner by which the information required by paragraph (a) of this subsection shall be transferred to the system from state agencies and the local political subdivisions who participate in the system;*
  - (c) *Standards for the software that shall be used by state agencies and local political subdivisions that participate in the system;*
  - (d) *Conditions for use of the system by response agencies;*
  - (e) *Guidelines for:*
    1. *The accessibility and confidentiality of information contained within the system; and*
    2. *The incorporation, in connection with the use of the system, of the items described in paragraph (b) of subsection (3) of this section;*
  - (f) *In accordance with information obtained by the Office for Security Coordination, a priority for the distribution of any money that may be available for state agencies and political subdivisions to participate in the system; and*
  - (g) *Guidelines recommended by the Division of Emergency Management for the training of persons employed by the response agencies concerning the use of the system.*
- (3) *To the extent money is available, state agencies and political subdivisions shall:*
  - (a) *Participate in the statewide planning and mapping system; and*
  - (b) *Incorporate into their use of the system, without limitation:*
    1. *Evacuation routes and strategies for evacuation;*
    2. *Alarms and other signals or means of notification;*
    3. *Plans for remaining inside a building, room, structure, or other location during an emergency when egress may be impossible or when egress may present a more substantial risk than remaining inside; and*
    4. *Training and strategies for prevention in connection with attacks involving violence.*

*If a state agency or political subdivision uses its own planning and mapping system before the Commonwealth Office of Technology establishes a statewide planning and mapping system, the state agency or political subdivision may continue to use its system unless money is made available for the state agency or political subdivision to update or modify its system as necessary for inclusion in the statewide system.*

**(4) *The Commonwealth Office of Technology:***

- (a) Shall pursue any money that may be available from the federal government for the development and operation of a statewide planning and mapping system for public buildings, and for the distribution of grants to state agencies and political subdivisions that participate in the system; and*
- (b) May accept gifts, grants, and contributions for the development and operation of a statewide planning and mapping system, and for the distribution of grants to the state agencies and political subdivisions that participate in the system.*

**(5) *Each state agency and political subdivision that participates in the system shall, on or before July 1, 2007, and on or before July 1 of each year thereafter, submit to the Commonwealth Office of Technology a progress report setting forth, in accordance with regulations promulgated by the Commonwealth Office of Technology, the experience of the agency or political subdivision with respect to its participation in the system. The Commonwealth Office of Technology shall receive and process the progress reports, and provide a summarized overview of the system to the Legislative Research Commission on or before October 1, 2007, and on or before October 1 of each year thereafter.***

Section 2. KRS 198B.010 is amended to read as follows:

As used in this chapter, unless otherwise provided:

- (1) "Assembly occupancy" means the occupancy or use of a building or structure or any portion thereof by a gathering of persons for civic, political, travel, religious, social, or recreational purposes, including among others:
- (a) Armories;
  - (b) Assembly halls;
  - (c) Auditoriums;
  - (d) Bowling alleys;
  - (e) Broadcasting studios;
  - (f) Chapels;
  - (g) Churches;
  - (h) Clubrooms;
  - (i) Community buildings;
  - (j) Courthouses;
  - (k) Dance halls;
  - (l) Exhibition rooms;
  - (m) Gymnasiums;
  - (n) Hotels;
  - (o) Lecture rooms;
  - (p) Lodge rooms;
  - (q) Motels;
  - (r) Motion picture theaters;
  - (s) Museums;
  - (t) Night clubs;
  - (u) Opera houses;
  - (v) Passenger stations;
  - (w) Pool rooms;
  - (x) Recreation areas;

- (y) Restaurants;
  - (z) Skating rinks;
  - (aa) Television studios;
  - (bb) Theaters.
- (2) "Attic" means the space between the ceiling beams of the top habitable story and the roof rafters.
- (3) "Basement" means that portion of a building the average height of which is at least half below grade, which is ordinarily used for purposes such as storage, laundry facilities, household tool shops, and installation and operation of heating, cooling, and ventilating facilities, but which is not ordinarily used for purposes of general household habitation.
- (4) "Building" means any combination of materials, whether portable or fixed, which comprises a structure or nonmine underground area affording facilities or shelter for any human occupancy, whether infrequent or regular, and also means single-family dwellings, including those sold or constructed under a trade or brand name. The word "building" shall be construed wherever used herein as if followed by the words "or part or parts thereof and all equipment therein" unless the context clearly requires a different meaning. "Building" shall also mean swimming pools constructed below grade on site, but not swimming pools assembled above grade on site. "Building" shall not mean a manufactured home governed by the National Manufactured Housing Construction and Safety Standards Act of 1974, 42 U.S.C. secs. 5401 et seq., or a farm dwelling or other farm buildings and structures incident to the operation and maintenance of the farm if the farm structures are located outside the boundary of a municipality and are not used in the business of retail trade or used as a place of regular employment for ten (10) or more people or structures used in the storage or processing of timber products.
- (5) "Business occupancy" means the occupancy or use of a building or structure or any portion thereof for the transaction of business, the rendering or receiving of professional services, or the displaying, selling, or buying of goods, wares, or merchandise, or the housing of vehicles of transportation, except where occupancy is of high hazard, including among others:
- (a) Banks;
  - (b) Barber shops;
  - (c) Beauty parlors;
  - (d) Department stores;
  - (e) Garages;
  - (f) Markets;
  - (g) Service stations;
  - (h) Offices;
  - (i) Stores;
  - (j) Radio stations;
  - (k) Telephone exchanges;
  - (l) Television stations.
- (6) "Certified building inspector" means a person who has been certified by the office as having successfully completed the test requirements provided by KRS 198B.090 to practice as a city, county, or state building inspector within the Commonwealth.
- (7) "Certified plans and specifications inspector" means a person who has been certified by the office as having successfully completed the test requirements provided by KRS 198B.090 to practice as a city, county, or state plans and specifications inspector within the Commonwealth.

- (8) "Certified plumbing inspector" means a person who has been certified by the office as having successfully completed the test requirements provided by KRS 198B.090 and 318.140, or 318.090 to practice as a city, county, or state plumbing inspector within the Commonwealth.
- (9) "Executive director" means the executive director of housing, buildings and construction.
- (10) "Construction" means the erection, fabrication, reconstruction, substantial alteration or conversion of a building, or the installation of equipment therein, but shall not include the ordinary repair of a building or structure.
- (11) "Office" means the Office of Housing, Buildings and Construction.
- (12) "Educational occupancy" means the occupancy or use of a building or structure or any portion thereof by persons assembled for the purpose of learning or of receiving educational instruction. ***"Educational occupancy" shall not include a building for occupancy or use by thirty-five (35) persons or less assembled to receive religious and educational instruction. "Educational occupancy" includes but is not limited to***~~including among others~~:
- (a) Academies;
  - (b) Care centers;
  - (c) Colleges;
  - (d) Kindergartens;
  - (e) Libraries;
  - (f) Preschools;
  - (g) Relocatable classroom units;
  - (h) Schools;
  - (i) Seminaries;
  - (j) Universities.
- (13) "Equipment" means facilities or installations, including but not limited to, heating, electrical, ventilating, air conditioning, and refrigerating facilities or installations.
- (14) "High hazard occupancy" means the occupancy or use of a building or structure or any portion thereof that involves highly combustible, highly flammable, or explosive materials or which has inherent characteristics that constitute a special fire hazard, including among others:
- (a) Aluminum powder factories;
  - (b) Charging or filling stations;
  - (c) Distilleries;
  - (d) Dry cleaning plants;
  - (e) Dry dyeing plants;
  - (f) Explosive-manufacture, sale or storage;
  - (g) Flour and feed mills;
  - (h) Gasoline bulk plants;
  - (i) Grain elevators;
  - (j) Lacquer factories;
  - (k) Liquefied petroleum gas;
  - (l) Mattress factories;
  - (m) Paint factories;
  - (n) Pyroxylin-factories, or warehouses;



- (o) Rubber factories.
- (15) "Industrial occupancy" means the occupancy or use of a building structure or any portion thereof for assembling, fabricating, finishing, manufacturing, packaging, or processing operations, except for occupancies of high hazard, including among others:
- (a) Assembly plants;
  - (b) Creameries;
  - (c) Electrical substations;
  - (d) Factories;
  - (e) Ice plants;
  - (f) Laboratories;
  - (g) Laundries;
  - (h) Manufacturing plants;
  - (i) Mills;
  - (j) Power plants;
  - (k) Processing plants;
  - (l) Pumping stations;
  - (m) Repair garages;
  - (n) Smokehouses;
  - (o) Workshops.
- (16) "Industrialized building system" means any structure or component thereof which is wholly or in substantial part fabricated in an off-site manufacturing facility for installation or assembly on a permanent foundation at the building site.
- (17) "Institutional occupancy" means the occupancy or use of a building or structure or any portion thereof by persons harbored or detained to receive medical, charitable, or other care or treatment, or by persons involuntarily detained, including among others:
- (a) Asylums;
  - (b) Homes for the aged;
  - (c) Hospitals;
  - (d) Houses of correction;
  - (e) Infirmarys;
  - (f) Jails;
  - (g) Nursing homes;
  - (h) Orphanages;
  - (i) Penal institutions;
  - (j) Reformatories;
  - (k) Sanitariums;
  - (l) Nurseries.
- (18) "Mobile home" means mobile home as defined in KRS 227.550.
- (19) "Ordinary repair" means any nonstructural reconstruction or renewal of any part of an existing building for the purpose of its maintenance, or decoration, and shall include, but not be limited to, the replacement or

installation of nonstructural components of the building such as roofing, siding, windows, storm windows, insulation, drywall or lath and plaster, or any other replacement, in kind, that does not alter the structural integrity, alter the occupancy or use of the building, or affect, by rearrangement, exitways and means of egress; but shall not include additions to, or alteration of, or relocation of any standpipe, water supply, sewer, drainage, gas, soil, waste, vent or similar piping, electric wiring, or mechanical equipment including furnaces and hot water heaters or other work affecting public health or safety.

- (20) "Story" means that part of a building comprised between a floor and the floor or roof next above which is not a basement or an attic.
- (21) "Person with a physical disability" means a person confined to a wheelchair; a person who uses braces or crutches; a person who because of the loss of a foot or leg or because of an arthritic, spastic, pulmonary, or cardiac condition, walks with difficulty or insecurity; a person who suffers from a faulty coordination or palsy; a person who is blind or whose sight is so impaired that, functioning in a public area, he or she is insecure or exposed to danger; a person whose hearing is so impaired that he or she is unable to hear warning signals; and a person whose mobility, flexibility, coordination, and perceptiveness are significantly reduced by aging.
- (22) "Facility for persons with physical disabilities" means any convenience or device which facilitates the health, safety, or comfort of a person with a disability, including, but not limited to, ramps, handrails, elevators, and doors.
- (23) "Manufactured home" is defined as in KRS 227.550.

Section 3. Whereas the hardship placed on communities will continue absent passage of Section 2 of this Act, an emergency is declared to exist, and Section 2 of this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming a law.

**Approved April 22, 2006.**

## **CHAPTER 224**

### **(HCR 214)**

A CONCURRENT RESOLUTION requesting the Legislative Research Commission to direct the Interim Joint Committee on Education to study how to effectively provide assistance to schools not meeting established goals for student achievement.

WHEREAS, it is Kentucky's goal for all children to perform at the level of proficiency by 2014; and

WHEREAS, collaboration among school board members, superintendents, administrators, teachers, school council members, parents, and members of the community is essential for improving student achievement; and

WHEREAS, it is critically important that school board members, superintendents, administrators, teachers, school council members, parents, and members of the community focus on how schools can close achievement gaps between groups of students; and

WHEREAS, schools whose performance on the Commonwealth Accountability Testing System is categorized as "needing assistance" are the schools showing the least progress in student achievement and are in need of immediate assistance; and

WHEREAS, all schools can face challenges in raising student achievement and meeting goals for progress; and

WHEREAS, the federal No Child Left Behind Act requires a new level of district intervention and accountability for their schools, and Kentucky's statutes and regulations are not consistent with what is required; and

WHEREAS, the intervention in low-performing schools required by the federal No Child Left Behind Act and the Commonwealth Accountability Testing System must be coordinated; and

WHEREAS, capacity must be built at the school district level to address the needs of schools not meeting goals for student achievement;

NOW, THEREFORE,

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

Section 1. The Legislative Research Commission is requested to direct the Interim Joint Committee on Education to study how to effectively provide assistance to schools not meeting established goals for student achievement. Staff shall consult with the following organizations to obtain input on the issue to be studied:

- (1) The Kentucky Department of Education;
- (2) The Kentucky School Boards Association;
- (3) The Kentucky Education Association;
- (4) The Kentucky Association of School Councils;
- (5) The Kentucky Association of School Administrators;
- (6) The Kentucky Association of School Superintendents;
- (7) The Kentucky Parent Teacher Association;
- (8) The Kentucky Chamber of Commerce; and
- (9) Other organizations as deemed appropriate.

Section 2. The study shall be completed by October 15, 2006, with a written report, including findings and policy options, presented to the Legislative Research Commission by December 1, 2006.

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

**Approved April 22, 2006.**

## CHAPTER 225

**(HB 738)**

AN ACT relating to stockyards.

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

SECTION 1. A NEW SECTION OF KRS CHAPTER 261 IS CREATED TO READ AS FOLLOWS:

***Stockyards and buying stations shall carry insurance on all livestock while the livestock are kept at the stockyards or buying stations in order to ensure that the livestock will be insured against injury or loss caused by catastrophic peril such as fire, windstorm, or similar occurrence.***

Section 2. KRS 261.200 is amended to read as follows:

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

~~(1) "Persons" shall include any individual, firm, association, partnership or corporation;~~

~~(2)}~~ "Department" means the Department of Agriculture;

~~(2){(3)}~~ "Commissioner" means the Commissioner of Agriculture;

~~(3){(4)}~~ "Board" means the State Board of Agriculture;

~~(4){(5)}~~ ***"Stockyard"***~~"Stockyards" means any livestock yard, concentration point, packing plant, or any other public place where livestock is regularly assembled for sale or exchange and is bought, sold or exchanged at auction or upon a commission or other basis, but, specifically, it does not include individual sales conducted by or for future farmers and 4-H groups, county, state or private fairs and breed or livestock associations or individual sales conducted by or for a person at which livestock of such person's ownership is sold or exchanged on his own premises;~~

~~(6) "Posted stockyards"}~~ means ***a facility***~~{stockyards}~~ regulated by the United States Secretary of Agriculture under the Packers and Stockyards Act, 1921 (42 Stat. 159) as amended, and regulations promulgated under these statutes by the Secretary of Agriculture. ***A stockyard includes any place, establishment, or facility commonly known as a stockyard or buying station, which is conducted, operated, or managed for profit or***

*nonprofit as a public market for livestock producers, feeders, market agencies, and buyers, consisting of pens or other enclosures and their appurtenances, in which livestock are received, held, or kept for sale or shipment in commerce;*

- (5)(7) "Owner or operator" means persons responsible for the operation of each individual ~~stockyard~~~~stockyards~~;
- (6)(8) "~~Market~~~~Sales~~ agency" means *any person engaged in the business of buying or selling in commerce livestock, either on his own account or as the employee or agent of the vendor or purchaser, or who furnishes stockyard or buying station services*~~[persons engaged in the business of buying or selling livestock on a commission basis];~~
- (7) "*Livestock dealer*" means *any person, not a market agency, engaged in the business of buying or selling livestock in commerce, either of his own account or as the employee or agent of the vendor or purchaser;*
- (8) "*Farmer*" means *a person who buys or sells livestock in connection with the operation of a business of breeding, growing, and feeding livestock as a part of an established farming enterprise and who does not follow a definite pattern in disposing of livestock; and*
- (9) "Livestock" ~~means~~~~[includes]~~ cattle, *sheep*, swine, or *goats*~~[and sheep]~~ of all kinds and species.

Section 3. KRS 261.210 is amended to read as follows:

The department shall administer and enforce the provisions of this chapter and ~~shall~~~~[is hereby authorized to formulate, adopt,]~~ promulgate *administrative*~~[and enforce such rules and]~~ regulations~~[as may be]~~ necessary to carry out the provisions of this chapter.

Section 4. KRS 261.230 is amended to read as follows:

- (1) The owner or operator of a ~~stockyard~~~~stockyards~~ shall file annually with the department, an application for a license to operate ~~the~~~~[such a]~~ business under the provisions of this chapter. ~~The~~~~[Such]~~ applications shall be made on forms furnished by the department and shall state fully and correctly the nature of business to be conducted at the ~~stockyard~~~~stockyards~~, the correct location and post office address, and any other additional information the department may require in accordance with the provisions of this chapter.
- (2) The owner or operator of each stockyard shall pay on or before July 1~~[st]~~ of each year a license fee of twenty-five dollars (\$25) plus ten dollars (\$10) for each scale operated in excess of one (1).
- (3) In the case of transfer of ownership of a ~~stockyard~~~~stockyards~~ by purchase or otherwise, a new application ~~shall~~~~[must]~~ be filed with the department and a new license procured by the new owner before operation may continue.
- (4) In instances where two (2) or more stockyards are owned and operated by the same person, a separate application for a license shall be filed and an individual license procured for each stockyard.
- (5) Before issuing a license the department shall determine that the applicant has satisfactorily complied with the provisions of this chapter,~~and~~ with the applicable provisions of KRS Chapter 257, *and with the Packers and Stockyards Act, 7 U.S.C. secs. 181-229b.*
- (6) *The department may refuse to grant, or may revoke or suspend any license issued under the provisions of this chapter for any violation of the provisions of this chapter, any applicable provision of KRS Chapter 257, or any applicable provision of the Packers and Stockyards Act, 7 U.S.C. secs. 181-229b.*

Section 5. KRS 261.260 is amended to read as follows:

- (1) The owner or operator of any stockyard, *any market agency, or livestock dealer who is required to execute and maintain a surety bond in compliance with standards set out in the Packers and Stockyards Act, 7 U.S.C. secs. 181-229b, or regulations promulgated thereto, shall forward a copy of the bond to the department*~~[ shall furnish a bond payable to the department, as trustee for the farmer, for the protection of consignors to whom such owner or operator is unable to pay for livestock received. Said bond shall be in an amount equal to one half (1/2) an average day's receipts and shall be for not less than two thousand dollars (\$2,000) nor more than ten thousand dollars (\$10,000). This section shall not apply to posted stockyards].~~
- (2) *The owner or operator of any stockyard, market agency, or livestock dealer who is not required to file a surety bond under requirements in the Packers and Stockyards Act, 7 U.S.C. secs. 181-229b, or the regulations promulgated thereto shall file with the department a surety bond issued by a surety company*

*authorized to transact business within the Commonwealth of Kentucky, payable to the Commonwealth with the Commissioner as trustee. The terms, conditions, and amount of the bond shall be determined by administrative regulation.* ~~An average day's receipts shall be the total receipts of the previous year divided by the number of sale days. In the case of a newly established stockyard the amount of initial bond required shall be determined by the board.~~

- ~~(3) The required bond shall not be transferable and shall be returned upon termination of operation of the stockyard to the bondee after satisfactory settlement with all consignors of livestock is made.~~

Section 6. KRS 261.270 is amended to read as follows:

All scales used in stockyards shall be *certified* ~~[of a type registering with a balance indicator]. The~~ ~~[Such]~~ scales shall be tested at least every six (6) months by a scale agency approved by the department. Certification of *the* ~~[such]~~ scales shall be exhibited before issuance or renewal of any stockyard license. ~~[This section shall not apply to posted stockyards.]~~

Section 7. KRS 261.280 is amended to read as follows:

~~[(1) The owner or operator of a stockyards shall furnish a bond to the department in the sum of one thousand dollars (\$1,000) with surety to be approved by the department, conditioned on the faithful performance by its weighmen of their duties. If any weighmaster willfully misrepresents or attempts to misrepresent the weight of any animal, the bond shall be forfeited and the proceeds paid into the State Treasury to be credited to the general fund. This section shall not apply to posted stockyards.~~

~~(2) All persons suffering loss imposed by the fraudulent act of such weighman may recover valid claims from said bond not to exceed the amount of bond. Payment shall be made from the general fund of the State Treasury to which said bond was credited.~~

~~(3) It shall be unlawful for any weighman to misweigh or falsely report any weights or to otherwise fraudulently manipulate scales to produce a weight other than the true and actual weight of any livestock consigned to and sold at any stockyard.~~

Section 8. KRS 261.320 is amended to read as follows:

~~If~~ ~~When~~ the owner or operator of any licensed *stockyard* ~~[stockyards]~~ in this state ~~is~~ ~~[shall be]~~ required by law or shall have any reason to utilize the services of a veterinarian, ~~the~~ ~~[said]~~ veterinarian shall be chosen by the owner or operator of the stockyards, and may be relieved of his duties at the pleasure of the owner or operator. Any veterinarian so employed shall be ~~[properly qualified and]~~ licensed *by the Kentucky Board of Veterinary Examiners and accredited by the United States Department of Agriculture* ~~[to do business in this state].~~

Section 9. KRS 261.350 is amended to read as follows:

~~[(4)]~~ Payment for livestock purchased *by market agencies or livestock dealers* ~~[at auction]~~ shall be made *in full compliance with requirements under the Packers and Stockyards Act, 7 U.S.C. secs. 181-229b, and regulations promulgated thereto* ~~within three (3) banking days of the purchase of the livestock, and the proceeds therefrom shall be deposited by the stockyard in the custodial account not later than three (3) banking days following the date of sale; except, the payment may be delayed longer than three (3) banking days if the stockyard and the purchaser of livestock agree in writing. Payment for livestock purchased at auction shall be made by cash, check, or draft. Loans shall not be made from the custodial account of any stockyard to any purchaser of livestock.~~

~~(2) It shall be the duty and responsibility of each stockyard to report to the Commissioner of Agriculture within twenty four (24) hours after having knowledge that a check or draft issued in payment for livestock has been dishonored, and it shall be the duty and responsibility of the Commissioner of Agriculture to notify all stockyards of the fact of such dishonor.~~

~~(3) Livestock shall mean livestock sold for food consumption.~~

~~(4) The Department of Agriculture shall issue regulations to carry out the provisions of this section.~~

Section 10. KRS 261.990 is amended to read as follows:

~~[(1) Any person who violates any provision of KRS 261.240 shall be fined not less than twenty five dollars (\$25) nor more than one hundred dollars (\$100). Each failure to file the monthly report required by KRS 261.240 shall constitute a separate offense.~~

~~(2) Any person who violates the provisions of KRS 261.280 or who attempts by any means to induce a weighman to falsely report the weight of any animal shall be guilty of a misdemeanor, and shall be punished by a fine of not less than one thousand dollars (\$1,000) or by imprisonment for not more than one (1) year, or both.~~

~~(3)~~ Any person who violates any provision of this chapter~~[for which no other penalty is provided,]~~ or any ~~administrative~~~~[rule or]~~ regulation *promulgated thereunder*~~[made under the authority thereof]~~, or who refuses to pay the fees~~[herein]~~ required *in this chapter*, shall be fined not less than one hundred dollars (\$100) nor more than five hundred dollars (\$500) or shall be imprisoned for not more than three (3) months, or both.

~~[(4) Any person or stockyard that violates any provision of KRS 261.350 shall be fined not less than \$250 nor more than \$500.]~~

Section 11. KRS 257.990 is amended to read as follows:

- (1) Any person who violates any regulation promulgated by the board under the provisions of this chapter, for the violation of which no other penalty is provided in this section, shall be fined not less than one hundred dollars (\$100) nor more than five hundred dollars (\$500) for the first offense; for each subsequent offense he shall be fined not less than five hundred dollars (\$500) nor more than one thousand dollars (\$1,000), or be imprisoned not more than thirty (30) days, or both.
- (2) Any person who violates KRS 257.040 shall be fined not less than five hundred dollars (\$500) nor more than one thousand dollars (\$1,000).
- (3) Any person who violates KRS 257.050 shall be fined not less than two hundred dollars (\$200) nor more than five hundred dollars (\$500) for the first offense; for each subsequent offense he shall be fined not less than five hundred dollars (\$500) nor more than one thousand dollars (\$1,000), and shall be imprisoned for not less than sixty (60) days nor more than one hundred and twenty (120) days.
- (4) Any person who violates subsection (1) of KRS 257.060 shall be fined not less than five hundred dollars (\$500) nor more than one thousand five hundred dollars (\$1,500) for the first offense; for each subsequent offense he shall be fined not less than one thousand dollars (\$1,000) nor more than two thousand dollars (\$2,000), and shall be imprisoned for not less than sixty (60) days nor more than one hundred and twenty (120) days.
- (5) Any person who violates subsection (2) of KRS 257.060 shall be fined not more than one thousand dollars (\$1,000).
- (6) Any person who violates any of the provisions of KRS 257.080 or 257.180 shall be fined not less than one hundred dollars (\$100) nor more than five hundred dollars (\$500).
- (7) Any person who violates any of the provisions of KRS 257.160 shall be fined not less than one hundred dollars (\$100) nor more than five hundred dollars (\$500) for the first offense. For each subsequent offense, he shall be fined not less than five hundred dollars (\$500) nor more than one thousand dollars (\$1,000), or be imprisoned not more than thirty (30) days, or both.
- (8) Any person who violates any ruling of the board or who hinders any agent of the board in carrying out the duties assigned to him, or any officer who refuses to enforce the provisions of this chapter when called upon by the board to do so, or any other person who in any way attempts to hinder or obstruct the board in carrying out the provisions of this chapter shall be fined not less than two hundred dollars (\$200) nor more than five hundred dollars (\$500) for each offense.
- (9) Any person who violates any provision of KRS 257.330 to 257.350 or the regulations made thereunder for carrying out their provisions, or who fails or refuses to comply with or intends to deceive, or who answers or represents falsely in response to any requirement of KRS 257.330 to 257.350, or who willfully interferes with the Office of State Veterinarian, their employees or agents, in the carrying out of their duties provided in KRS 257.330 to 257.350, shall be guilty of a misdemeanor. Any person who shall violate any of the provisions of KRS 257.330 to 257.350 shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in any sum not to exceed five hundred dollars (\$500).
- (10) Any person, firm, or corporation who shall violate any provision of KRS 257.370 to 257.460 or any rule or regulation made under authority thereof shall be guilty of a misdemeanor and upon conviction thereof shall be fined in any sum not to exceed five hundred dollars (\$500) for each offense.
- (11) Any person who resists, obstructs, interferes with, threatens, attempts to intimidate, or in any other manner interferes with an officer under KRS 257.490 or who willfully refuses to obey his lawful orders 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.

~~[(12) Any livestock dealer who violates any provision of KRS 257.530 shall be fined twenty-five dollars (\$25) for the first offense and not less than one hundred dollars (\$100) nor more than five hundred dollars (\$500) for each succeeding offense.]~~

Section 12. KRS 257.520 is repealed, reenacted as a new section of KRS Chapter 261, and amended to read as follows:

No provision of KRS **Chapter 261**~~[257.510 to 257.530]~~ shall be construed as applicable to:

- (1) A farmer who sells only livestock which he has produced and raised on his premises,
- (2) A person who offers for sale or trade only livestock which he has owned or has in his possession for a period of thirty (30) days or longer and who is not regularly engaged in the business of buying, selling, trading or negotiating the transfer of livestock,
- (3) A person who purchases only livestock for feeding or breeding purposes and retains said livestock in his possession for a period of thirty (30) days or longer and who is not regularly engaged in the business of buying, selling, trading or negotiating the transfer of livestock,
- (4) A person engaged in the business of buying and slaughtering livestock for food and in marketing the meat products therefrom, provided all animals purchased are slaughtered,
- ~~(5) A person who is a duly authorized representative of the agricultural extension service or a college of the Commonwealth for the distribution of livestock in related programs,~~
- ~~(6) A person engaged in the purchase or sale of livestock used exclusively for exhibition or entertainment purposes in the pursuit of a hobby.~~
- (6) A person engaged in sales conducted by or for FFA and 4-H groups; county, state, or private fairs or shows; and breed or livestock associations.**

Section 13. KRS 257.530 is repealed, reenacted as a new section of KRS Chapter 261, and amended to read as follows:

- (1) No person shall engage in the business of being a livestock dealer without having first obtained a license from the **department**~~[division]~~. Application for a license shall be made on a form provided by the **department**~~[division]~~ and accompanied by a fee of ten dollars (\$10), payable to the Kentucky State Treasurer. The license shall expire on December 31 and shall be renewed annually.~~[All license fees shall be deposited in a revolving fund to be used for the administration of KRS 257.510 to 257.540.]~~
- (2) Any livestock dealer shall maintain records of all transactions conducted by him for the next preceding two (2) year period, including the names and addresses of persons from whom he has purchased or to whom he has sold livestock and the date of the transactions~~[and to]~~ make the records available to **department**~~[division]~~ representatives upon request, **but shall not be required**~~;~~ ~~provided, however, there shall be no requirement~~ to maintain or furnish records or information as to the amount paid or received for any head of livestock.
- (3) The following acts by any livestock dealer shall be violations of this chapter and may result in a license being revoked or suspended by the Commissioner of Agriculture:
  - (a) **Failing**~~[Failure]~~ to maintain the records required under subsection (2) of this section;
  - (b) **Failing**~~[Failure]~~ to provide access to **department**~~[division]~~ representatives of records;
  - (c) Buying or selling livestock under an assumed name or address; and
  - (d) **Violating**~~[Violation]~~ of any valid **administrative** regulation or statute governing disease control.
- (4) ~~If/Whenever~~ the Commissioner has reasonable cause to believe any provision of **this chapter**~~[KRS 257.510 to 257.540]~~ is being or has been violated by any livestock dealer, the Commissioner shall notify the livestock dealer that his license **may**~~[shall]~~ be suspended or revoked.~~[Suspension or revocation shall be effective ten (10) days from the date of the mailing of the notice, unless the livestock dealer requests a hearing in writing within the ten (10) day period. Any request for a hearing shall be directed to the Commissioner and upon receipt a hearing shall be conducted in accordance with KRS Chapter 13B.]~~

~~(5) The final order of the Commissioner may be reviewed by the Franklin Circuit Court in accordance with KRS Chapter 13B.~~

Section 14. KRS 257.540 is repealed and reenacted as a new section of KRS Chapter 261, and amended to read as follows:

Notwithstanding any provision of the law to the contrary, the Department of Agriculture shall not enact any *administrative* regulations prohibiting the rights of buyers of any livestock to purchase ~~the~~<sup>such</sup> livestock.

Section 15. The following KRS sections are repealed:

257.510 Definitions for KRS 257.520 and 257.530.

261.290 Refusal, revocation and suspension of licenses.

**Approved April 22, 2006.**

## CHAPTER 226

### (HCR 8)

A CONCURRENT RESOLUTION to require the Transportation Cabinet to consider the installation of cable barriers on the Gene Snyder Freeway in Jefferson County.

WHEREAS, October 4, 2005, an accident on the Gene Snyder Freeway resulted in the death of four Kentucky residents, including three students of Eastern High School in Jefferson County; and

WHEREAS, a blown tire caused the vehicle in this accident to cross the median of the Snyder Freeway into two lanes of high speed traffic creating this tragic result; and

WHEREAS, since the year 2000 to the date of this October 4, 2005 accident, fourteen crashes have been reported on the Snyder Freeway involving a vehicle crossing this median; and

WHEREAS, the Gene Snyder Freeway is in dire need of median barriers to protect the motoring public from these types of accidents which all too often lead to dreadful consequences; and

WHEREAS, several states are using cable barriers on their interstate highways with tremendously effective results, including North Carolina, which reported a significant drop in fatalities where cable barriers are being utilized;

NOW, THEREFORE,

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

Section 1. The Transportation Cabinet shall consider the installation of cable barriers on the Gene Snyder Freeway in Jefferson County as a deterrent to accidents caused by motor vehicles crossing the median into oncoming traffic.

Section 2. A copy of this resolution shall be transmitted to the Secretary of Transportation, the Commissioner of Highways in the Kentucky Transportation Cabinet, and the Director of the Kentucky Office of the Federal Highway Administration.

**Approved April 22, 2006.**

## CHAPTER 227

### (SB 130)

AN ACT relating to educational assessment and accountability.

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

Section 1. KRS 158.6453 is amended to read as follows:

- (1) The Kentucky Board of Education shall be responsible for creating and implementing a statewide assessment program to be known as the Commonwealth Accountability Testing System to ensure school accountability for



student achievement of the goals set forth in KRS 158.645 and 158.6451. The board shall seek the advice of the Office of Education Accountability; the School Curriculum, Assessment, and Accountability Council; and the National Technical Advisory Panel on Assessment and Accountability in the development of the program. The statewide assessment program shall not include measurement of a student's ability to become a self-sufficient individual or to become a responsible member of a family, work group, or community.

- (2) The assessment program shall include the following components:
  - (a) A customized or commercially available norm-referenced test that measures, to the extent possible, the core content for assessment. The test shall provide valid and reliable results for individual students;
  - (b) Open-response or multiple-choice items, or both, to assess student skills in reading, mathematics, science, social studies, the arts, the humanities, and practical living and vocational studies; and an on-demand assessment of student writing. These assessments shall measure, to the extent possible, the core content for assessment;
  - (c) Writing portfolios consisting of samples of student work. After receiving the advice of the Writing Advisory Committee, the Kentucky Board of Education shall, by September 1 following April 14, 1998, file a notice of intent to promulgate an administrative regulation which reduces the teacher and student time involved in preparing a writing portfolio. Time reduction strategies included in the administrative regulation may include, but are not limited to, limiting the time spent on a single portfolio entry, limiting the number of revisions, or collecting entries at different grade levels;
  - (d) Performance assessment events for schools that have students enrolled in performing arts organizations sponsoring sanctioned events with an established protocol for adjudication; and
  - (e) A technically sound longitudinal comparison of the assessment results for the same students.
- (3) *The provisions of subsection (2) of this section shall apply to elementary schools, and shall also apply to middle and high schools except as provided in subsections (4) to (8) of this section.*
- (4) *No later than the 2007-2008 school year, and each year thereafter, the following provisions shall apply to the assessment program for middle and high schools:*
  - (a) *The assessment program shall include:*
    1. *A high school readiness examination to assess English, reading, mathematics, and science in grade eight (8);*
    2. *A college readiness examination to assess English, reading, mathematics, and science in grade ten (10);*
    3. *The ACT college admissions and placement examination to assess English, reading, mathematics, and science, to be taken by all students in grade eleven (11); and*
    4. *Any other component necessary to comply with the No Child Left Behind Act of 2001, 20 U.S.C. sec. 6301 et seq., as determined by the United States Department of Education.*
  - (b)
    1. *A student whose scores on the high school readiness examination administered in grade eight (8) indicate a high degree of readiness for high school shall be counseled to enroll in accelerated courses; and*
    2. *A student whose scores on the college readiness examination administered in grade ten (10) or the ACT college admissions and placement examination administered in grade eleven (11) indicate a high degree of readiness for college shall be counseled to enroll in accelerated courses, with an emphasis on Advanced Placement classes.*
  - (c) *The cost of the initial ACT examination administered to students in grade eleven (11) shall be paid for by the Kentucky Department of Education. The costs of additional ACT examinations shall be the responsibility of the student.*
  - (d) *The components of the middle and high school assessment program set forth in paragraph (a) of this subsection shall be administered in lieu of a customized or commercially available norm-referenced test under subsection (2)(a) of this section.*

- (5) *No later than the 2007-2008 school year, and each year thereafter, students in grades ten (10), eleven (11), and twelve (12) may take the WorkKeys assessments from ACT, Inc. in reading for information, locating information, and applied mathematics.*
- (a) *The costs of the initial WorkKeys assessments shall be paid by the Kentucky Department of Education. The cost of additional WorkKeys assessments shall be the responsibility of the student.*
  - (b) *A student whose scores on the WorkKeys assessments indicate that additional assistance is required in reading for information, locating information, or applied mathematics shall have intervention strategies for accelerated learning incorporated into his or her learning plan.*
  - (c) *A student meeting the WorkKeys threshold established by the Cabinet for Workforce Development shall be issued the appropriate Kentucky employability certificate.*
- (6) (a) *The Kentucky Department of Education shall conduct periodic studies comparing the standards in reading, mathematics, and science for middle and high school within the Kentucky core content for assessment and the concepts and content measured by the ACT and the high school and college readiness examinations under subsection (4)(a) of this section.*
- (b) *If the department determines that reading, mathematics, and science assessments required under subsection (4)(a) of this section are shown to provide direct measures of content standards and concepts identified in the Kentucky core content for assessment, the Kentucky Board of Education shall seek the advice of the Office of Education Accountability, the School Curriculum, Assessment, and Accountability Council, and the National Technical Advisory Panel on Assessment and Accountability regarding reducing the number of questions on the Commonwealth Accountability Testing System.*
- (c) *The Kentucky Department of Education shall continue to include open-response or multiple-choice items, or both, that assess student knowledge and skills in reading, mathematics, and science to the degree necessary for adequate coverage of the elements of the Kentucky core content for assessment not covered by the examinations.*
- (7) *Accommodations provided by ACT, Inc. to a student with a disability taking the assessments under subsection (4)(a)3. of this section shall consist of:*
- (a) *Accommodations provided in a manner allowed by ACT, Inc. when results in test scores are reportable to a postsecondary institution for admissions and placement purposes, except as provided in paragraph (b) of this subsection; or*
  - (b) *Accommodations provided in a manner allowed by a student's individualized education program as defined in KRS 158.281 for a student whose disability precludes valid assessment of his or her academic abilities using the accommodations provided under paragraph (a) of this subsection when the student's scores are not reportable to a postsecondary institution for admissions and placement purposes.*
- (8) *The assessments under subsections (4) and (5) of this section shall be known as the "Kentucky Work and College Readiness Examination" or "Readiness Examination."*
- (9) *Kentucky teachers shall have a significant role in the design of the assessments. The assessments shall be designed to:*
- (a) *Measure grade appropriate core academic content, basic skills, and higher-order thinking skills and their application. The assessment shall measure the core content for assessment used by the Department of Education during the 1997-98 school year. Any revisions to the core content for assessment shall be developed through a public process involving parents; educators at the elementary, secondary, and postsecondary education levels; professional education advocacy groups and organizations; and business and civic leaders and shall be distributed to all public schools;*
  - (b) *Provide valid and reliable scores for schools. If scores are reported for students individually, they shall be valid and reliable; and*
  - (c) *Minimize the time spent by teachers and students on assessment.*
- ~~(10)~~(4) *Results from the state assessment under this section shall be reported to the school districts and schools no later than one hundred fifty (150) days following the first day the assessment can be administered.*

~~(11)(5)~~ The Department of Education shall gather information to establish the validity of the assessment and accountability program. It shall develop a biennial plan for validation studies that shall include but not be limited to the consistency of student results across multiple measures, the congruence of school scores with documented improvements in instructional practice and the school learning environment, and the potential for all scores to yield fair, consistent, and accurate student performance level and school accountability decisions. Validation activities shall take place in a timely manner and shall include a review of the accuracy of scores assigned to students and schools, as well as of the testing materials. The plan shall be submitted to the Commission by July 1 of the first year of each biennium. A summary of the findings shall be submitted to the Legislative Research Commission by September 1 of the second year of the biennium.

~~(12)(6)~~ In addition to statewide testing for the purpose of determining school success, the board shall have the responsibility of assisting local school districts and schools in developing and using continuous assessment strategies needed to assure student progress. The continuous assessment shall provide diagnostic information to improve instruction to meet the needs of individual students.

~~(13)(7)~~ The Kentucky Board of Education, after the Department of Education has received advice from the Office of Education Accountability; the School Curriculum, Assessment, and Accountability Council; and the National Technical Advisory Panel on Assessment and Accountability, shall promulgate an administrative regulation under KRS Chapter 13A to establish the components of *a reporting structure for assessments administered under this section. The reporting structure shall include the following components:*

- (a) A school report card that clearly communicates with parents and the public about school performance. The school report card shall be sent to the parents of the students of the districts, and a summary of the results for the district shall be published in the newspaper with the largest circulation in the county. It shall include but not be limited to the following components reported by race, gender, and disability when appropriate:
  - 1. ~~(a)~~ Student academic achievement, including the results from each of the assessments administered under this section;
  - 2. ~~(b)~~ Nonacademic achievement, including the school's attendance, retention, dropout rates, and student transition to adult life; and
  - 3. ~~(c)~~ School learning environment, including measures of parental involvement;
- (b) *An individual student report to parents for each fifth grade student summarizing the student's readiness in reading and mathematics based on the student's fourth grade state assessment results. The school's fifth grade staff shall develop a plan for accelerated learning for any student with identified deficiencies;*
- (c) *An individual report for each student who takes a high school or college readiness examination administered under subsection (4)(a) of this section that:*
  - 1. *Provides the student's test scores;*
  - 2. *Provides a judgment regarding whether or not a student has met or failed to meet the expectations for each standard assessed; and*
  - 3. *Is designed to assist students, parents, and teachers to identify, assess, and remedy academic deficiencies prior to high school graduation; and*
- (d) *A student's scores on the ACT examination or WorkKeys assessments administered under subsections (4)(a) and (5) of this section and the ACT examination under subsection (5) of Section 2 of this Act shall be recorded on his or her official high school transcript.*

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

- (1) *A high school student whose scores on the high school readiness examination administered in grade eight (8), on the college readiness examination administered in grade ten (10), or on the WorkKeys indicate that additional assistance is required in English, reading, or mathematics shall have intervention strategies for accelerated learning incorporated into his or her learning plan.*
- (2) *A high school student whose score on the ACT examination under subsection (4)(a)3. of Section 1 of this Act in English, reading, or mathematics is below the system-wide standard established by the Council on*

*Postsecondary Education for entry into a credit-bearing course at a public postsecondary institution without placement in a remedial course or an entry-level course with supplementary academic support shall be provided the opportunity to participate in accelerated learning designed to address his or her identified academic deficiencies prior to high school graduation.*

- (3) *A high school, in collaboration with its school district, shall develop and implement accelerated learning that:*
  - (a) *Allows a student's learning plan to be individualized to meet the student's academic needs based on an assessment of test results and consultation among parents, teachers, and the student; and*
  - (b) *May include changes in a student's class schedule.*
- (4) *The Kentucky Department of Education, the Council on Postsecondary Education, and public postsecondary institutions shall offer support and technical assistance to schools and school districts in the development of accelerated learning.*
- (5) *A student who participates in accelerated learning under this section shall be permitted to take the ACT examination a second time prior to high school graduation at the expense of the Kentucky Department of Education. The cost of any subsequent administrations of the achievement test shall be the responsibility of the student.*

Section 3. KRS 158.6455 is amended to read as follows:

It is the intent of the General Assembly that schools succeed with all students and receive the appropriate consequences in proportion to that success.

- (1) (a) After receiving the advice of the Office of Education Accountability; the School Curriculum, Assessment, and Accountability Council; and the National Technical Advisory Panel on Assessment and Accountability, the Kentucky Board of Education shall promulgate administrative regulations in conformity with KRS 158.6471 and 158.6472 and KRS Chapter 13A to establish a system for identifying and rewarding successful schools. A reward shall be distributed to successful schools based on the number of full-time, part-time, and itinerant certified staff employed in the school on the last working day of the year of the reward to be used for school purposes as determined by the school council or, if none exists, the principal. The Kentucky Board of Education shall identify reports, paperwork requirements, and administrative regulations from which high performing schools shall be exempt.
  - (b) Effective July 1, 2006, the Kentucky Board of Education shall reward schools that exceed their improvement goal and have an annual average dropout rate below five percent (5%). A student shall be included in the annual average dropout rate if the student was enrolled in the school of record for at least thirty (30) days during the school year prior to the day he or she was recorded as dropping out of school. A student shall not be included in a school's annual average dropout rate if:
    - 1. The student is enrolled in a district-operated or district-contracted alternative program leading to a certificate of completion or a General Educational Development (GED) diploma; or
    - 2. The student has withdrawn from school and is awarded a General Educational Development (GED) diploma by October 1 of the following school year.
  - (c) A student enrolled in a district-operated or district-contracted alternative program shall participate in the appropriate assessments required by the Commonwealth Accountability Testing System established in KRS 158.6453.
- (2) After receiving the advice of the Office of Education Accountability; the School Curriculum, Assessment, and Accountability Council; and the National Technical Advisory Panel on Assessment and Accountability, the Kentucky Board of Education shall promulgate by administrative regulation in conformity with KRS 158.6471 and 158.6472 and KRS Chapter 13A the formula for a school accountability index to classify schools every two (2) years based on whether they have met their threshold level for school improvement, with school years 1998-2000 serving as the baseline, *except the Department of Education shall seek advice from the National Technical Advisory Panel on Assessment and Accountability for adjustments required if substantive changes are made to the assessment and accountability system.* The formula shall reflect the school goals described in KRS 158.6451, except there shall be no measurement of the goals included in subsection (1)(b)3. and (1)(b)4.

- (3) A student's test scores shall be counted in the accountability index of:
- (a) 1. The school in which the student is currently enrolled if the student has been enrolled in that school for at least one hundred (100) days of the school year prior to the beginning of the statewide testing period; or
  2. The school in which the student was previously enrolled if the student was enrolled in that school for at least one hundred (100) days of the school year prior to the beginning of the statewide testing period; and
  - (b) The school district if the student is enrolled in the district for at least one hundred (100) days of the school year prior to the beginning of the statewide testing period; and
  - (c) The state if the student is enrolled in a Kentucky public school prior to the beginning of the statewide testing period.
- (4) After receiving the advice of the Office of Education Accountability; the School Curriculum, Assessment, and Accountability Council; and the National Technical Advisory Panel on Assessment and Accountability, the Kentucky Board of Education shall promulgate an administrative regulation in conformity with KRS 158.6471 and 158.6472 and KRS Chapter 13A to establish appropriate consequences for schools failing to meet their threshold. The consequences shall be designed to improve teaching and learning and may include, but not be limited to:
- (a) A scholastic audit process under subsection (5) of this section to determine the appropriateness of a school's classification and to recommend needed assistance;
  - (b) School improvement plans;
  - (c) Eligibility to receive Commonwealth school improvement funds under KRS 158.805;
  - (d) Education assistance from highly skilled certified staff under KRS 158.782;
  - (e) Evaluation of school personnel; and
  - (f) Student transfer to successful schools.
- (5) (a) After receiving the advice of the Office of Education Accountability; the School Curriculum, Assessment, and Accountability Council; and the National Technical Advisory Panel on Assessment and Accountability, the Kentucky Board of Education shall promulgate an administrative regulation in conformity with KRS 158.6471 and 158.6472 and KRS Chapter 13A establishing the guidelines for conducting scholastic audits, which shall include the process for:
1. Appointing and training team members. The team shall include at least a highly skilled certified educator under KRS 158.782, a teacher, a principal or other local district administrator, a parent, and a university faculty member;
  2. Reviewing a school's learning environment, efficiency, and academic performance of students and the quality of the school council's data analysis and planning in accordance with KRS 160.345(2)(j);
  3. Evaluating each certified staff member assigned to the school. Only certified members of the audit team shall evaluate personnel; and
  4. Making a recommendation to the Kentucky Board of Education about the appropriateness of a school's classification and a recommendation concerning the assistance required by the school to improve teaching and learning.
- (b) The scholastic audit team shall consider the functioning of the school council in its review and make recommendations for improvement of the school council, if needed, and concerning the authority of the school council if required under KRS 160.346.
  - (c) For information purposes, the board shall also conduct scholastic audits in a sample of schools that achieved their goal and report to the public on the resulting findings regarding each aspect of the schools' operations required under subparagraph 2. of paragraph (a) of this subsection.

- (6) All students who drop out of school during a school year shall be included in a school's annual average school dropout rate, except as provided in subsection (1)(b) of this section.
- (7) After receiving the advice of the Office of Education Accountability; the School Curriculum, Assessment, and Accountability Council; and the National Technical Advisory Panel on Assessment and Accountability, the Kentucky Board of Education may promulgate by administrative regulation, in conformity with KRS 158.6471 and 158.6472 and KRS Chapter 13A, a system of district accountability that includes establishing a formula for accountability, goals for improvement over a two (2) year period, rewards for leadership in improving teaching and learning in the district, and consequences that address the problems and provide assistance when the district fails to achieve its goals set by the board.
- (8) After receiving the advice of the Office of Education Accountability; the School Curriculum, Assessment, and Accountability Council; and the National Technical Advisory Panel on Assessment and Accountability, the Kentucky Board of Education shall promulgate administrative regulations in conformity with KRS 158.6471 and 158.6472 and KRS Chapter 13A, to establish a process whereby a school shall be allowed to appeal a performance judgment which it considers grossly unfair. Upon appeal, an administrative hearing shall be conducted in accordance with KRS Chapter 13B. The state board may adjust a performance judgment on appeal when evidence of highly unusual circumstances warrants the conclusion that the performance judgment is based on fraud or a mistake in computations, is arbitrary, is lacking any reasonable basis, or when there are significant new circumstances occurring during the biennial assessment period which are beyond the control of the school.

**Approved April 22, 2006.**

## **CHAPTER 228**

### **(HB 42)**

AN ACT relating to revenue bonds for city or county projects.

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

Section 1. KRS 103.200 is amended to read as follows:

- (1) As used in KRS 103.210 to 103.285, "building" or "industrial building" means any land and building or buildings (including office space related and subordinate to any of the facilities enumerated below), any facility or other improvement thereon, and all real and personal properties, including operating equipment and machinery deemed necessary in connection therewith, whether or not now in existence, which shall be suitable for the following or any combination thereof:
  - (a) Any activity, business or industry for the manufacturing, processing or assembling of any commercial product, including agricultural, mining or manufactured products, together with storage, warehousing and distribution facilities in respect thereof;
  - (b) Any undertaking involving the construction, reconstruction and use of airports, mass commuting facilities, ship canals, ports or port facilities, docks or wharf facilities or harbor facilities, off-street parking facilities or of railroads, monorails or tramways, railway or airline terminals, cable television, mass communication facilities, and related facilities;
  - (c) Any buildings, structures and facilities, including the site thereof and machinery, equipment and furnishings suitable for use as health care or related facilities, including without limitation, hospitals, clinics, nursing homes, research facilities, extended or long-term care facilities, including housing for the aged or the infirm and all buildings, structures and facilities deemed necessary or useful in connection therewith;
  - (d) Any nonprofit educational institution in any manner related to or in furtherance of the educational purposes of such institution, including but not limited to classroom, laboratory, housing, administrative, physical educational and medical research and treatment facilities;
  - (e) Any facilities for any recreation or amusement park, public park or theme park, including specifically facilities for the use of nonprofit entities in making recreational and cultural benefits available to the public;

- (f) Any facilities involving manufacturing and service industries which process raw agricultural products, including timber, provide value added functions, or supply ingredients used for production of basic agricultural crops and products;
  - (g) Any facilities incident to the development of industrial sites, including land costs and the costs of site improvements thereon, such as grading, streets, drainage, storm and sanitary sewers, and other facilities and structures incidental to the use of such site or sites for industrial use;
  - (h) Any facilities for the furnishing of water if available on reasonable demand to members of the general public;
  - (i) Any facilities for the extraction, production, grading, separating, washing, drying, preparing, sorting, loading and distribution of mineral resources, together with related facilities;
  - (j) Any convention or trade show facilities, together with all related and subordinate facilities necessary to the development and proper utilization thereof;
  - (k) Any facilities designed and constructed to be used as hotels and/or motels, together with all related and subordinate facilities necessary to the operation thereof, including site preparation and similar facilities;
  - (l) Any activity designed for the preservation of residential neighborhoods, provided that such activity receives approval of the heritage division and insures the preservation of not fewer than four (4) family units;
  - (m) Any activity, designed for the preservation of commercial or residential buildings which are on the National Register of Historic Places or within an area designated as a national historic district or approved by the heritage division; and
  - (n) Any activity, including new construction, designed for revitalization or redevelopment of downtown business districts as designated by the issuer.
- (2) As used in KRS 103.210 to 103.285, "bonds" or "negotiable bonds" means bonds, notes, variable rate bonds, commercial paper bonds, bond anticipation notes or any other obligations for the payment of money issued by a city, county or other authority pursuant to KRS 103.210 to 103.285.
- (3) *As used in KRS 103.210 to 103.285, "substantiating documentation; means an independent finding, study, report, or assessment of the economic and financial impact of a project, which shall include a review of customary business practices, terms, and conditions for similar types of projects, both taxable and tax-exempt, in the current market environment.*

Section 2. KRS 103.2101 is amended to read as follows:

- (1) ~~[In addition to the duties specified in KRS 103.286, ]~~It shall be the duty of the *state local debt officer*~~[Kentucky Private Activity Bond Allocation Committee]~~ to review only those projects authorized by paragraphs (k), (l), (m), and (n) of KRS 103.200(1), and only off-street parking facilities, cable television, and mass communication facilities as authorized by paragraph (b) of KRS 103.200(1), whether by cities, counties, urban-county governments, air boards, *or* riverport authorities~~[, or the Kentucky Economic Development Finance Authority].~~ *The Kentucky Private Activity Bond Allocation Committee shall review only those projects to be issued by the Kentucky Economic Development Finance Authority and authorized by paragraphs (k), (l), (m), and (n) of KRS 103.200(1).* Such review shall include, but need not be limited to, the following:
- (a) *Whether the project creates long-term economic growth, creates or retains jobs in a previously designated empowerment or enterprise zone, or aids in the prevention or elimination of slums or blight*~~[The economic need for the project in the area].~~
  - (b) Whether *there is substantiating documentation to demonstrate that* the project places an unjustified competitive disadvantage on existing business in the area.
  - (c) *Whether there is substantiating documentation to demonstrate that*~~[If]~~ normal commercial financing is unavailable for this project or if available at what rates it must be secured and under what terms and conditions.
  - (d) If the project is in accord with the intent of KRS 103.200 to 103.285, this section, and KRS 103.2451.

- (e) The project's economic soundness.
- (2) If the committee *or the state local debt officer* finds that the project does not meet all of the above listed criteria, it shall deny approval of the project until the objections thereto have been met.
- (3) The committee *and the state local debt officer* may require the submission of testimony, project data, or any other information deemed appropriate with regard to any project submitted to it for approval.
- (4) The committee *and the state local debt officer*, within fourteen (14) days of receiving application, shall notify *in writing* the agency or unit of government proposing the issuance of bonds, *the appropriate county judge/executive, mayor, and school superintendent*, and the developers of the project of the date on which the project will be considered by the committee at a public hearing. Any person may attend the hearing and may personally, or through counsel, address the committee with regard to the project and make recommendations to the committee thereon. Notice shall be given to the agency or unit of government proposing to issue the bonds and the developers of the project not less than forty-five (45) days before the date the committee has set for the hearing on the project. The agency or unit of government proposing the issuance of the bonds shall, not less than thirty (30) days before the date of the hearing, publish notice of the hearing in the manner required by KRS Chapter 424. The agency or unit of government proposing the issuance of the bonds shall require the developer of the project (if it is other than the agency or unit of government) to reimburse the agency or unit of government for the cost of the advertising required herein. *A hearing officer may conduct the hearing with a proposed order to the committee or the state local debt officer.*
- (5) The committee *and the state local debt officer* shall have the right to approve or disapprove any project submitted to it, and over which it has jurisdiction as described in subsection (1) of this section, and no bonds or other evidence of indebtedness for any such project shall be issued until the project has been approved by the committee.
- (6) *When the revenues of the respective local government or school district are negatively impacted by the project, the committee and the state local debt officer shall require submission of a written statement of assurance that the appropriate county judge/executive, mayor, and school superintendent are in agreement with the negotiated financial arrangement. This written statement of assurance shall be used for advisory purposes.*
- (7) *The maximum length of any bond authorization under this section shall not exceed the anticipated useful life of the building or equipment purchased or thirty (30) years, whichever is shorter.*

Section 3. If the agency or unit of government proposing the issuance of bonds adopted a resolution indicating an intent to issue bonds for a project prior to February 1, 2006, then this project shall be subject to the provisions of KRS 103.2101 in effect upon the date of the passage of the resolution of intent to issue bonds.

**Approved April 22, 2006.**

## **CHAPTER 229**

### **(HB 381)**

AN ACT making appropriations for the operations, maintenance, and support of the Legislative Branch of the Commonwealth of Kentucky.

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

### **PART I**

#### **OPERATING BUDGET**

**Funds Appropriations:** Funds are appropriated to the Legislative Research Commission for the Legislative Branch of Government out of the General Fund and Restricted Funds accounts for the fiscal year beginning July 1, 2006, and ending June 30, 2007, and for the fiscal year beginning July 1, 2007, and ending June 30, 2008, in the following discrete sums, or so much thereof as may be necessary. Each appropriation is made by the source of respective fund or funds accounts to be used for the purposes of the Legislative Branch of government of the Commonwealth of Kentucky.

**2006-07**

**2007-08**

#### **1. General Assembly**



General Fund	15,033,200	16,986,000
Restricted Funds	69,600	191,000
Total	15,102,800	17,177,000

**Legislators Retirement and Compensation:** The above General Fund appropriation to the General Assembly includes funds for the Legislators Retirement Plan in each fiscal year and provides for the continuation of the annual cost-of-living adjustment authorized for the 2004-2006 biennium. Notwithstanding KRS 6.190 and 6.213, the daily compensation provided by KRS 6.190 and the interim expense allowance provided by KRS 6.213 for members of the General Assembly shall be as authorized for the 2004-2006 biennium and shall continue as adjusted on January 1, 2007, and January 1, 2008, by the all urban consumer price index (CPI-U) not to exceed the cost-of-living adjustment provided state employees in the state/executive branch budget but not less than zero percent per annum.

	2006-07	2007-08
<b>2. Legislative Research Commission</b>		
General Fund	31,755,600	33,196,200
Restricted Funds	-0-	-0-
TOTAL	31,755,600	33,196,200

**Permanent Full-time Employees:** The total number of permanent full-time employees hired by the Legislative Research Commission with the above appropriation, and not assigned specifically to the House and Senate members of the Legislative Research Commission, shall not exceed 232 in fiscal year 2006-2007 and 232 in fiscal year 2007-2008. In addition to this number, the total number of permanent full-time employees assigned specifically to the House members of the Legislative Research Commission shall not exceed 19 and the permanent full-time employees assigned specifically to the Senate members of the Legislative Research Commission shall not exceed 10.

#### TOTAL - OPERATING BUDGET

	2006-07	2007-08
General Fund	46,788,800	50,182,200
Restricted Funds	69,600	191,000
TOTAL	46,858,400	50,373,200

**Unexpended Balance:** Notwithstanding KRS 45.229, any unexpended balance remaining at the close of fiscal year 2005-2006 shall not lapse but shall continue into fiscal year 2006-2007, and any unexpended balance in any succeeding fiscal year shall not lapse but shall continue into the following fiscal year.

#### TOTAL - LEGISLATIVE BRANCH BUDGET

	2006-07	2007-08
General Fund	46,788,800	50,182,200
Restricted Funds	69,600	191,000
TOTAL	46,858,400	50,373,200

### PART II

#### GENERAL PROVISIONS

**1. Expenditure Authority:** The Director of the Legislative Research Commission, under the supervision of the Legislative Research Commission, may expend any of the funds appropriated for legislative operation and administration in any lawful manner and for any legal purpose consistent with the policies and practices of the Commission. No executive agency or statute governing the executive agencies of state government shall have the power to restrict or limit the actions of, or the expenditure of funds appropriated to, the Legislative Research Commission for the Legislative Branch of government.

**2. Capitol Annex Capital Construction Expenditures:** Any expenditure authorized by the Director of the Legislative Research Commission, under the supervision of the Legislative Research Commission, relating to

implementation of KRS 56.463(4)(b) and funded by previous or current appropriations to the Legislative Research Commission for the Legislative Branch of government shall not be governed by KRS 7A.010, 7A.120, 45.750 to 45.810, 48.010(14), and 48.020.

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

**4. Duplicate Appropriation:** Any appropriation item and sum in this Act and in an appropriation provision in another Act of the 2006 Regular Session of the General Assembly which constitutes a duplicate appropriation shall be governed by KRS 48.312.

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

**6. Appropriations Revisions:** Proposed revisions to Restricted Funds appropriations in this Act shall be made and reported pursuant to KRS 48.630(10). The Director of the Legislative Research Commission may transfer any available funds between the General Assembly and Legislative Research Commission as needed to meet the constitutional requirements of the Legislative Branch for fiscal years 2005-2006, 2006-2007, and 2007-2008.

**7. Allowance in Lieu of Stationery:** Notwithstanding KRS 6.220, in lieu of stationery, there shall be allowed to each member of the House of Representatives the sum of \$250 and to each member of the Senate the sum of \$500. This allowance shall be paid out of the State Treasury at the beginning of each legislative session.

### PART III

#### BUDGET REDUCTION OR SURPLUS EXPENDITURE PLAN

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

**Approved April 22, 2006.**

### CHAPTER 230

#### (HJR 168)

A JOINT RESOLUTION naming portions of various state roads and bridges for distinguished individuals, groups, and historic events.

WHEREAS, from time to time, the General Assembly has seen fit to honor various Kentuckians by naming portions of state highways in their honor; and

WHEREAS, these Kentuckians have come from all walks of life, held a multitude of jobs, and had a variety of reasons that they were deserving of the honor; and

WHEREAS, these individuals have included former Governors, decorated veterans, slain law enforcement officers, local elected officials, astronauts, doctors, educators, and civic leaders; and

WHEREAS, the General Assembly has often honored the veterans of this state by naming portions of several roads, from interstates to small two-lane country roads, in their honor; and

WHEREAS, the General Assembly again sees fit to honor a group of individuals who have made the lives of their fellow Kentuckians better and brought honor and respect to the Commonwealth;

NOW, THEREFORE,

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

Section 1. The members of the General Assembly, both individually and collectively proclaim the victims of the 1932 Yancey Mine Disaster to have been outstanding citizens and representatives of the Commonwealth.

Section 2. The Transportation Cabinet shall name the segment of Kentucky Route 72 in Harlan County beginning at the southernmost city limits for the City of Harlan and ending at the junction of Kentucky Route 72 and County Road 1216, as the "1932 Yancey Mine Disaster Memorial Highway." The Transportation Cabinet shall, within 30 days of the effective date of this Resolution, erect signs along the segment of Kentucky Route 72 identified in this section that read "1932 Yancey Mine Disaster Memorial Highway."

Section 3. The Transportation Cabinet shall name the bridge number B00013 on Kentucky Route 292, which crosses the Wolf Creek in Martin County, the "John C. Cline Memorial Bridge," and shall, within 30 days of the effective date of this Resolution, erect signs at each end of the bridge identified in this section that read "John C. Cline Memorial Bridge."

Section 4. The Transportation Cabinet shall name the entire length of United States Route 62 in Lyon County and Marshall County as the "Veterans Memorial Highway." The Transportation Cabinet shall, within 30 days of the effective date of this Resolution, erect signs at appropriate intervals on United States Route 62 in Lyon County that read "Lyon County Veterans Memorial Highway" and on United States Route 62 in Marshall County that read "Marshall County Veterans Memorial Highway."

Section 5. The Transportation Cabinet shall name all of Kentucky Route 11 "The Veterans Memorial Highway." Within 30 days of the effective date of this Resolution, the Transportation Cabinet shall erect signs designating Kentucky Route 11 as "The Veterans Memorial Highway."

Section 6. The Transportation Cabinet shall designate the bridge over the Big Sandy River connecting United States Route 23 to the community of Tram in Floyd County as the "Frank DeRossett Bridge." Within 30 days of the effective date of this Resolution, the Transportation Cabinet shall erect signs at each end of the bridge identified in this section that read "Frank DeRossett Bridge."

Section 7. The Transportation Cabinet shall name the bridge on Kentucky Route 1428 in the City of Allen, Floyd County, Kentucky, the "R. D. "Doc" Marshall Bridge" and shall, within 30 days of the effective date of this Resolution, erect appropriate signs at both ends of the bridge.

Section 8. The members of this body, both individually and collectively, do proclaim Cpl. Joshua D. Harris to have been an outstanding representative of the Commonwealth, and join his family and friends in mourning his passing.

Section 9. The Transportation Cabinet is directed to designate the bridge on United States Route 119 over United States Route 23 in Letcher County (mile marker 28.08) as the "Cpl. Joshua D. Harris Memorial Bridge." The Transportation Cabinet shall, within 30 days of the effective date of this Resolution, erect signs at each end of the bridge identified in this section that read "Cpl. Joshua D. Harris Memorial Bridge."

Section 10. The Transportation Cabinet shall name the bridge numbered B00016 on United States Route 68, which crosses the Clay Lick Creek in Metcalfe County, as the "Thomas D. Emberton Bridge." The Transportation Cabinet shall, within 30 days of the effective date of this Resolution, erect signs at each end of the bridge identified in this section that read "Thomas D. Emberton Bridge."

Section 11. The Transportation Cabinet shall name the bridge number B00197 on United States Route 119 near Kentucky Route 194, which crosses John's Creek in Pike County, the "William Blackburn Memorial Bridge." The Transportation Cabinet shall, within thirty (30) days of the effective date of this Resolution, erect signs at each end of the bridge identified in this section that read "William Blackburn Memorial Bridge."

Section 12. The members of this body, both individually and collectively, do applaud the literary accomplishments of Verna Mae Slone, author of the touching memoir of Appalachian motherhood "What My Heart Wants to Tell." In her honor, The Transportation Cabinet shall name Kentucky Route 899 in Knott County, from Onion Blade to Kentucky Route 1393 "Verna Mae Slone Road." The Transportation Cabinet shall, within 30 days of the effective date of this Resolution, erect signs on the route identified in this section that read "Verna Mae Slone Road."

Section 13. The Transportation Cabinet shall name the new River / Offut bridge in Paintsville the "Irvin Clay Memorial Bridge." The Transportation Cabinet shall, within thirty (30) days of the effective date of this Resolution, erect signs at each end of the bridge identified in this section that read "Irvin Clay Memorial Bridge."

Section 14. The Transportation Cabinet is directed to rename the Paris By-Pass in Bourbon County the "Thoroughbred Run." The Transportation Cabinet shall, within the 30 days of the effective date of this resolution, erect signs on the Paris By-Pass that read "Thoroughbred Run."

Section 15. The Transportation Cabinet shall name the new Shelbyville by-pass "Freedom's Way" and within 30 days of the effective date of this Joint Resolution, the Transportation Cabinet shall erect signs designating the new Shelbyville by-pass as "Freedom's Way."

Section 16. The Transportation Cabinet shall name the entire length of Kentucky Route 979 in Floyd County the "Eula Hall Highway." Within 30 days of the effective date of this Joint Resolution, the Transportation Cabinet shall erect signs at each end of the route identified in this section, and at appropriate intervals in between, that read "Eula Hall Highway."

Section 17. The Transportation Cabinet shall designate Old United States Route 60 (Kentucky Routes 3344 and 811) near the town of Reed in Henderson County as the "St. Augustine Church Road," and shall, within 30 days of the effective date of this Joint Resolution, erect appropriate signs.

Section 18. The Transportation Cabinet shall name that portion of Kentucky Route 317, starting at the junction of Kentucky Route 805 at Kona and ending in front of the Letcher County Coal Miner's Memorial located at Hemphill, the "Letcher County Coal Miners Highway" and shall, within 30 days of the effective date of this Joint Resolution, erect signs that read "Letcher County Coal Miners Highway."

Section 19. The Transportation Cabinet shall name the bridge on Kentucky Route 80, at the entrance to Langley, the "Ralph Owens Memorial Bridge" and shall, within 30 days of the effective date of this Joint Resolution, erect signs at each end of the bridge identified in this section that read "Ralph Owens Memorial Bridge."

Section 20. The Transportation Cabinet shall name the Cliff Bridge in Floyd County the "Bert T. Combs Memorial Bridge" and shall within 30 days of the effective date of this Joint Resolution erect signs at each end of the bridge identified in this section that read "Bert T. Combs Memorial Bridge."

Section 21. The Transportation Cabinet shall name Kentucky Route 1051 in Meade County as the "Meade County Veteran's Memorial By-Pass." The Transportation Cabinet shall within 30 days of the effective date of this Joint Resolution, erect signs on the route identified in this section that read "Meade County Veteran's Memorial By-Pass."

Section 22. The Transportation Cabinet shall name Kentucky Route 29 from United States Route 68 to the city limits of Wilmore as the "Earl Lewallen Highway" and shall within 30 days of the effective date of this Joint Resolution erect signs on the route identified in this section that read "Earl Lewallen Highway."

**Approved April 22, 2006.**

## **CHAPTER 231**

### **(HB 742)**

AN ACT relating to home energy assistance.

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

SECTION 1. A NEW SECTION OF KRS CHAPTER 278 IS CREATED TO READ AS FOLLOWS:

**(1) As used in this section:**

**(a) "Voluntary energy cost assistance fund" means a fund that shall:**

- 1. Be administered by a utility or provider for the purpose of receiving voluntary contributions from customers and disbursing subsidies to customers;**
- 2. Be administered in coordination with one or more community action agencies that assist the Cabinet for Health and Family Services in administering federal Low-Income Home Energy Assistance Program (LIHEAP) funding; and**
- 3. Be maintained in trust and separate from any customer assistance program otherwise implemented by the utility or provider;**

**(b) "Provider" means any person or persons, excluding an electric power system owned and operated by a municipality, that provide service to retail customers and that own, control, operate, or manage any facility used or to be used for or in connection with any activity described in KRS 278.010(3)(a) or (b) but are not regulated by KRS Chapter 278; and**

**(c) "Fund" means a voluntary energy cost assistance fund.**

**(2) Any utility as defined in KRS 278.010(3)(a) or (b) that provides service to retail customers and that does not already administer an energy assistance program prior to the effective date of this Act may establish a fund.**

- (3) *Any provider that does not already administer an energy assistance program prior to the effective date of this Act may establish a fund.*
- (4) *A customer's voluntary monthly contribution amount to the fund shall be:*
  - (a) *An amount equal to the difference of the customer's monthly bill and the amount of the next highest whole dollar; or*
  - (b) *A standard amount not to exceed one dollar (\$1).*
- (5) *A customer may make a special contribution to the fund at any time in any amount.*
- (6) *Annual disbursements from the fund may be made in November and December of each year by the utility or provider upon the recommendation of a community action agency for the purpose of providing a utility or provider bill subsidy for residential customers who:*
  - (a) *Use electricity or natural or manufactured gas as a principal source of home energy;*
  - (b) *Are responsible for their home heating costs either directly or indirectly as an undesignated portion of the rent;*
  - (c) *Have a total household income that is at or below one hundred ten percent (110%) of the federal poverty guidelines as defined in KRS 205.5621;*
  - (d) *Have liquid monetary resources that do not exceed one thousand five hundred dollars (\$1,500) if those liquid monetary resources are not used for the medical and living expenses of a household member with a catastrophic illness;*
  - (e) *Have liquid monetary resources that do not exceed four thousand dollars (\$4,000) if those liquid monetary resources are used for the medical and living expenses of a household member with a catastrophic illness; and*
  - (f) *Are a customer of the utility or provider.*
- (7) *If available, additional disbursements from the fund may be made from January 1 through March 15 of each year by the utility or provider upon the recommendation of a community action agency for the purpose of providing a utility or provider bill subsidy for residential customers who:*
  - (a) *Use electricity or natural or manufactured gas as a principal source of home energy;*
  - (b) *Are responsible for their home heating costs either directly or indirectly as an undesignated portion of the rent;*
  - (c) *Have a total household income that is at or below one hundred ten percent (110%) of the federal poverty guidelines as defined in KRS 205.5621;*
  - (d) *Have liquid monetary resources that do not exceed one thousand five hundred dollars (\$1,500), if those liquid monetary resources are not used for the medical and living expenses of a household member with a catastrophic illness;*
  - (e) *Have liquid monetary resources that do not exceed four thousand dollars (\$4,000), if those liquid monetary resources are used for the medical and living expenses of a household member with a catastrophic illness; and*
  - (f) *Are utility or provider customers who:*
    - 1. *Have received a disconnect notice from the utility or provider;*
    - 2. *Are within four (4) days of running out of fuel oil, propane, kerosene, wood or coal; or*
    - 3. *Have received an eviction notice for nonpayment of rent, when heat is included as an undesignated portion of the rent.*
- (8) *If available, additional summer cooling disbursements from the fund may be made on a one (1) time basis from May through August of each year by the utility or provider upon the recommendation of a community action agency for the purpose of providing an air-conditioning unit to residential customers who:*

- (a) *Are responsible for their home heating costs either directly or indirectly as an undesignated portion of the rent;*
- (b) *Have a total household income that is at or below one hundred ten percent (110%) of the federal poverty guidelines as defined in KRS 205.5621;*
- (c) *Have liquid monetary resources that do not exceed one thousand five hundred dollars (\$1,500), if those liquid monetary resources are not used for the medical and living expenses of a household member with a catastrophic illness;*
- (d) *Have liquid monetary resources that do not exceed four thousand dollars (\$4,000), if those liquid monetary resources are used for the medical and living expenses of a household member with a catastrophic illness;*
- (e) *Are a customer of the utility or provider;*
- (f) *Do not have access to an air conditioner; and*
- (g) *Have a household member who:*
  - 1. *Has a health condition or disability that requires cooling to prevent further deterioration as verified by a physician's statement;*
  - 2. *Is sixty-five (65) years of age, or older; or*
  - 3. *Is under the age of six (6).*
- (9) *For the six (6) month period from January 1 to June 30 of each year, each utility or provider that administers a fund shall provide a detailed report of costs in administering the fund and a detailed report of receipts to and disbursements from the fund to the commission no later than July 31, and for the six (6) month period from July 1 to December 31, no later than January 31 of the following year. Any balances remaining in the fund at the end of a year shall remain in the fund for use in succeeding years.*
- (10) *The commission shall require all utilities as defined in KRS 278.010(3)(a) and (b) that administer a fund and provide service to retail customers in Kentucky to develop and implement a mechanism for soliciting and receiving contributions to the fund. The mechanism and format shall be approved by the commission and may include, but shall not be limited to, a check-the-box format. Contributions shall be made as described in subsections (4) and (5) of this section.*
- (11) *Any provider that administers a fund shall comply with the requirements to implement a mechanism for soliciting and receiving contributions to the fund as provided in subsection (10) of this section.*
- (12) *Those utilities and providers that are already administering an energy assistance program prior to the effective date of this Act shall not be subject to subsections (9), (10), and (11) of this section.*
- (13) *All contributions to the fund shall be voluntary and shall be uniformly assessed monthly, except in the case of a special contribution, which can be made in any amount at any time, for all customers of the utility or provider. A customer shall not be subject to making contributions until such time as his or her intent is submitted to the applicable utility in a manner prescribed by the commission. A customer who no longer wishes to contribute to the fund shall be exempted from making further contributions to the fund once his or her intent is submitted to the applicable utility in a manner prescribed by the commission.*
- (14) *Contributions received by utilities or providers, together with any interest accruing thereon, shall be transferred to the fund immediately upon receipt.*
- (15) *A utility or provider that administers a fund may recover up to three percent (3%) of each contribution received for its costs in administering the fund. The commission shall allow any additional, reasonable cost a utility incurs in administering the receipt and disbursement of contributions to the fund in the cost of service of the utility for ratemaking purposes.*

SECTION 2. A NEW SECTION OF KRS CHAPTER 96 IS CREATED TO READ AS FOLLOWS:

- (1) *An electric power system owned and operated by a municipality may establish a home heating assistance fund to receive voluntary contributions from customers to assist individuals in preventing the termination of home heating service.*

- (2) *This fund may be administered by the electric power system or through a community action agency or charitable organization that identifies individuals in need and makes such assistance available. This fund shall be administered as described in Section 1 of this Act.*

**Approved April 22, 2006.**

## CHAPTER 232

**(HB 632)**

AN ACT relating to boat launching fees.

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

Section 1. KRS 148.021 is amended to read as follows:

- (1) The Department of Parks shall exercise all administrative functions of the state relating to the operation of state parks, shrines, monuments, and museums except those allocated to the historical society.
- (2) The department may request acquisition, subject to the provisions of KRS Chapters 42, 45, 45A, 56, and the provisions made in this chapter, of lands by purchase, lease, or otherwise, on which to operate state parks.
- (3) The department may improve said parks by constructing and equipping improvements or facilities in said parks.
- (4) The department may operate said parks, and fix fees and charges for the use of said parks and the improvements and facilities constructed therein, and provide for the collection of said fees and charges and the proper accounting therefor, *except that:*
  - (a) *The department shall not impose boat launching fees at any boat ramp over which it has authority and control; and*
  - (b) *The department shall not allow, grant permission to, or permit any individual, sole proprietorship, partnership, corporation, limited liability company, or other form of business arrangement to which the department has granted a rental or leasehold interest, or has engaged to manage or operate facilities that include a public boat launching ramp, to charge a boat launching fee at any boat ramp.*
- (5) The Department of Parks is authorized to enter into any agreement with the Breaks Interstate Park Commission for the operation of any facilities in the Breaks Interstate Park.
- (6) The Department of Parks is authorized to accept, for deposit in a trust and agency fund account in accordance with KRS 45.253, on behalf of the state any grant or contribution, federal or otherwise, to assist in meeting the cost of carrying out the functions assigned to the Department of Parks.
- (7) Notwithstanding any provision in KRS Chapter 41, 45, 45A, or 47 to the contrary, there may be established separate cash funds and depositories at each state park from which immediate payment of refunds may be made to a patron or guest of such state park of any unearned money advanced or paid by such guest or patron. The department may accept from a guest or patron an amount which includes the fee for the service rendered plus a gratuity for the waitress or other designated person and remit the gratuity directly from the depository or cash fund to the designated recipient thereof. Such funds or depositories shall be governed by regulations established by the Department of Parks and approved by the Finance and Administration Cabinet.
- (8) The commissioner may promulgate administrative regulations in accordance with provisions of KRS Chapter 13A in order to carry out the provisions of this section.

Section 2. Any person who has purchased and has in their possession evidence of the purchase of an annual ramp pass from the Department of Parks may apply for and shall receive a prorated refund for the cost of the unexpired portion of the annual ramp pass.

**Approved April 22, 2006.**

## CHAPTER 233

## (HB 707)

AN ACT relating to commercial driver's licenses and declaring an emergency.

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

Section 1. KRS 281A.160 is amended to read as follows:

- (1) (a) Except as provided in subsection ~~(4)~~~~(3)~~ of this section, the State Police shall be responsible for administering both the knowledge and skills test required by KRS 281A.130.
- (b) *Applicants who fail the written knowledge test shall be permitted to retake the written test on the next day the tests are administered. Applicants who fail the written test six (6) times shall be required to wait three (3) days before taking the knowledge test again. Applicants who subsequently fail the written test three (3) additional times shall be required to wait three (3) days prior to retaking the test.*
- (2) (a) *Except as provided for in subsection (3) of this section, at the time a CDL permit is issued:*
  1. *An applicant who has held a Kentucky operator's license for thirty (30) days or longer shall pay a skills testing fee of fifty dollars (\$50); and*
  2. *An applicant who has held a Kentucky operator's license for less than thirty (30) days shall pay a skills testing fee of one hundred fifty dollars (\$150).*
- (b) *There is created within the State Treasury a trust fund to be known as the State Police CDL skills testing fund. The fund shall be administered by the State Police and shall receive all skills testing and retesting fees collected under subsections (2)(a) and (6)(c) of this section, in addition to any grants, gifts, or appropriations of state or federal moneys, and any interest earned on moneys in the fund. Moneys in the fund shall not lapse and shall be carried forward to the next succeeding fiscal year. The State Police CDL skills testing fund shall be used by the State Police to contract with and train civilian CDL skills examiners and to improve the logistics of the CDL skills testing process.*
- (c) The State Police, upon request of an applicant who has passed both the vision and knowledge tests, may schedule the applicant for the skills test at the first available test date at a test site designated by the State Police but not less than ten (10) days after the applicant has filed the application *and been issued a CDL permit. Except in extenuating circumstances, a retest for a failed portion of the skills test shall be given within three (3) days of a request of a retest.*
- (d) *An applicant shall provide a class representative commercial vehicle, for the class of CDL for which the applicant is testing, in which to take the skills test. Unless the State Police grant an exemption at the time the application for testing is made, the vehicle supplied under this paragraph shall be unloaded. Upon arrival for the skills test, the applicant shall have in his or her possession a valid Kentucky operator's license, a valid CDL permit, and a current Department of Transportation physical card. A CDL licensed driver who is at least twenty-one (21) years old shall accompany the applicant at all times the applicant is in operation of a commercial vehicle.*
- (3) *A testing fee shall not be charged to an individual applying for a CDL with an "S" restriction as defined in KRS 281A.170.*
- (4) The State Police may authorize a third party to administer the skills test specified by this section, if:
  - (a) The test is the same that would otherwise be administered by the state; *and*
  - (b) The third party has entered into an agreement with this Commonwealth which complies with requirements of Title 49, Code of Federal Regulations, Part 383.75, as adopted by the Transportation Cabinet~~;~~*and*
  - ~~(c) The third party enters a written agreement with the State Police that the State Police shall determine the entity that shall administer the skills test to applicants if:~~
    - ~~1. The third party offers a program in commercial truck driving by certificate or contract program through the Kentucky Community and Technical College System; or~~



~~2. The third party is licensed under KRS Chapter 165A to offer a program in commercial truck driving.~~

(5)(4) The State Police shall promulgate administrative regulations under KRS Chapter 13A that establish procedures that ensure an arm's-length relationship is maintained between a third-party tester and any owner, officer, or employee of any program offering commercial truck driving under the Kentucky Community and Technical College System or a proprietary school licensed under KRS Chapter 165A.

~~[(5) A third party tester authorized by subsection (3) of this section may provide a vehicle for a person to use during the skills portion of the commercial driver's license exam. If the third party tester provides a vehicle, he may charge the person taking the skills test a fee of twenty five dollars (\$25) for use of the vehicle.]~~

- (6) (a) Applicants shall be permitted to take the ~~knowledge or~~ skills test for a particular class vehicle an unlimited number of times; however, an applicant shall not retest more than one (1) time in any twenty-four (24) hour period.
- (b) *The skills test shall consist of three (3) separate portions: pre-trip inspection, basic maneuvering, and road skills. An applicant must achieve a score of at least eighty percent (80%) on each portion of the skills test before a CDL may be issued to the applicant. An applicant who passes one (1) or more portions of the skills test but does not pass all portions of the skills test shall retest only on those portions of the skills test the applicant failed.*
- (c) *An applicant who fails any portion of the skills test four (4) times shall be notified by the State Police that the applicant is required to wait one (1) week and pay a retest fee of fifty dollars (\$50) before retaking a portion of this skills test again.*
- (d) *Failure of an applicant to notify the State Police prior to missing an appointment for a skills test shall be considered a failure, on all parts of the skills test scheduled to be given, for the purposes of determining number of failures, waiting periods, and retesting fees under paragraph (c) of this subsection for individual applicants. A missed appointment failure under this paragraph shall not be reported as a failure to the board.*
- (e) The provisions of KRS 281A.150 notwithstanding, *an application* ~~a~~ fee shall not be charged for each test that is retaken as a result of a failing score.
- (7) An applicant who seeks reinstatement of a commercial driver's license after a suspension, withdrawal, revocation, or disqualification of less than one (1) year shall pay the reinstatement fee as prescribed by KRS 281A.150(6) and shall receive his commercial driver's license with all endorsement and restrictions that were in effect at the time of suspension. An applicant who seeks reinstatement of a commercial driver's license after a suspension, withdrawal, revocation, or disqualification of one (1) year or more shall submit to the skills, knowledge, and vision tests.
- (8) (a) The commissioner of the Kentucky State Police shall promulgate administrative regulations pursuant to the provisions of KRS Chapter 13A to implement the provisions of this section.
- (b) *Within ninety (90) days of the effective date of this Act, the State Police shall promulgate administrative regulations under KRS Chapter 13A to set forth the qualifications for contract examiners retained under subsection (2)(b) of this section.*

Section 2. Whereas the Kentucky State Police do not currently have the manpower to provide CDL testing on a timely and efficient basis, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or its otherwise becoming law.

Approved April 22, 2006.

## CHAPTER 234

(HB 453)

AN ACT relating to the horse breeding industry and declaring an emergency.

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

Section 1. KRS 230.443 is amended to read as follows:

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Quarter horses, Appaloosas, and Arabian horses ~~conceived~~~~[foaled]~~ by artificial insemination or other means shall be eligible to race under the provisions of this chapter.

Section 2. KRS 230.804 is amended to read as follows:

- (1) There is hereby created in the State Treasury a trust and revolving fund designated as the "Kentucky horse breeders incentive fund." The fund shall be administered by the Kentucky Horse Racing Authority. For tax periods beginning on or after June 1, 2005, seven percent (7%) of all receipts collected under KRS 139.531(1)(a) from the sales and use tax on the fees paid for breeding a stallion to a mare in Kentucky shall be deposited in the fund together with any other money contributed, appropriated or allocated to the fund from all other sources. The money deposited in the fund is hereby appropriated for the uses set forth in this section. Any money remaining in the fund at the close of any calendar year shall not lapse but shall be carried forward to the next calendar year. The fund may also receive additional state appropriations, gifts, grants, and federal funds. All interest earned on money in the fund shall be credited to the fund.
- (2)
  - (a) The Kentucky Horse Racing Authority shall use moneys deposited in the Kentucky horse breeders incentive fund to administer the fund and provide rewards for breeders *or owners* of horses bred and foaled in Kentucky.
  - (b) By January 1, 2006, the Kentucky Horse Racing Authority shall promulgate administrative regulations establishing the conditions and criteria for the distribution of moneys from the fund.
  - (c) The Department of Revenue may promulgate administrative regulations establishing the procedures necessary to determine the correct allocation of sales tax receipts described in subsection (1) of this section.
  - (d) As soon as practicable after the close of each calendar year, beginning with the calendar year ending December 31, 2005, the authority shall disburse to breeders of horses moneys in the Kentucky horse breeders incentive fund *to be used to promote, enhance, improve, and encourage the further and continued development of the horse industry in Kentucky, under*~~[pursuant to]~~ the administrative regulations promulgated pursuant to paragraph (b) of this subsection.

Section 3. KRS 230.770 is amended to read as follows:

- (1) There is hereby created a trust and revolving fund for the Kentucky Horse Racing Authority, designated as the Kentucky standardbred, quarter horse, Appaloosa, and Arabian development fund, consisting of money allocated to the fund under the provisions of KRS 138.510, together with any other money contributed to or allocated to the fund from all other sources. For the purposes of this section, "development fund" or "fund" means the Kentucky standardbred, quarter horse, Appaloosa, and Arabian development fund. Money to the credit of the development fund shall be distributed by the Treasurer for the purposes provided in this section, upon authorization of the Kentucky Horse Racing Authority and upon approval of the secretary of the Finance and Administration Cabinet. Money to the credit of the fund at the end of each fiscal year shall not lapse, but shall be carried forward in the fund to the succeeding fiscal year.
- (2) The Kentucky Horse Racing Authority shall use the development fund to promote races, and to provide purses for races, for horses sired by stallions standing within the Commonwealth of Kentucky or as provided in subsection (2)(b) of this section. For purposes of this section, the term stallions standing within the Commonwealth of Kentucky shall include only stallions~~—standing the entire breeding season within the Commonwealth of Kentucky and~~ registered with the Kentucky Horse Racing Authority.
  - (a) The authority shall provide for distribution of money to the credit of the development fund to persons, corporations, or associations operating licensed standardbred race tracks within Kentucky on an equitable basis, for the purpose of conducting separate races for two and three year old fillies and colts, both trotting and pacing, sired by standardbred stallions standing within the Commonwealth of Kentucky at the time of conception. Notwithstanding other provisions hereof, a filly or colt foaled prior to January 1, 1978, shall be eligible to participate in races, a part of the purse for which is provided by money of the development fund, if the sire of the filly or colt was standing at stud within the Commonwealth of Kentucky at the time of conception.
  - (b) The authority shall provide for distribution of money to the credit of the development fund to persons, corporations, or associations operating licensed racetracks within Kentucky conducting quarter horse, Appaloosa, or Arabian racing, on an equitable basis as determined by the authority.

- (3) Money distributed from the development fund to licensed standardbred race tracks within the Commonwealth shall be used exclusively to promote races and provide purses for races conditioned to admit only standardbred colts and fillies sired by standardbred stallions standing within the Commonwealth of Kentucky.
- (4) The Kentucky Horse Racing Authority shall fix the amount of money to be paid from the development fund to be added to the purse provided for each race by the licensed operator of the race track; shall fix the dates and conditions of races to be held by licensed race tracks; and shall promulgate administrative regulations necessary to carry out the provisions of this section. Money from the fund shall be allocated to each breed of horse represented in the fund in an amount equal to the amount the breed has contributed to the fund.
- (5) The Kentucky Horse Racing Authority may promulgate administrative regulations necessary to determine the eligibility of horses for entry in races for which a portion of the purse is provided by money of the development fund, including administrative regulations for the registration of stallions standing within Kentucky and progeny thereof, including registration of progeny of the stallions foaled prior to June 19, 1976. ***Registration of stallions standing within Kentucky may occur any time during the breeding season and shall occur no later than July 1 of each year.***
- (6) The Kentucky Horse Racing Authority shall appoint qualified personnel necessary to supervise registration of, or determination of eligibility of, horses entitled to entry in races, a portion of the purse of which is provided by the development fund, to assist the authority in determining the conditions, class, and quality of the fund supported race program to be established hereunder so as to carry out the purposes of this section. These persons shall serve at the pleasure of the authority and compensation shall be fixed by the authority. The compensation of personnel and necessary expenses shall be paid out of the development fund. The authority shall promulgate administrative regulations to carry out the provisions of this section, and shall administer the Kentucky sire stakes program created hereby in a manner best designed to promote and aid in the development of the horse industry in Kentucky; to upgrade the quality of racing in Kentucky; and to improve the quality of horses bred in Kentucky.

Section 4. This Act shall be known as the 2006 Kentucky Equine Competitiveness Act.

Section 5. Whereas it is essential that the racing industry's status as the Commonwealth's signature industry be maintained and that the Commonwealth's competitive edge be enhanced by the generation of larger purses, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming a law.

**Approved April 22, 2006.**

## CHAPTER 235

**(HB 129)**

AN ACT relating to operator's licenses.

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

Section 1. KRS 186.540 is amended to read as follows:

- (1) ***Except as provided in subsection (2) of this section,*** when any person after applying for or receiving an operator's license moves from the address named in the application or license issued to him or when the name of a licensee is changed, by marriage or otherwise, the person shall within ten (10) days after the change, apply to the circuit clerk in his county of residence for the issuance of a corrected license.
- (2) ***If a license holder's street name or postal address is changed and the license holder has not moved to a new residence, the license holder shall apply to the Circuit Clerk for a corrected license, free of charge.***

Section 2. KRS 186.560 is amended to read as follows:

- (1) The cabinet shall forthwith revoke the license of any operator of a motor vehicle upon receiving record of his conviction of any of the following offenses:
  - (a) Murder or manslaughter resulting from the operation of a motor vehicle;
  - (b) Driving a vehicle which is not a motor vehicle while under the influence of alcohol or any other substance which may impair one's driving ability;

- (c) Perjury or the making of a false affidavit under KRS 186.400 to 186.640 or any law requiring the registration of motor vehicles or regulating their operation on highways;
  - (d) Any felony in the commission of which a motor vehicle is used;
  - (e) Conviction or forfeiture of bail upon three (3) charges of reckless driving within the preceding twelve (12) months;
  - (f) Conviction of driving a motor vehicle involved in an accident and failing to stop and disclose his identity at the scene of the accident;
  - (g) Conviction of theft of a motor vehicle or any of its parts, including the conviction of any person under the age of eighteen (18) years;
  - (h) Failure to have in full force and effect the security required by Subtitle 39 of KRS Chapter 304 upon conviction of a second and each subsequent offense within any five (5) year period;
  - (i) Conviction for fraudulent use of a driver's license or use of a fraudulent driver's license to purchase or attempt to purchase alcoholic beverages, as defined in KRS 241.010, in violation of KRS 244.085(5); and
  - (j) Conviction of operating a motor vehicle, motorcycle, or moped without an operator's license as required by KRS 186.410.
- (2) If the person convicted of any offense named in subsection (1) of this section is not the holder of a license, the cabinet shall deny the person so convicted a license for the same period of time as though he had possessed a license which had been revoked. If through an inadvertence the defendant should be issued a license, the cabinet shall forthwith cancel it.
- (3) The cabinet upon receiving a record of the conviction of any person upon a charge of operating a motor vehicle while the license of that person is denied or suspended, or revoked, or while his privilege to operate a motor vehicle is withdrawn, shall immediately extend the period of the first denial, suspension, revocation, or withdrawal for an additional like period.
- (4) The revocation or denial of a license or the withdrawal of the privilege of operating a motor vehicle for a violation of subsection (1)(a) of this section shall be for a period of not less than five (5) years. Revocations or denials under this section shall not be subject to any lessening of penalties authorized under any other provision of this section or any other statute.
- (5) Except as provided in subsections (3), (4), and (8) of this section, in all other cases, the revocation or denial of a license or the withdrawal of the privilege of operating a motor vehicle under this section shall be for a period of six (6) months, except that, if the same person has had one (1) previous conviction of any offense enumerated in subsection (1) of this section, regardless of whether the person's license was revoked because of the previous conviction, the period of the revocation, denial, or withdrawal shall be one (1) year; if the person has had more than one (1) previous conviction of the offenses considered collectively as enumerated in subsection (1) of this section, regardless of whether the person's license was revoked for any previous conviction, the period of revocation, denial, or withdrawal shall be for not less than two (2) years. If the cabinet, upon receipt of the written recommendation of the court in which any person has been convicted of violating KRS 189.520(1) or 244.085(5) as relates to instances in which a driver's license or fraudulent driver's license was the identification used or attempted to be used in the commission of the offense, who has had no previous conviction of said offense, the person's operator's license shall not be revoked, but the person's operator's license shall be restricted to any terms and conditions the secretary in his discretion may require, provided the person has enrolled in an alcohol or substance abuse education or treatment program as the cabinet shall require. If the person fails to satisfactorily complete the education or treatment program or violates the restrictions on his operator's license, the cabinet shall immediately revoke his operator's license for a period of six (6) months.
- (6) In order to secure the reinstatement of a license to operate a motor vehicle or motorcycle restored following a period of suspension or revocation pursuant to KRS 189A.070, 189A.080, and 189A.090, the person whose license is suspended or revoked shall comply with the fees and other procedures of the Transportation Cabinet with regard to the reinstatement of suspended or revoked licenses.

- (7) The cabinet shall revoke the license of any operator of a motor vehicle upon receiving notification that the person is under age eighteen (18) and has dropped out of school or is academically deficient, as defined in KRS 159.051(1).
- (8) A person under the age of eighteen (18) who is convicted of the offenses of subsections (1) or (3) of this section, except for subsection (1)(h) *or (i)* of this section, shall have his license revoked until he reaches the age of eighteen (18) or shall have his license revoked as provided in this section, whichever penalty will result in the longer period of revocation.

**Approved April 22, 2006.**

## CHAPTER 236

### (HB 501)

AN ACT relating to public roads.

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

Section 1. KRS 178.025 is amended to read as follows:

- (1) Any road, street, highway or parcel of ground dedicated and laid off as a public way and used without restrictions on a continuous basis by the general public for fifteen (15) consecutive years, shall conclusively be presumed to be a public road.
- (2) *In the absence of any record, the width of a public road right-of-way shall be presumed to extend to and include that area lying outside the shoulders and ditch lines and within any landmarks such as fences, fence posts, corner stones, or other similar monuments indicating the boundary lines.*
- (3) *In the absence of both record or landmark, the right-of-way of a public road shall be deemed to extend to and include the shoulders and ditch lines adjacent to said road, and to the top of cuts or toe of fills where such exist.*

Section 2. KRS 178.290 is amended to read as follows:

- (1) Any person may build a sidewalk, composed of gravel, concrete or other suitable material, along the side of any public road in this state. The sidewalk shall not exceed sixty (60) inches in width and the construction and repair and the use of the sidewalk shall be without expense of any kind to any other person who may want to use it. All persons who desire shall be permitted to use the sidewalk, and it shall be so constructed as not to interfere with the traveling public on any public road. The ***governing body of each city, county, urban-county, consolidated local government, and charter***~~fiscal court of any~~ county may build and repair sidewalks along public roads where the need exists for the safety of school children. Before the beginning of construction of the sidewalk, written approval must be obtained from the governmental agency having jurisdiction over the public road.
- (2) The fiscal court may, where needed, build and maintain suitable areas for the safe turning around of school buses.

**Approved April 22, 2006.**

## CHAPTER 237

### (HB 395)

AN ACT relating to the Court of Justice.

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

SECTION 1. A NEW SECTION OF KRS CHAPTER 30A IS CREATED TO READ AS FOLLOWS:

- (1) *A clerk may, but shall not be required to, accept payment of any fine, forfeiture, tax, or fee by debit or credit card account. If an individual chooses to pay a fine, forfeiture, tax, or fee by debit or credit card account, the clerk may recover the transaction fee charged by the issuer or acquirer of the account as part of and in addition to the original amount of the fine, forfeiture, tax, or fee.*

- (2) *Where a check or similar sight order for the payment of money is tendered to a clerk for payment of any fine, forfeiture, tax, or fee and that check or sight order is subsequently dishonored, the clerk may charge to the person who tendered the check or sight order a fee, not exceeding twenty-five dollars (\$25), in an amount set by the Supreme Court by rule.*
- (3) *Fees collected under subsection (2) of this section shall be deposited into the General Fund.*

**Approved April 22, 2006.**

## CHAPTER 238

### (HB 620)

AN ACT relating to the Real Estate Appraisers Board.

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

Section 1. KRS 324A.025 is amended to read as follows:

- (1) The board shall elect a chairman each year at the first meeting called after appointment of new members. A majority of the board shall constitute a quorum and may exercise all powers and duties established by the provisions of KRS 324A.020.
- (2) The board shall meet at least once each calendar quarter.
- (3) Each member of the board shall receive actual and necessary expenses and mileage and shall receive ~~two{one}~~ hundred dollars ~~(\$200){(\$100)}~~ per day as compensation for each day spent on duties as a member of the board.

**Approved April 22, 2006.**

## CHAPTER 239

### (HB 337)

AN ACT relating to the provision of telecommunications service.

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

SECTION 1. A NEW SECTION OF KRS CHAPTER 278 IS CREATED TO READ AS FOLLOWS:

*In addition to the definitions set forth in KRS 278.010 and 278.516(2), the following definitions shall apply to Sections 1 to 4 of this Act:*

- (1) *"Basic local exchange service" means a retail telecommunications service consisting of a primary, single, voice-grade line provided to the premises of residential or business customers with the following features and functions only:*
  - (a) *Unlimited calls within the telephone utility's local exchange area;*
  - (b) *Dual-tone multi-frequency dialing; and*
  - (c) *Access to the following:*
    - 1. *Emergency 911 telephone service;*
    - 2. *All locally available interexchange companies;*
    - 3. *Directory assistance;*
    - 4. *Operator services;*
    - 5. *Relay services; and*
    - 6. *A standard alphabetical directory listing that includes names, addresses, and telephone numbers at no additional charge.*

*With respect to local exchange carriers, basic local exchange service also shall include any mandatory extended area service routes accessible as a local call within that exchange area on or before the effective*

*date of this Act. Basic local exchange service does not include any features or functions other than those listed in this subsection, nor any other communications service, even if such service should include features and functions listed herein;*

- (2) *"Electing utility" means a telephone utility that elects to operate under Section 3 of this Act;*
- (3) *"Local exchange carrier" or "LEC" has the same meaning as defined in 47 U.S.C. sec. 153(26);*
- (4) *"Incumbent local exchange carrier" or "ILEC" has the same meaning as defined in 47 U.S.C. sec. 251(h);*
- (5) *"Nonbasic service" means all retail telecommunications services provided to a residential or business customer, all arrangements with respect to those services, and all packages of products or services; provided, however, nonbasic service includes basic local exchange service only if the customer chooses to purchase a package that includes basic local exchange service as a component of the package;*
- (6) *"Optional telephone feature" means any of those central office-based features that were tariffed by a local exchange carrier on or before February 1, 2006, that, where available:*
  - (a) *Are available to a line-side connection in a telephone switch;*
  - (b) *Are available on a stand-alone basis separate from a bundled offering; and*
  - (c) *Enhance the utility of basic local exchange service. The term includes but is not limited to call forwarding, call waiting, and caller ID;*
- (7) *"Package" means combinations of retail products or services offered whether at a single price or with the availability of the price for one product or service contingent on the purchase of others; and*
- (8) *"Telephone utility" includes local exchange carriers and telecommunications carriers as those terms are defined in 47 U.S.C. sec. 153 and any federal regulations implementing that section, except that the definition shall not include commercial mobile radio service providers as defined in 47 U.S.C. sec. 332 and the Federal Communications Commission's lawful regulations promulgated thereunder.*

SECTION 2. A NEW SECTION OF KRS CHAPTER 278 IS CREATED TO READ AS FOLLOWS:

- (1) *Nothing in Sections 1 to 4 of this Act shall affect the commission's jurisdiction with respect to:*
  - (a) *Any agreement or arrangement between or among ILECs;*
  - (b) *Any agreement or arrangement between or among ILECs and other local exchange carriers;*
  - (c) *Consumer complaints as to compliance with basic local exchange service obligations, and the quality of basic voice grade service transmission for basic and nonbasic services, consistent with accepted industry standards for telecommunications services;*
  - (d) *The emergency 911 telephone service as set forth in KRS 65.750 to 65.760 or wireless enhanced emergency 911 systems as set forth in KRS 65.7621 to 65.7643;*
  - (e) *Accuracy of billing for telecommunications services, in accordance with the truth-in-billing regulations prescribed by the Federal Communications Commission;*
  - (f) *Assessments as set forth in KRS 278.130, 278.140, and 278.150;*
  - (g) *Unauthorized change of telecommunications providers or "slamming" under KRS 278.535;*
  - (h) *Billing of telecommunications services not ordered by or on behalf of the consumer or "cramming" to the extent that such services do not comply with the truth-in-billing regulations prescribed by the Federal Communications Commission;*
  - (i) *The federal Universal Service Fund and Lifeline Services Program and any Kentucky state counterpart;*
  - (j) *Any special telephone service programs as set forth in KRS 278.547 to 278.5499;*
  - (k) *Tariffs, except as expressly provided for in Sections 1 to 4 of this Act;*
  - (l) *Setting objectives for performance as to basic local exchange service; except that the objectives shall not exceed existing commission standards or associated penalties as of the effective date of this Act;*

- (m) *Prohibiting price differences among retail telecommunications customers to the extent that such differences are attributable to race, creed, color, religion, sex or national origin; or*
- (n) *Ensuring that a telephone utility furnishes safe, adequate, and reasonable basic local exchange service to customers within that utility's service area.*
- (2) *Telephone utilities operating pursuant to Sections 1 to 4 of this Act shall file with the commission a form containing:*
  - (a) *The complete name of the telephone utility;*
  - (b) *The physical address of its principal office; and*
  - (c) *The name, title, and telephone number of the person responsible for answering consumer complaints on behalf of the telephone utility.*
- (3) *No telephone utility shall engage in predatory pricing as defined by the United States Supreme Court in Brooke Group Ltd. v. Brown & Williamson Tobacco Corp., 509 U.S. 209 (1993);*
- (4) *Nothing in Sections 1 to 4 of this Act shall affect the alternative regulation process for small telephone utilities as set forth in KRS 278.516.*

SECTION 3. A NEW SECTION OF KRS CHAPTER 278 IS CREATED TO READ AS FOLLOWS:

*Any telephone utility, at its discretion and without commission approval, may elect to adopt the price regulation plan set forth below:*

- (1) *An election under this section shall be effective immediately upon written notification from the electing utility to the commission. The election shall remain effective until withdrawn by the electing utility.*
- (2) *The rate for basic local exchange service for an electing utility, other than an electing small telephone utility as defined in KRS 278.516 shall be capped for a period of sixty (60) months from the date of the election. Subject to the limitations in Sections 1 to 4 of this Act, an electing utility may seek a rate adjustment for basic local exchange services according to the terms of regulation applicable to the basic local exchange services of any ILEC on June 30, 2006, or a previously approved or new price regulation proposal for basic service pursuant to KRS 278.512. These rate adjustments may become effective on, or after the day following the end of the sixty (60) months.*
- (3) *Electing utilities shall retain on file with the commission tariffs for basic local exchange services and intrastate switched access services. Tariffs filed in accordance with subsection (2) of this section shall be deemed valid and binding upon the effective date stated in the tariff.*
- (4) *An electing utility's rates for intrastate switched access service shall not exceed its rates for this service that were in effect on the day prior to the date the utility filed its notice of election.*
- (5) *The commission shall have original jurisdiction over complaints as to basic local exchange service of any electing telephone utility, except that the commission shall not have jurisdiction to set, investigate, or determine rates as to any electing telephone utility other than as set forth in this section. Upon a complaint in writing, made against any electing telephone utility by any person stating that basic local exchange service in which that complainant is directly interested is unreasonable, unsafe, insufficient, or unjustly discriminatory, or that basic local exchange service is inadequate or cannot be obtained, the commission shall proceed with or without notice, to make such investigation as it deems necessary or convenient. The commission may also make such an investigation on its own motion. No order concerning a complaint shall be entered by the commission without a formal public hearing. A person may intervene in accordance with commission administrative regulations. The commission shall fix the time and place for the hearing and shall provide notice to the electing telephone utility and the complainant not less than twenty (20) days in advance. The commission may dismiss any complaint without a hearing if it decides that a hearing is not necessary, in the public interest, or for the protection of substantial rights. The complainant and the electing telephone utility shall be entitled to be heard in person or by an attorney and to introduce evidence.*
- (6) *An electing utility's rates, charges, earnings, and revenues shall be deemed to be just and reasonable under KRS 278.030 and administrative regulations promulgated thereunder upon election. Except as set forth in paragraphs (a) and (b) of subsection (1) of Section 2 of this Act, an electing telephone utility shall be exempt from KRS 278.190, 278.192, 278.200, 278.230(3), 278.255, 278.260, 278.270, 278.280, 278.290, and 278.300 and administrative regulations promulgated thereunder. The utility shall also be exempt from any rules, orders, or regulations of the commission requiring the retention or filing of financial reports,*



*classifications, depreciation or other schedules, or any other information not required by the Federal Communications Commission.*

- (7) *An electing small telephone utility, as defined in KRS 278.516, may withdraw from being so regulated by providing written notice of withdrawal to the commission.*
- (8) *Under the following circumstances, any electing utility may withdraw from being so regulated by providing written notice to the commission:*
  - (a) *Upon the approval pursuant to KRS 278.512 of a company-specific alternative regulation plan; or*
  - (b) *Upon filing notice with the commission of its adoption of the applicable provisions of any alternative regulation plan previously approved by the commission. The adoption shall become effective upon filing of the notice.*
- (9) *The rates for basic local exchange service for an electing small telephone utility as defined in KRS 278.516 shall be capped for a period of twelve (12) months from the date of the election. Annually thereafter, an electing small telephone utility may not increase rates for an individual basic local exchange service by more than the increase in the annual average of the Consumer Price Index for all urban consumers for the most recent calendar year as published by the United States Department of Labor, Bureau of Labor Statistics.*

SECTION 4. A NEW SECTION OF KRS CHAPTER 278 IS CREATED TO READ AS FOLLOWS:

*The following provisions of this section shall apply and be enforced equally to all telephone utilities, unless otherwise specifically stated in this section.*

- (1) *Telephone utilities may file with the commission schedules or tariffs reflecting the rates, terms, and conditions for nonbasic services that are generally available to all subscribers qualifying for the rates, terms, and conditions. The rates, terms, and conditions for basic and nonbasic services shall be valid upon the effective date stated in the schedule. Tariffs for nonbasic services in effect on the effective date of this Act shall continue to be effective as binding rates, terms, and conditions until withdrawn or modified by the telephone utility.*
- (2) *A telephone utility offering a package that includes any optional telephone features tariffed as of February 1, 2006, shall maintain schedules or tariffs on file with the commission for each such optional telephone feature available on a stand-alone basis to residential customers who purchase basic local exchange service from that telephone utility.*
- (3) *Notwithstanding the terms of any adopted regulation plan or any provision of law to the contrary, telephone utilities may provide nonbasic services pursuant to terms and conditions provided to the customer. Telephone utilities shall not be required to file nonbasic contracts with the commission. Telephone utilities shall permit a residential customer with nonbasic service to purchase basic local exchange service and any optional telephone feature on file in a schedule or tariff at the commission at the current rates, terms, and conditions without incurring termination charges, unless the customer has entered into an agreement containing termination charges and the customer is given thirty (30) days from receipt of the terms and conditions to cancel the agreement. If a customer cancels the agreement within thirty (30) days from receipt of the terms and conditions, termination charges are limited to the price of unreturned equipment or services, including installation, received at that point. Telephone utilities that provide services pursuant to this subsection shall provide customers with notice, as part of the terms and conditions of such services, that basic local exchange service and any optional telephone feature on file in a schedule or tariff with the commission may be purchased separately at the price posted on the company's Web site or on file with the commission.*
- (4) *Notwithstanding any provision of law to the contrary, nonbasic services offered pursuant to the provisions of this section shall be set by the marketplace and are not governed by KRS 278.030 and administrative regulations promulgated thereunder. The nonbasic services are exempt from action or review by the commission under KRS 278.160, 278.170, 278.180, 278.190, 278.192, 278.200, 278.230(3), 278.250, 278.255, 278.260, 278.270, 278.280, 278.290, and 278.300 and administrative regulations promulgated thereunder, except as specifically stated in Sections 1 to 4 of this Act.*

Section 5. KRS 278.010 is amended to read as follows:

As used in KRS 278.010 to 278.450, *in Sections 1 to 4 of this Act, in KRS 278.546 to 278.5462*, and in KRS 278.990, unless the context otherwise requires:

- (1) "Corporation" includes private, quasipublic, and public corporations, and all boards, agencies, and instrumentalities thereof, associations, joint-stock companies, and business trusts;
- (2) "Person" includes natural persons, partnerships, corporations, and two (2) or more persons having a joint or common interest;
- (3) "Utility" means any person except, for purposes of paragraphs (a), (b), (c), (d), and (f) of this subsection, a city, who owns, controls, operates, or manages any facility used or to be used for or in connection with:
  - (a) The generation, production, transmission, or distribution of electricity to or for the public, for compensation, for lights, heat, power, or other uses;
  - (b) The production, manufacture, storage, distribution, sale, or furnishing of natural or manufactured gas, or a mixture of same, to or for the public, for compensation, for light, heat, power, or other uses;
  - (c) The transporting or conveying of gas, crude oil, or other fluid substance by pipeline to or for the public, for compensation;
  - (d) The diverting, developing, pumping, impounding, distributing, or furnishing of water to or for the public, for compensation;
  - (e) The transmission or conveyance over wire, in air, or otherwise, of any message by telephone or telegraph for the public, for compensation; or
  - (f) The collection, transmission, or treatment of sewage for the public, for compensation, if the facility is a subdivision collection, transmission, or treatment facility plant that is affixed to real property and is located in a county containing a city of the first class or is a sewage collection, transmission, or treatment facility that is affixed to real property, that is located in any other county, and that is not subject to regulation by a metropolitan sewer district or any sanitation district created pursuant to KRS Chapter 220;
- (4) "Retail electric supplier" means any person, firm, corporation, association, or cooperative corporation, excluding municipal corporations, engaged in the furnishing of retail electric service;
- (5) "Certified territory" shall mean the areas as certified by and pursuant to KRS 278.017;
- (6) "Existing distribution line" shall mean an electric line which on June 16, 1972, is being or has been substantially used to supply retail electric service and includes all lines from the distribution substation to the electric consuming facility but does not include any transmission facilities used primarily to transfer energy in bulk;
- (7) "Retail electric service" means electric service furnished to a consumer for ultimate consumption, but does not include wholesale electric energy furnished by an electric supplier to another electric supplier for resale;
- (8) "Electric-consuming facilities" means everything that utilizes electric energy from a central station source;
- (9) "Generation and transmission cooperative," or "G&T," means a utility formed under KRS Chapter 279 that provides electric generation and transmission services;
- (10) "Distribution cooperative" means a utility formed under KRS Chapter 279 that provides retail electric service;
- (11) "Facility" includes all property, means, and instrumentalities owned, operated, leased, licensed, used, furnished, or supplied for, by, or in connection with the business of any utility;
- (12) "Rate" means any individual or joint fare, toll, charge, rental, or other compensation for service rendered or to be rendered by any utility, and any rule, regulation, practice, act, requirement, or privilege in any way relating to such fare, toll, charge, rental, or other compensation, and any schedule or tariff or part of a schedule or tariff thereof;
- (13) "Service" includes any practice or requirement in any way relating to the service of any utility, including the voltage of electricity, the heat units and pressure of gas, the purity, pressure, and quantity of water, and in general the quality, quantity, and pressure of any commodity or product used or to be used for or in connection with the business of any utility, ***but does not include Voice over Internet Protocol (VoIP) service***;

- (14) "Adequate service" means having sufficient capacity to meet the maximum estimated requirements of the customer to be served during the year following the commencement of permanent service and to meet the maximum estimated requirements of other actual customers to be supplied from the same lines or facilities during such year and to assure such customers of reasonable continuity of service;
- (15) "Commission" means the Public Service Commission of Kentucky;
- (16) "Commissioner" means one (1) of the members of the commission;
- (17) "Demand-side management" means any conservation, load management, or other utility activity intended to influence the level or pattern of customer usage or demand, including home energy assistance programs;
- (18) "Affiliate" means a person that controls or that is controlled by, or is under common control with, a utility;
- (19) "Control" means the power to direct the management or policies of a person through ownership, by contract, or otherwise;
- (20) "CAM" means a cost allocation manual which is an indexed compilation and documentation of a company's cost allocation policies and related procedures;
- (21) "Nonregulated activity" means the provision of competitive retail gas or electric services or other products or services over which the commission exerts no regulatory authority;
- (22) "Nonregulated" means that which is not subject to regulation by the commission;
- (23) "Regulated activity" means a service provided by a utility or other person, the rates and charges of which are regulated by the commission;
- (24) "USoA" means uniform system of accounts which is a system of accounts for public utilities established by the FERC and adopted by the commission;
- (25) "Arm's length" means the standard of conduct under which unrelated parties, each party acting in its own best interest, would negotiate and carry out a particular transaction;
- (26) "Subsidize" means the recovery of costs or the transfer of value from one (1) class of customer, activity, or business unit that is attributable to another;
- (27) "Solicit" means to engage in or offer for sale a good or service, either directly or indirectly and irrespective of place or audience;
- (28) "USDA" means the United States Department of Agriculture;
- (29) "FERC" means the Federal Energy Regulatory Commission;
- (30) "SEC" means the Securities and Exchange Commission;~~and~~
- (31) "Commercial mobile radio services" has the same meaning as in 47 C.F.R. sec. 20.3 and includes the term "wireless" and service provided by any wireless real time two (2) 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; *and*
- (32) *"Voice over Internet Protocol" or "VoIP" has the same meaning as in federal law.*

**Approved April 22, 2006.**

## CHAPTER 240

(HB 290)

AN ACT relating to weapons.

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

Section 1. KRS 15.383 is amended to read as follows:

- (1) In order to maintain his or her certification as a peace officer, each certified peace officer shall annually meet the marksmanship qualification requirement for a retired peace officer as specified in KRS 237.140. *Each law enforcement agency whose officers are required to meet the requirements of this subsection shall retain a record of each of its officers having met the annual marksmanship qualification. These records shall be made available upon request to the Kentucky Law Enforcement Council and to the Justice and Public Safety Cabinet in order to carry out its responsibilities under KRS 15.330 and 15.450.*
- (2) Any law enforcement agency employing a certified peace officer may require the certified peace officer to meet a marksmanship qualification requirement which is in excess of that specified in KRS 237.140. Failure of a certified peace officer to meet the increased marksmanship qualification requirement specified by his or her employing or appointing agency shall not affect the certification of the officer, but may subject the officer to discipline by the agency, including suspension or dismissal of the officer from the agency.

Section 2. KRS 237.110 is amended to read as follows:

- (1) The Department of State Police is authorized to issue *and renew licenses to carry concealed firearms or other deadly weapons, or a combination thereof, to persons qualified as provided in this section.*
- (2) *An original or renewal license issued pursuant to this section shall:*
  - (a) *Be valid throughout the Commonwealth and, except as provided in this section or other specific section of the Kentucky Revised Statutes or federal law, permit the holder of the license to carry firearms, ammunition, or other deadly weapons, or a combination thereof, at any location in the Commonwealth.*
  - (b) *Unless revoked as provided by law, be valid for a period of five (5) years from the date of issuance;*
  - (c) *Authorize the holder of the license to carry a concealed firearm or other deadly weapon, or a combination thereof, on or about his or her person; and*
  - (d) *Authorize the holder of the license to carry ammunition for a firearm on or about his or her person.*
- (3) *Prior to the issuance of an original or renewal license to carry a concealed deadly weapon, the Department of State Police shall conduct a background check to ascertain whether the applicant is eligible, under 18 U.S.C. sec. 922(g) and (n), any other applicable federal law, and state law, to purchase, receive, or possess a firearm or ammunition, or both. The background check shall include:*
  - (a) *A state records check covering the items specified in this subsection, together with any other requirements of this section; and*
  - (b) *A federal records check, which shall include a National Instant Criminal Background Check System (NICS) check.*
- (4) *The Department of State Police shall issue an original or renewal license if the applicant:*
  - (a) *Is not prohibited from the purchase, receipt or possession of firearms, ammunition or both pursuant to 18 U.S.C. 922(g), 18 U.S.C. 922(n), or applicable state law; and*
  - (b)
    1. *Is a citizen of the United States who is a resident of this Commonwealth and has been a resident for six (6) months or longer immediately preceding the filing of the application; or*
    2. *Is a citizen of the United States who is a member of the Armed Forces of the United States who is on active duty, who is at the time of application assigned to a military posting in Kentucky, and who has been assigned to a posting in the Commonwealth for six (6) months or longer immediately preceding the filing of the application; and*
  - (c) *Is twenty-one (21) years of age or older; and*
  - (d) *Has not been committed to a state or federal facility for the abuse of a controlled substance, or been convicted of a misdemeanor violation of KRS Chapter 218A or similar laws of any other state relating to controlled substances, within a three (3) year period immediately preceding the date on which the application is submitted; and*
  - (e) *Does not chronically and habitually use alcoholic beverages as evidenced by the applicant having two (2) or more convictions for violating KRS 189A.010 within the three (3) years immediately preceding the date on which the application is submitted, or having been committed as an alcoholic*

*pursuant to KRS Chapter 222 or similar laws of another state within the three (3) year period immediately preceding the date on which the application is submitted; and*

- (f) *Does not owe a child support arrearage which equals or exceeds the cumulative amount which would be owed after one (1) year of nonpayment, if the Department of State Police has been notified of the arrearage by the Cabinet for Health and Family Services; and*
- (g) *Has complied with any subpoena or warrant relating to child support or paternity proceedings. If the Department of State Police has not been notified by the cabinet for Health and Family Services that the applicant has failed to meet this requirement, the Department of State Police shall assume that paternity and child support proceedings are not an issue; and*
- (h) *Has not been convicted of a violation of KRS 508.030 or 508.080 within the three (3) years immediately preceding the date on which the application is submitted. The commissioner of the Department of State Police may waive this requirement upon good cause shown and a determination that the applicant is not a danger and that a waiver would not violate federal law; and*
- (i) *Demonstrates competence with a firearm by successful completion of a firearms safety course offered or approved by the Department of Criminal Justice Training. The firearms safety course shall:*

- 1. *Be not more than eight (8) hours in length;*
- 2. *Include instruction on handguns, the safe use of handguns, the care and cleaning of handguns, and handgun marksmanship principles;*
- 3. *Include actual range firing of a handgun in a safe manner, and the firing of not more than twenty (20) rounds at a full-size silhouette target, during which firing, not less than eleven (11) rounds must hit the silhouette portion of the target; and*
- 4. *Include information on and a copy of laws relating to possession and carrying of firearms, as set forth in KRS Chapters 237 and 527, and the laws relating to the use of force, as set forth in KRS Chapter 503.*~~licenses to carry concealed firearms or other deadly weapons to persons qualified as provided in this section. The Department of State Police or the Administrative Office of the Courts shall conduct a record check, covering all offenses and conditions which are required under 18 U.S.C. sec. 922(g) and this section, in the manner provided by 18 U.S.C. sec. 922(s). Licenses shall be valid throughout the state for a period of five (5) years from the date of issuance, but their validity may be extended beyond the five (5) year period as provided in subsection (12) of this section. Any person in compliance with the terms of the license may carry a concealed firearm or other deadly weapon or combination of firearms and other deadly weapons on or about his person. The licensee shall carry the license at all times the licensee is carrying a concealed firearm or other deadly weapon and shall display the license upon request of a law enforcement officer. Violation of the provisions of this subsection shall constitute a noncriminal violation with a penalty of twenty five dollars (\$25), payable to the clerk of the District Court.~~

~~(2) The Department of State Police, following the record check required by subsection (1) of this section, shall issue a license if the applicant:~~

- ~~(a) 1. Is a resident of the state and has been a resident for six (6) months or longer immediately preceding the filing of the application; or~~
- ~~2. Is a member of the Armed Forces of the United States who is on active duty, who is at the time of application assigned to a military posting in Kentucky, and who has been assigned to a posting in the Commonwealth for six (6) months or longer immediately preceding the filing of the application;~~
- ~~(b) Is twenty one (21) years of age or older;~~
- ~~(c) Is not ineligible to possess a firearm pursuant to 18 U.S.C. sec. 922(d)(1) or (g) or KRS 527.040;~~
- ~~(d) Has not been committed to a state or federal facility for the abuse of a controlled substance or been convicted of a misdemeanor violation of KRS Chapter 218A or similar laws of any other state relating~~

~~to controlled substances within a three (3) year period immediately preceding the date on which the application is submitted;~~

- ~~(e) Does not chronically and habitually use alcoholic beverages as evidenced by the applicant having two (2) or more convictions for violating KRS 189A.010 within the three (3) years immediately preceding his application or if the applicant has been committed as an alcoholic pursuant to KRS Chapter 222, or similar laws of any other state, within the three (3) year period immediately preceding the date on which the application is submitted;~~
- ~~(f) Demonstrates competence with a firearm by completion of a firearms safety or training course or class offered or approved by the Department of Criminal Justice Training.~~

~~Classes presented pursuant to this paragraph shall include instruction on handguns, the safe use of handguns, the care and cleaning of handguns, handgun marksmanship principles, and actual range firing of a handgun in a safe manner. Classes presented pursuant to this paragraph shall include information on laws relating to firearms as described in KRS Chapters 237 and 527 and the law of the use of force as described in KRS Chapter 503. The Department of Criminal Justice Training shall promulgate uniform administrative regulations concerning the certification and decertification of all firearms instructors practicing in the Commonwealth of Kentucky. Notwithstanding any other provision of the Kentucky Revised Statutes, no person shall qualify as having demonstrated competence with a firearm pursuant to this subsection, unless certified by a governmental agency of the Commonwealth of Kentucky, or of the federal government. The Administrative Office of the Courts shall publish and make available, at no cost, information in a manner suitable for distribution to class participants.]~~

- (5) A legible photocopy of ~~the~~<sup>a</sup> certificate of completion *issued by the Department of Criminal Justice Training*~~[of any of the courses or classes or a notarized affidavit from the instructor, school, club, organization, or group that conducts or teaches the course or class attesting to the completion of the course or class by the applicant]~~ shall constitute evidence of qualification under~~[this]~~ paragraph (i) of subsection (4) of this section.
- (6) (a) Peace officers who are currently certified as peace officers by the Kentucky Law Enforcement Council pursuant to KRS 15.380 to 15.404 and peace officers who are retired and are members of the Kentucky Employees Retirement System, State Police Retirement System, or County Employees Retirement System or other retirement system operated by or for a city, county, or urban-county in Kentucky shall be deemed to have met the training requirement.
- (b) *Current and retired peace officers of the following federal agencies shall be deemed to have met the training requirement:*
  - 1. *Any peace officer employed by a federal agency specified in KRS 61.365;*
  - 2. *Any peace officer employed by a federal civilian law enforcement agency not specified above who has successfully completed the basic law enforcement training course required by that agency;*
  - 3. *Any military peace officer of the United States Army, Navy, Marine Corps or Air Force, or a reserve component thereof, or of the Army Reserve or Air Force Reserve who has successfully completed the military law enforcement training course required by that branch of the military; and*
  - 4. *Any member of the United States Coast Guard serving in a peace officer role who has successfully completed the law enforcement training course specified by the United States Coast Guard;*
- ~~(g) Has not been adjudicated an incompetent under KRS Chapter 202B or has waited three (3) years from the date his competency was restored by the court order under KRS Chapter 202B; and~~
- ~~(h) Has not been involuntarily committed to a mental institution pursuant to KRS Chapter 202A, unless he possesses a certificate from a psychiatrist licensed in this state that he has not suffered from disability for a period of three (3) years.~~
- ~~(3) The Department of State Police may deny a license if the applicant has been found guilty of a violation of KRS 508.030 or 508.080 within the three (3) year period prior to the date on which the application is submitted or~~

~~may revoke a license if the licensee has been found guilty of a violation of KRS 508.030 or 508.080 within the preceding three (3) years.~~

- ~~(4) The Department of State Police shall deny, suspend, or revoke a license to carry a concealed deadly weapon upon written notice by the Cabinet for Health and Family Services that the person has a child support arrearage which equals or exceeds the cumulative amount which would be owed after one (1) year of nonpayment, or for failure, after receiving appropriate notice, to comply with a subpoena or warrant relating to paternity or child support proceedings.~~

- ~~(7)(5)~~ The application for a *license*~~[permit]~~, or renewal of a *license*~~[permit]~~, to carry a concealed deadly weapon shall be obtained from the office of the sheriff in the county in which the person resides. The completed application and all accompanying material plus an application fee or renewal fee, as appropriate, of sixty dollars (\$60) shall be presented to the office of the sheriff of the county in which the applicant resides. A full-time or part-time peace officer who is currently certified as a peace officer by the Kentucky Law Enforcement Council who is authorized by his or her employer or government authority to carry a concealed deadly weapon at all times and all locations within the Commonwealth pursuant to KRS 527.020 or a retired peace officer who is a member of the Kentucky Employees Retirement System, State Police Retirement System, County Employees Retirement System, or other retirement system operated by or for a city, county, or urban-county in Kentucky shall be exempt from paying the application or renewal fees. The sheriff shall transmit the application and accompanying material to the Department of State Police within five (5) working days. Twenty dollars (\$20) of the application fee shall be retained by the office of the sheriff for official expenses of the office. Twenty dollars (\$20) shall be sent to the Department of State Police with the application. Ten dollars (\$10) shall be transmitted by the sheriff to the Administrative Office of the Courts to fund background checks for youth leaders, and ten dollars (\$10) shall be transmitted to the Administrative Office of the Courts to fund background checks for applicants for concealed weapons. The application shall be completed, under oath, on a form promulgated by the Department of State Police by administrative regulation which shall only include:

- (a) The name, address, place and date of birth, gender, and Social Security number of the applicant;
- (b) A statement that, to the best of his knowledge, the applicant is in compliance with criteria contained within subsections~~[(2) and]~~ (3) *and* (4) of this section;
- (c) A statement that the applicant has been furnished a copy of this section and is knowledgeable about its provisions;
- (d) A statement that the applicant has been furnished a copy of, has read, and understands KRS Chapter 503 as it pertains to the use of deadly force for self-defense in Kentucky; and
- (e) A conspicuous warning that the application is executed under oath and that a materially false answer to any question, or the submission of any materially false document by the applicant, subjects the applicant to criminal prosecution under KRS 523.030.

- ~~(8)(6)~~ The applicant, if a resident of the Commonwealth, shall submit to the sheriff of the applicant's county of residence:

- (a) A completed application as described in subsection ~~(7)(5)~~ of this section;
- (b) A recent color photograph of the applicant, as prescribed by administrative regulation; and
- (c) A photocopy of a certificate or an affidavit or document as described in subsection ~~(5)(2)(f)~~ of this section.

- ~~(9)(7)~~ The Department of State Police shall, within ninety (90) days after the date of receipt of the items listed in subsection ~~(8)(6)~~ of this section, either:

- (a) Issue the license; or
- (b) Deny the application based solely on the grounds that the applicant fails to qualify under the criteria listed in subsection~~[(2) or]~~ (3) *or* (4) of this section. If the Department of State Police denies the application, it shall notify the applicant in writing, stating the grounds for denial and informing the applicant of a right to submit, within thirty (30) days, any additional documentation relating to the grounds of denial. Upon receiving any additional documentation, the Department of State Police shall

reconsider its decision and inform the applicant within twenty (20) days of the result of the reconsideration. The applicant shall further be informed of the right to seek de novo review of the denial in the District Court of his place of residence within ninety (90) days from the date of the letter advising the applicant of the denial.

~~(10)(8)~~ The Department of State Police shall maintain an automated listing of licenseholders and pertinent information, and this information shall be available on-line, upon request, at all times to all Kentucky *federal, and other state's* law enforcement agencies. *A request for the entire list of licensees, or for all licensees in a geographic area, shall be denied. Only requests relating to a named licensee shall be honored or available on-line.* ~~Except as provided in this subsection,~~ Information on applications for licenses, names and addresses, or other identifying information relating to license holders shall be confidential and shall not be made available except to law enforcement agencies. ~~Requests for information to be provided to any requester other than a bona fide law enforcement agency which has direct access to the Law Enforcement Information Network of Kentucky shall be made, in writing, directly to the commissioner of the Department of State Police, together with the fee required for the providing of the information. The Department of State Police shall, upon proper application and the payment of the required fee, provide to the requester in hard copy form only, a list of names of all holders in the Commonwealth of a license to carry a concealed deadly weapon. No identifying information other than the name shall be provided, and information for geographic areas or other subdivisions of any type from the list shall not be provided and shall be confidential. The fee to be charged shall be the same as for other public records provided by the Department of State Police.~~ No request for lists of local or statewide permit holders shall be made to any state or local law enforcement agency, peace officer, or other agency of government other than the Department of State Police, and no state or local law enforcement agency, peace officer, or agency of government, other than the Department of State Police, shall provide any information not entitled to it by law. ~~The names of all persons, other than law enforcement agencies and peace officers, requesting information under this section shall be a public record.~~

~~(11)(9)~~ Within thirty (30) days after the changing of a permanent address, or within thirty (30) days after the loss, *theft*, or destruction of a license, the licensee shall notify the Department of State Police of the loss, *theft*, or destruction. Failure to notify the Department of State Police shall constitute a noncriminal violation with a penalty of twenty-five dollars (\$25) payable to the clerk of the District Court. *No court costs shall be assessed for a violation of this subsection.* When a licensee makes application to change his or her residence address or other information on the license, neither the sheriff nor the Department of State Police shall require a surrender of the license until a new license is in the office of the applicable sheriff and available for issuance. Upon the issuance of a new license, the old license shall be destroyed by the sheriff.

~~(12)(10)~~ If a license is lost, *stolen*, or destroyed, the license shall be automatically invalid, and the person to whom the same was issued may, upon payment of fifteen dollars (\$15) to the Department of State Police, obtain a duplicate, upon furnishing a notarized statement to the Department of State Police that the license has been lost, *stolen*, or destroyed.

(13) (a) *The commissioner of the Department of State Police, or his designee in writing, shall revoke the license of any person who becomes permanently ineligible to be issued a license or have a license renewed under the criteria set forth in this section.*

(b) *The commissioner of the Department of State Police, or his designee in writing, shall suspend the license of any person who becomes temporarily ineligible to be issued a license or have a license renewed under the criteria set forth in this section. The license shall remain suspended until the person is again eligible for the issuance or renewal of a license.*

(c) *Upon the suspension or revocation of a license, the commissioner of the Department of State Police, or his designee in writing, shall:*

1. *Order any peace officer to seize the license from the person whose license was suspended or revoked; or*
2. *Direct the person whose license was suspended or revoked to surrender the license to the sheriff of the person's county of residence within two (2) business days of the receipt of the notice.*

(d) *If the person whose license was suspended or revoked desires a hearing on the matter, the person shall surrender the license as provided in paragraph (c)1. of this subsection and petition the*



*commissioner of the Department of State Police to hold a hearing on the issue of suspension or revocation of the license.*

- (e) *Upon receipt of the petition, the commissioner of the Department of State Police shall cause a hearing to be held in accordance with KRS Chapter 13B on the suspension or revocation of the license. If the license has not been surrendered, no hearing shall be scheduled or held.*
- (f) *If the hearing officer determines that the licensee's license was wrongly suspended or revoked, the hearing officer shall order the commissioner of the Department of State Police to return the license and abrogate the suspension or revocation of the license.*
- (g) *Any party may appeal a decision pursuant to this subsection to the District Court in the licensee's county of residence in the same manner as for the denial of a license.*
- (h) *If the license is not surrendered as ordered, the commissioner of the Department of State Police shall order a peace officer to seize the license and deliver it to the commissioner.*
- (i) *Failure to surrender a suspended or revoked license as ordered is a Class A misdemeanor.*
- (j) *The provisions of this subsection relating to surrender of a license shall not apply if a court of competent jurisdiction has enjoined its surrender.*

~~[(11) A license issued under this section shall be suspended or revoked if the licensee becomes ineligible to be issued a license under the criteria set forth in subsection (2)(a), (c), (d), (e), (f), or (h) of this section.]~~

- (k) When a domestic violence order or emergency protective order is issued pursuant to the provisions of KRS Chapter 403 against a person holding a license issued under this section, the holder of the permit shall surrender the license to the court or to the officer serving the order. The officer to whom the license is surrendered shall forthwith transmit the license to the court issuing the order. The license shall be suspended until the order is terminated, or until the judge who issued the order terminates the suspension prior to the termination of the underlying domestic violence order or emergency protective order, in writing and by return of the license, upon proper motion by the license holder. Subject to the same conditions as above, a peace officer against whom an emergency protective order or domestic violence order has been issued shall not be permitted to carry a concealed deadly weapon when not on duty, the provisions of KRS 527.020 to the contrary notwithstanding.

- (14) (a) ~~[(12)]~~ Not less than ***one hundred twenty (120)***~~[(ninety (90))]~~ days prior to the expiration date of the license, the Department of State Police shall mail to each licensee a written notice of the expiration and a renewal form prescribed by the Department of State Police. The outside of the envelope containing the license renewal notice shall bear only the name and address of the applicant. No other information relating to the applicant shall appear on the outside of the envelope sent to the applicant. The licensee may renew his license on or before the expiration date by filing with the sheriff of his county of residence the renewal form, a notarized affidavit stating that the licensee remains qualified pursuant to the criteria specified in subsections~~[(2) and]~~ (3) ***and (4)*** of this section, and the required renewal fee. The sheriff shall issue to the applicant a receipt for the application for renewal of the license and shall date the receipt.~~[The license then presently held by the renewal applicant together with the license renewal application receipt shall constitute a lawful and valid extension of the license until such time as the Department of State Police either revokes the existing license, refuses to renew the existing license, or issues a new license.]~~

- (b) *A license which has expired shall be void and shall not be valid for any purpose other than surrender to the sheriff in exchange for a renewal license.*
- (c) The license shall be renewed to a qualified applicant upon receipt of the completed renewal application, ***records check as specified in subsection (3) of this section, determination that the renewal applicant is not ineligible for a license as specified in subsection (4),*** and appropriate payment of fees.~~[When a licensee makes application for a renewal of his or her license, neither the sheriff nor the Department of State Police shall require a surrender of the license until the new license is in the office of the applicable sheriff and available for issuance.]~~ Upon the issuance of a new license, the old license shall be destroyed by the sheriff. A licensee who fails to file a renewal application on or before its expiration date may renew his license by paying, in addition to the license fees, a late fee of fifteen dollars (\$15). No license shall be renewed six (6) months or more after its expiration date, and the license shall be deemed to be

permanently expired six (6) months after its expiration date. A person whose license has permanently expired may reapply for licensure pursuant to subsections ~~[(5), (6), and~~ (7), (8), **and (9)** of this section.

**(15) *The licensee shall carry the license at all times the licensee is carrying a concealed firearm or other deadly weapon and shall display the license upon request of a law enforcement officer. Violation of the provisions of this subsection shall constitute a noncriminal violation with a penalty of twenty-five dollars (\$25), payable to the clerk of the District Court, but no court costs shall be assessed.***

~~(16) [(13)]~~ Except as provided in KRS 527.020, no license issued pursuant to this section shall authorize any person to carry a concealed firearm into:

- (a) Any police station or sheriff's office;
- (b) Any detention facility, prison, or jail;
- (c) Any courthouse, solely occupied by the Court of Justice courtroom, or court proceeding;
- (d) Any meeting of the governing body of a county, municipality, or special district; or any meeting of the General Assembly or a committee of the General Assembly, except that nothing in this section shall preclude a member of the body, holding a concealed deadly weapon license, from carrying a concealed deadly weapon at a meeting of the body of which he is a member;
- (e) Any portion of an establishment licensed to dispense beer or alcoholic beverages for consumption on the premises, which portion of the establishment is primarily devoted to that purpose;
- (f) Any elementary or secondary school facility without the consent of school authorities as provided in KRS 527.070, any child-caring facility as defined in KRS 199.011, any day-care center as defined in KRS 199.894, or any certified family child-care home as defined in KRS 199.8982, except however, any owner of a certified child-care home may carry a concealed firearm into the owner's residence used as a certified child-care home;
- (g) An area of an airport to which access is controlled by the inspection of persons and property; or
- (h) Any place where the carrying of firearms is prohibited by federal law.

~~(17) [(14)]~~ The owner, business or commercial lessee, or manager of a private business enterprise, day-care center as defined in KRS 199.894 or certified or licensed family child-care home as defined in KRS 199.8982, or a health-care facility licensed under KRS Chapter 216B, except facilities renting or leasing housing, may prohibit persons holding concealed deadly weapon licenses from carrying concealed deadly weapons on the premises and may prohibit employees, not authorized by the employer, holding concealed deadly weapons licenses from carrying concealed deadly weapons on the property of the employer. If the building or the premises are open to the public, the employer or business enterprise shall post signs on or about the premises if carrying concealed weapons is prohibited. Possession of weapons, or ammunition, or both in a vehicle on the premises shall not be a criminal offense so long as the weapons, or ammunition, or both are not removed from the vehicle or brandished while the vehicle is on the premises. A private but not a public employer may prohibit employees or other persons holding a concealed deadly weapons license from carrying concealed deadly weapons, or ammunition, or both in vehicles owned by the employer, but may not prohibit employees or other persons holding a concealed deadly weapons license from carrying concealed deadly weapons, or ammunition, or both in vehicles owned by the employee, except that the Justice Cabinet may prohibit an employee from carrying any weapons, or ammunition, or both other than the weapons, or ammunition, or both issued or authorized to be used by the employee of the cabinet, in a vehicle while transporting persons under the employee's supervision or jurisdiction. Carrying of a concealed weapon, or ammunition, or both in a location specified in this subsection by a license holder shall not be a criminal act but may subject the person to denial from the premises or removal from the premises, and, if an employee of an employer, disciplinary measures by the employer.

~~(18) [(15)]~~ All moneys collected by the Department of State Police pursuant to this section shall be used to administer the provisions of this section and KRS 237.138 to 237.142. By March 1 of each year, the Department of State Police and the Administrative Office of the Courts shall submit reports to the Governor, the President of the Senate, and the Speaker of the House of Representatives, indicating the amounts of money collected and the expenditures related to this section, KRS 237.138 to 237.142, and KRS 237.115, 244.125, 527.020, and 527.070, and the administration of the provisions of this section, KRS 237.138 to 237.142, and KRS 237.115, 244.125, 527.020, and 527.070.

- ~~(19)~~~~(16)~~ The General Assembly finds as a matter of public policy that it is necessary to provide statewide uniform standards for issuing licenses to carry concealed firearms and to occupy the field of regulation of the bearing of concealed firearms to ensure that no person who qualifies under the provisions of this section is denied his rights. The General Assembly does not delegate to the Department of State Police the authority to regulate or restrict the issuing of licenses provided for in this section beyond those provisions contained in this section. This section shall be liberally construed to carry out the constitutional right to bear arms for self-defense.
- ~~(20)~~~~(17)~~ (a) A person who has a valid license issued by another state of the United States to carry a concealed deadly weapon in that state may, subject to provisions of Kentucky law, carry a concealed deadly weapon in Kentucky, and his license shall be considered as valid in Kentucky.
- (b) The Department of State Police shall, not later than thirty (30) days after July 15, 1998, and not less than once every six (6) months thereafter, make written inquiry of the concealed deadly weapon carrying licensing authorities in each other state as to whether a Kentucky resident may carry a concealed deadly weapon in their state based upon having a valid Kentucky concealed deadly weapon license, or whether a Kentucky resident may apply for a concealed deadly weapon carrying license in that state based upon having a valid Kentucky concealed deadly weapon license. The Department of State Police shall attempt to secure from each other state permission for Kentucky residents who hold a valid Kentucky concealed deadly weapon license to carry concealed deadly weapons in that state, either on the basis of the Kentucky license or on the basis that the Kentucky license is sufficient to permit the issuance of a similar license by the other state. The Department of State Police shall enter into a written reciprocity agreement with the appropriate agency in each state that agrees to permit Kentucky residents to carry concealed deadly weapons in the other state on the basis of a Kentucky-issued concealed deadly weapon license or that will issue a license to carry concealed deadly weapons in the other state based upon a Kentucky concealed deadly weapon license. If a reciprocity agreement is reached, the requirement to recontact the other state each six (6) months shall be eliminated as long as the reciprocity agreement is in force. The information shall be a public record and shall be available to individual requesters free of charge for the first copy and at the normal rate for open records requests for additional copies.
- ~~(21)~~~~(18)~~ By March 1 of each year, the Department of State Police shall submit a statistical report to the Governor, the President of the Senate, and the Speaker of the House of Representatives, indicating the number of licenses issued, revoked, suspended, and denied since the previous report and in total and also the number of licenses currently valid. The report shall also include the number of arrests, convictions, and types of crimes committed since the previous report by individuals licensed to carry concealed weapons.
- ~~(22)~~~~(19)~~ The following provisions shall apply to concealed deadly weapon training classes conducted by the Department of Criminal Justice Training or any other agency pursuant to this section:
- (a) No concealed deadly weapon instructor trainer shall have his or her certification as a concealed deadly weapon instructor trainer reduced to that of instructor or revoked except after a hearing conducted pursuant to KRS Chapter 13B in which the instructor is found to have committed an act in violation of the applicable statutes or administrative regulations;
- (b) No concealed deadly weapon instructor shall have his or her certification as a concealed deadly weapon instructor license suspended or revoked except after a hearing conducted pursuant to KRS Chapter 13B in which the instructor is found to have committed an act in violation of the applicable statutes or administrative regulations;
- (c) The department shall not require prior notification that an applicant class or instructor class will be conducted by a certified instructor or instructor trainer;
- (d) Each concealed deadly weapon instructor or instructor trainer who teaches a concealed deadly weapon applicant or concealed deadly weapon instructor class shall supply the Department of Criminal Justice Training with a class roster indicating ~~which students enrolled but did not successfully complete the class, and~~ which students enrolled and successfully completed the class, **and** which contains the name and address of each student, within five (5) working days of the completion of the class. The information may be sent by mail, facsimile, e-mail, or other method which will result in the receipt of or production of a hard copy of the information. The postmark, facsimile date, or e-mail date shall be considered as the date on which the notice was sent. ***Concealed deadly weapon class applicant, instructor, and instructor trainer information and records shall be confidential. The department may***

*release to any person or organization the name, address, and telephone number of a concealed deadly weapon instructor or instructor trainer if that instructor or instructor trainer authorizes the release of the information in writing. The department shall include on any application for an instructor or instructor trainer certification a statement that the applicant either does or does not desire the applicant's name, address, and telephone number to be made public;*

- (e) An instructor trainer who assists in the conduct of a concealed deadly weapon instructor class or concealed deadly weapon applicant class for more than two (2) hours shall be considered as to have taught a class for the purpose of maintaining his or her certification. All class record forms shall include spaces for assistant instructors to sign and certify that they have assisted in the conduct of a concealed deadly weapon instructor or concealed deadly weapon class;
- (f) An instructor who assists in the conduct of a concealed deadly weapon applicant class for more than two (2) hours shall be considered as to have taught a class for the purpose of maintaining his or her license. All class record forms shall include spaces for assistant instructors to sign and certify that they have assisted in the conduct of a concealed deadly weapon class;
- (g) If the Department of Criminal Justice Training believes that a firearms instructor trainer or certified firearms instructor has not in fact complied with the requirements for teaching a certified firearms instructor or applicant class by not teaching the class as specified in KRS 237.126, or who has taught an insufficient class as specified in KRS 237.128, the department shall send to each person who has been listed as successfully completing the concealed deadly weapon applicant class or concealed deadly weapon instructor class a verification form on which the time, date, date of range firing if different from the date on which the class was conducted, location, and instructor of the class is listed by the department and which requires the person to answer "yes" or "no" to specific questions regarding the conduct of the training class. The form shall be completed under oath and shall be returned to the Department of Criminal Justice Training not later than forty-five (45) days after its receipt. A person who fails to complete the form, to sign the form, or to return the form to the Department of Criminal Justice Training within the time frame specified in this section or who, as a result of information on the returned form, is determined by the Department of Criminal Justice Training, following a hearing pursuant to KRS Chapter 13B, to not have received the training required by law shall have his or her concealed deadly weapon license revoked by the Department of State Police, following a hearing conducted by the Department of Criminal Justice Training pursuant to KRS Chapter 13B, at which hearing the person is found to have violated the provisions of this section or who has been found not to have received the training required by law;
- (h) ~~{The department shall randomly inspect certified firearms instructor classes being conducted by firearms instructor trainers and shall randomly inspect applicant classes being conducted by firearms instructor trainers or certified firearms instructors to ascertain if the class is being conducted in conformity to the provisions of applicable statutes and administrative regulations and that the paperwork in the class matches the paperwork ultimately submitted by the firearms instructor trainer or certified firearms instructor for that same class.}~~The department shall annually, not later than December 31 of each year, report to the Legislative Research Commission:
  - 1.~~{~~—The number of random inspections;
  - 2.~~—~~The results of those inspections;
  - 3.~~—~~The number of deficiencies noted;
  - 4.~~—~~The nature of the deficiencies noted;
  - 5.~~—~~If a deficiency was noted, the categories of action taken by the department to either correct the deficiency or discipline the instructor, or a combination thereof;
  - 6.~~}~~ The number of firearms instructor trainers and certified firearms instructors whose certifications were suspended, revoked, denied, or who were otherwise disciplined;
  - 2.~~{7.}~~ The reasons for the imposition of suspensions, revocations, denials, or other discipline; and
  - 3.~~{8.}~~ Suggestions for improvement of the concealed deadly weapon applicant training program and instructor process;

- (i) If a concealed deadly weapon license holder is convicted of, pleads guilty to, or enters an Alford plea to a felony offense, then his or her concealed deadly weapon license shall be forthwith revoked by the Department of State Police as a matter of law;
- (j) If a concealed deadly weapon instructor or instructor trainer is convicted of, pleads guilty to, or enters an Alford plea to a felony offense, then his or her concealed deadly weapon instructor certification or concealed deadly weapon instructor trainer certification shall be revoked by the Department of Criminal Justice Training as a matter of law; and
- (k) The following shall be in effect:
  - 1. Action to eliminate the firearms instructor trainer program is prohibited. The program shall remain in effect, and no firearms instructor trainer shall have his or her certification reduced to that of certified firearms instructor;
  - 2. The Kentucky State Police shall revoke the concealed deadly weapon license of any person who received no firearms training as required by KRS 237.126 and administrative regulations, or who received insufficient training as required by KRS 237.128 and administrative regulations, if the person voluntarily admits nonreceipt of training or admits receipt of insufficient training, or if either nonreceipt of training or receipt of insufficient training is proven following a hearing conducted by the Department of Criminal Justice Training pursuant to KRS Chapter 13B.

Section 3. KRS 237.120 is amended to read as follows:

- (1) The Department of Criminal Justice Training shall operate and maintain a program for firearms instructor trainers for the concealed deadly weapon training program. Only the General Assembly may eliminate the firearms instructor trainer program.
- (2) A firearms instructor trainer shall meet the requirements to be a firearms instructor and shall:
  - (a) Possess a high school diploma or GED certificate;
  - (b) Successfully complete a firearms instructor trainer course of not more than sixteen (16) hours provided by the department; and
  - (c) Possess at least one (1) of the following valid firearms instructor certifications:
    - 1. National Rifle Association Personal Protection Instructor;
    - 2. National Rifle Association Pistol Marksmanship Instructor;
    - 3. Certification from a Kentucky or other firearms instructor course offered by a state or federal governmental agency; or
    - 4. Certification from another firearms instructor training course that has been determined by the Commissioner of the Department of Criminal Justice Training to be equivalent to one (1) of the above listed courses.
- (3) Certification as a firearms instructor trainer shall be valid for a period of three (3) years during which an instructor trainer shall:
  - (a) Conduct or assist in at least one (1) firearms instructor course; or
  - (b) Conduct or assist in at least one (1) applicant training course; and
  - (c) Attend an instructor trainer/instructor in-service training course of not more than four (4) hours conducted by the department; and
  - (d) Not have become ineligible to be a firearms instructor trainer.
- (4) The department shall conduct in-service training for firearms instructor trainers and certified firearms instructors. In-service training courses shall be held not less than twice each year in each congressional district and shall be offered at various times during the year ensuring that the maximum number of persons can attend. Preference shall be given to conducting in-service training classes on a Friday or a Saturday. Notice of the time, date, and location for in-service training for each calendar year shall be sent to each firearms instructor trainer and certified firearms instructor by mail or by e-mail not less than thirty (30) days prior to the beginning

of the first class for each calendar year. The cost of the in-service training shall be not more than fifty dollars (\$50).

- (5) At the end of the certification period, the department shall issue a new firearms instructor trainer certification to a person who has completed the provisions of this section, unless that firearms instructor trainer notifies the department in writing that he or she desires not to be recertified or is otherwise ineligible to be recertified. There shall be no charge for recertification. ***A firearms instructor trainer who has permitted his or her certification to expire may take the in-service course and be recertified for a period of up to one hundred and eighty (180) days from the date of expiration of the certification without having to repeat the requirements of subsection (2) of this section.***
- (6) The fee for a firearms instructor trainer course shall be not more than one hundred dollars (\$100). No portion of the fee shall be refunded to any student who fails or who does not complete the required course of training.
- (7) Any state agency or public university which owns a firing range shall make that range available to the department for the conduct of in-service training without charge if the department determines that for any particular year's in-service training that range firing is required.

Section 4. KRS 237.122 is amended to read as follows:

- (1) The Department of Criminal Justice Training shall operate and maintain a program for certification of firearms instructors for the concealed deadly weapon training program. Only the General Assembly may eliminate the certified firearms instructor program.
- (2) Training courses for certification of firearms instructors shall be conducted by firearms instructor trainers and the department.
- (3) An applicant to be a firearms instructor shall be a citizen of the United States, hold a concealed deadly weapon license issued pursuant to KRS 237.110, and successfully complete a firearms instructor training course of not more than sixteen (16) hours provided by a certified firearms instructor trainer.
- (4) Certification as a firearms instructor shall be valid for a period of three (3) years during which an instructor shall:
  - (a) Conduct or assist in at least one (1) applicant training course;
  - (b) Attend an instructor trainer/instructor in-service training course of not more than four (4) hours conducted by the department; and
  - (c) Not have become ineligible to be a firearms instructor.
- (5) The department shall conduct in-service training for firearms instructor trainers and certified firearms instructors as specified in KRS 237.120.
- (6) At the end of the certification period, the department shall issue a new firearms instructor certification to any person who has completed the provisions of this section, unless the firearms instructor notifies the department in writing that he or she desires not to be recertified or is otherwise ineligible to be recertified. There shall be no charge for recertification. ***A firearms instructor who has permitted his or her certification to expire may take the in-service course and be recertified for a period of one hundred and eighty (180) days from the date of expiration of the certification without having to repeat the requirements of subsection (3) of this section.***
- (7) An instructor trainer shall charge a fee not to exceed one hundred ***and fifty*** dollars ~~(\$150)~~~~(\$100)~~ for a training course for a certified firearms instructor. The instructor shall remit fifty dollars (\$50) to the department to defray the cost of materials which the department shall provide to the instructor.
- (8) No firearms instructor trainer or certified firearms instructor shall charge a fee in excess of seventy-five dollars (\$75) for the conduct of an applicant training course. An instructor trainer or certified firearms instructor may charge a student the actual cost of range use, targets and associated range materials, and classroom rental not to exceed ten dollars (\$10) for all of the items specified in this subsection. The instructor trainer or certified firearms instructor shall remit twenty-five dollars (\$25) to the department to cover the provision of training materials distributed and providing evidence of successful completion of the course.
- (9) No portion of a fee collected pursuant to this section shall be refunded to a student who fails or does not complete the required course of instruction.

Section 5. KRS 237.138 is amended to read as follows:

KRS 237.138 to 237.142 shall apply to any ~~Kentucky~~ elected or appointed peace officer who is honorably retired and who:

- (1) Meets the provisions of Section 3 of the federal Law Enforcement Officers Safety Act of 2004, Pub. L. No. 108-277, 18 U.S.C. sec. 926C;
- (2) Meets the provisions of KRS 237.138 to 237.142; and
- (3) Desires to carry a concealed deadly weapon in conformity with the provisions of the federal Law Enforcement Officers Safety Act of 2004, Pub. L. 108-277.

SECTION 6. A NEW SECTION OF KRS CHAPTER 237 IS CREATED TO READ AS FOLLOWS:

- (1) *No person, unit of government, or governmental organization shall have the authority to suspend, revoke, limit the use of, or impair the validity of a concealed deadly weapon license issued pursuant to KRS 237.110, or a foreign license which is recognized as valid pursuant to KRS 237.110, unless the license is revoked for the reasons specified in KRS 237.110 and the revocation is done in the manner specified in KRS 237.110.*
- (2) *No person, unit of government, or governmental organization shall have the authority to suspend, revoke, limit the use of, or impair the validity of a concealed deadly weapon license which is issued pursuant to KRS 237.138 to 237.142 unless the license is revoked for the reasons specified in KRS 237.110 or 237.138 to 237.142.*
- (3) *No action which may be taken pursuant to KRS Chapter 39A shall apply with regard to a license specified in this section or to a person who is the holder of a license specified in this section.*

SECTION 7. A NEW SECTION OF KRS CHAPTER 237 IS CREATED TO READ AS FOLLOWS:

- (1) *No person, unit of government, or governmental organization shall, during a period of disaster or emergency as specified in KRS Chapter 39A or at any other time, have the right to revoke, suspend, limit the use of, or otherwise impair the validity of the right of any person to purchase, transfer, loan, own, possess, carry, or use a firearm, firearm part, ammunition, ammunition component, or any deadly weapon or dangerous instrument.*
- (2) *No person, unit of government, or governmental organization shall, during a period of disaster or emergency as specified in KRS Chapter 39A or at any other time, take, seize, confiscate, or impound a firearm, firearm part, ammunition, ammunition component, or any deadly weapon or dangerous instrument from any person.*
- (3) *The provisions of this section shall not apply to the taking of an item specified in subsection (1) or (2) of this section from a person who is:*
  - (a) *Forbidden to possess a firearm pursuant to KRS 527.040;*
  - (b) *Forbidden to possess a firearm pursuant to federal law.*
  - (c) *Violating KRS 527.020;*
  - (d) *In possession of a stolen firearm;*
  - (e) *Using a firearm in the commission of a separate criminal offense; or*
  - (f) *Using a firearm or other weapon in the commission of an offense under KRS Chapter 150.*

SECTION 8. A NEW SECTION OF KRS CHAPTER 237 IS CREATED TO READ AS FOLLOWS:

- (1) *No person, including but not limited to an employer, who is the owner, lessee, or occupant of real property shall prohibit any person who is legally entitled to possess a firearm from possessing a firearm, part of a firearm, ammunition, or ammunition component in a vehicle on the property.*
- (2) *A person, including but not limited to an employer, who owns, leases, or otherwise occupies real property may prevent a person who is prohibited by state or federal law from possessing a firearm or ammunition from possessing a firearm or ammunition on the property.*

- (3) *A firearm may be removed from the vehicle or handled in the case of self-defense, defense of another, defense of property, or as authorized by the owner, lessee, or occupant of the property.*
- (4) *An employer that fires, disciplines, demotes, or otherwise punishes an employee who is lawfully exercising a right guaranteed by this section, and who is engaging in conduct in compliance with this statute shall be liable in civil damages. An employee may seek and the court shall grant an injunction against an employer who is violating the provisions of this section when it is found that the employee is in compliance with the provisions of this section.*
- (5) *The provisions of this section shall not apply to any real property:*
  - (a) *Owned, leased, or occupied by the United States government upon which the possession or carrying of firearms is prohibited or controlled;*
  - (b) *Of a detention facility as defined in KRS 520.010; or*
  - (c) *Where a section of the Kentucky Revised Statutes specifically prohibits possession or carrying of firearms on the property.*

SECTION 9. A NEW SECTION OF KRS CHAPTER 39A IS CREATED TO READ AS FOLLOWS:

- (1) *Nothing in KRS 39A.100, 39A.110, 39A.120, 39A.130, or 39A.140, or any other provision of this chapter, shall authorize a taking of property or the taking of any action which is in violation of Section 6 or 7 of this Act.*
- (2) *If a person is relocated to temporary housing before, during, or after a disaster or emergency, he or she shall still possess the rights guaranteed by Sections 6 and 7 of this Act.*

Section 10. KRS 39A.100 is amended to read as follows:

- (1) In the event of the occurrence or threatened or impending occurrence of any of the situations or events contemplated by KRS 39A.010, 39A.020, or 39A.030, the Governor may declare, in writing, that a state of emergency exists. The Governor shall have and may exercise the following emergency powers during the period in which the state of emergency exists:
  - (a) To enforce all laws, and administrative regulations relating to disaster and emergency response and to assume direct operational control of all disaster and emergency response forces and activities in the Commonwealth;
  - (b) To require state agencies and to request local governments, local agencies, and special districts to respond to the emergency or disaster in the manner directed;
  - (c) To seize, take, or condemn property, ***excluding firearms and ammunition, components of firearms and ammunition, or a combination thereof***, for the protection of the public or at the request of the President, the Armed Forces, or the Federal Emergency Management Agency of the United States, including:
    - 1. All means of transportation and communication;
    - 2. All stocks of fuel of whatever nature;
    - 3. Food, clothing, equipment, materials, medicines, and all supplies; and
    - 4. Facilities, including buildings and plants;
  - (d) To sell, lend, give, or distribute any of the property under paragraph (c) of this subsection among the inhabitants of the Commonwealth and to account to the State Treasurer for any funds received for the property;
  - (e) To make compensation for the property seized, taken, or condemned under paragraph (c) of this subsection;
  - (f) To exclude all nonessential, unauthorized, disruptive, or otherwise uncooperative personnel from the scene of the emergency, and to command those persons or groups assembled at the scene to disperse. A person who refuses to leave an area in which a written order of evacuation has been issued in accordance with a written declaration of emergency or a disaster may be forcibly removed to a place of safety or shelter, or may, if this is resisted, be arrested by a peace officer. Forcible removal or arrest



shall not be exercised as options until all reasonable efforts for voluntary compliance have been exhausted;

- (g) To declare curfews and establish their limits;
  - (h) To prohibit or limit the sale or consumption of goods, *excluding firearms and ammunition, components of firearms and ammunition, or a combination thereof*, or commodities for the duration of the emergency;
  - (i) *Except as prohibited by this section or other law*, to perform and exercise other functions, powers, and duties deemed necessary to promote and secure the safety and protection of the civilian population;
  - (j) To request any assistance from agencies of the United States as necessary and appropriate to meet the needs of the people of the Commonwealth; and
  - (k) Upon the recommendation of the Secretary of State, to declare by executive order a different time or place for holding state elections in an election district for which a state of emergency has been declared for part or all of the election district. The election shall be held within twenty (20) days from the date of the suspended or delayed election. The State Board of Elections shall establish procedures for election officials to follow.
- (2) In the event of the occurrence or threatened or impending occurrence of any of the situations or events contemplated by KRS 39A.010, 39A.020, or 39A.030, which in the judgment of a local chief executive officer is of such severity or complexity as to require the exercise of extraordinary emergency measures, the county judge/executive of a county other than an urban-county government, or mayor of a city or urban-county government, or chief executive of other local governments or their designees as provided by ordinance of the affected county, city, or urban-county may declare in writing that a state of emergency exists, and thereafter, subject to any orders of the Governor, shall have and may exercise for the period as the state of emergency exists or continues, the following emergency powers:
- (a) To enforce all laws and administrative regulations relating to disaster and emergency response and to direct all local disaster and emergency response forces and operations in the affected county, city, urban-county, or charter county;
  - (b) To exclude all nonessential, unauthorized, disruptive, or uncooperative personnel from the scene of the emergency, and to command persons or groups of persons at the scene to disperse. A person who refuses to leave an area in which a written order of evacuation has been issued in accordance with a written declaration of emergency or a disaster may be forcibly removed to a place of safety or shelter, or may, if this is resisted, be arrested by a peace officer. Forcible removal or arrest shall not be exercised as options until all reasonable efforts for voluntary compliance have been exhausted;
  - (c) To declare curfews and establish their limits;
  - (d) To order immediate purchase or rental of, contract for, or otherwise procure, without regard to procurement codes or budget requirements, the goods and services essential for protection of public health and safety or to maintain or to restore essential public services;
  - (e) To request emergency assistance from any local government or special district and, through the Governor, to request emergency assistance from any state agency and to initiate requests for federal assistance as are necessary for protection of public health and safety or for continuation of essential public services.
- (3) *Nothing in this section shall be construed to allow any governmental entity to impose additional restrictions on the lawful possession, transfer, sale, transport, carrying, storage, display, or use of firearms and ammunition or components of firearms and ammunition.*

SECTION 11. A NEW SECTION OF KRS CHAPTER 39B IS CREATED TO READ AS FOLLOWS:

- (1) *Nothing in KRS 39B.070 or any other provision of this chapter shall authorize a taking of property or the taking of any action which is in violation of Section 6 or 7 of this Act.*
- (2) *If a person is relocated to temporary housing before, during, or after a disaster or emergency, he or she shall still possess the rights guaranteed by Sections 6 and 7 of this Act.*

SECTION 12. A NEW SECTION OF KRS CHAPTER 27A IS CREATED TO READ AS FOLLOWS:

- (1) *The Administrative Office of the Courts shall support the responsibilities of the Department of State Police in the administration of KRS 237.110 by providing information:*
  - (a) *Possessed by the courts with regard to the suitability of an applicant for a license under KRS 237.110; and*
  - (b) *Possessed by the courts which may result in the revocation or suspension of a license issued pursuant to KRS 237.110.*
- (2) *The Administrative Office of the Courts shall transmit information regarding a licensee which may result in the revocation or suspension of a license issued pursuant to KRS 237.110 as soon as practicable.*
- (3) *The Administrative Office of the Courts shall not conduct a National Instant Criminal Background Check System (NICS) check for the Department of State Police.*
- (4) *For purposes of conducting the continual background check on licensees pursuant to KRS 237.110, the Department of State Police may provide a list of licensees to the Administrative Office of the Courts. The list of persons holding a license pursuant to KRS 237.110 shall be held confidential by the Administrative Office of the Courts and shall be used only for purposes specified in this section and KRS 237.110. Information regarding licensees or applicants for a license shall be transmitted only to the Department of State Police and shall not be distributed to any other person or organization within or without the Administrative Office of the Courts or the Court of Justice. The provisions of this section shall not be construed to prohibit or limit the distribution of information to or about any person which is authorized to be distributed by law, but the fact that the person is an applicant for or holds a license pursuant to KRS 237.110 shall not be distributed.*

Approved April 22, 2006.

## CHAPTER 241

(HB 572)

AN ACT relating to drug testing of miners.

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

SECTION 1. A NEW SECTION OF KRS CHAPTER 304 SUBCHAPTER 13 IS CREATED TO READ AS FOLLOWS:

- (1) *Any employer who is also a licensee of a coal mine that has implemented a drug-free workplace program, including an employee assistance program, certified by the Office of Mine Safety and Licensing shall be eligible to obtain a credit on the licensee's premium for workers' compensation insurance.*
- (2) *Each insurer authorized to write workers compensation insurance policies shall provide the credit on the workers' compensation premium to any employer who is also a licensee of a coal mine for which the insurer has written a workers' compensation policy. The credit on the workers' compensation premium shall not:*
  - (a) *Be available to those employers that are also licensees who do not maintain their drug-free workplace program for the entire workers' compensation policy period; or*
  - (b) *Apply to minimum premium policies.*
- (3) *The Office of Insurance shall approve workers' compensation rating plans that give a credit on the premium for a certified drug free workplace so long as the credit is actuarially sound. The credit shall be at least five percent (5%) unless the Office of Insurance determines that five percent (5%) is actuarially unsound.*
- (4) *The credit on the workers' compensation premium may be applied by the insurer at the final audit.*

SECTION 2. A NEW SECTION OF KRS CHAPTER 351 IS CREATED TO READ AS FOLLOWS:

- (1) *All applicants for certification as new miners and all initial applicants for all other certifications provided for in this chapter shall provide proof of drug- and alcohol-free status prior to certification in accordance with the provisions of this section.*
- (2) *Proof of drug- and alcohol-free status shall be provided in one of two methods:*

- (a) *By participation in a drug and alcohol testing program offered by the Office of Mine Safety and Licensing and paid for by the applicant, in accordance with Sections 2 and 3 of this Act; or*
- (b) *By the submission of drug and alcohol test results from other sources, as provided in subsection (2) of Section 3 of this Act.*
- (3) *If a newly certified miner gains employment in the coal industry, the initial employer shall reimburse the certified miner for the cost of one drug and alcohol test required by Sections 2, 3, 4, and 5 of this Act.*
- (4) *If the applicant is currently certified in any category other than that for which he is applying by the Office of Mine Safety and Licensing and the applicant is currently employed in the coal industry, the applicant's employer shall reimburse the applicant for the cost of one drug and alcohol test required by Sections 2, 3, 4, and 5 of this Act.*
- (5) *The fee charged to an applicant for the drug and alcohol tests offered by the Office of Mine Safety and Licensing shall not exceed the actual cost of collection, analysis, and medical review officer (MRO) review.*
- (6) *The Office of Mine Safety and Licensing shall provide, at each site of examinations for the certifications provided for in Chapter 351, a breath alcohol testing device and a person certified in the operation of the breath alcohol testing device. The breath alcohol test shall be administered prior to examination to determine the applicant's alcohol-free status. The Office of Mine Safety and Licensing may satisfy the requirement to furnish an alcohol testing device and certified personnel by:*
  - (a) *The use of equipment and appropriately certified personnel of the Office of Mine Safety and Licensing;*
  - (b) *A memorandum of agreement with state or local police agencies for the provision of equipment and appropriately trained personnel at the examination site; or*
  - (c) *Inclusion of breath alcohol testing as part of the contract to provide drug testing and collection services set out in subsection (1) of Section 3 of this Act.*
- (7) *A breath alcohol concentration of four tenths of a percent (.04) shall be the maximum acceptable level of concentration for participation in the examination and subsequent certification.*
- (8) *Except for an alternative testing protocol provided for post-accident victims under subsections (5) to (7) of Section 20 of this Act, the minimum testing protocol acceptable for the establishment of drug free status for certification under KRS Chapter 351 shall be an eleven (11) panel urine test that shall include testing for the following substances:*
  - (a) *Amphetamines;*
  - (b) *Cannabinoids/THC;*
  - (c) *Cocaine;*
  - (d) *Opiates;*
  - (e) *Phencyclidine (PCP);*
  - (f) *Benzodiazepines;*
  - (g) *Propoxyphene;*
  - (h) *Methaqualone;*
  - (i) *Methadone;*
  - (j) *Barbiturates; and*
  - (k) *Synthetic narcotics.*

SECTION 3. A NEW SECTION OF KRS CHAPTER 351 IS CREATED TO READ AS FOLLOWS:

- (1) *The Office of Mine Safety and Licensing may contract with qualified companies to provide the collection of samples and administer the required drug and alcohol tests. The contract may provide that the collection of samples or testing be subcontracted, except that the contract shall require:*

- (a) *The contractor, and any subcontractors, to follow all standards, procedures, and protocols set forth by the United States Department of Health and Human Services' Substance Abuse and Mental Health Services Administration (SAMHSA) for the collection and testing required by Section 2 and this section of this Act;*
- (b) *The contractor's or subcontractor's drug testing protocol shall be an eleven (11) panel test described in subsection (8) of Section 2 of this Act; and*
- (c) *The contractor or the subcontractor shall provide a Medical Review Officer (MRO) who shall:*
  - 1. *Possess the ability and medical training necessary to verify positive confirmed test results and evaluate those results in relation to an applicant's medical history or other biomedical information; and*
  - 2. *Follow all procedures outlined in the SAMHSA Medical Review Officer Manual.*
- (2) *The executive director of the Office of Mine Safety and Licensing may accept proof of drug and alcohol free status from other sources whose tests conform to the requirements set forth in subsections (7) and (8) of Section 2 of this Act and in accordance with paragraph (b) of subsection (2) of Section 2 of this Act under the following conditions:*
  - (a) *An applicant shall submit a request for acceptance of his or her drug and alcohol free status to the executive director accompanied by pass/fail results of a drug and alcohol test taken within thirty (30) days prior to the request; and*
  - (b) *The test results shall have been performed by laboratories certified in accordance with the National Laboratory Certification Program (NLCP) by the United States Department of Health and Human Services Administration's SAMHSA and in accordance with subsection (1) of this section.*
- (3) *The Office of Mine Safety and Licensing shall maintain and publish annually a list of certified specimen collection services and testing laboratories from which it will accept data.*

SECTION 4. A NEW SECTION OF KRS CHAPTER 351 IS CREATED TO READ AS FOLLOWS:

- (1) *The results of any testing performed by the Office of Mine Safety and Licensing shall be given to the applicant at the time of his or her notification of the granting or denial of certification.*
- (2) *Certification of an applicant shall be denied if any one (1) or more of the following occur:*
  - (a) *The applicant's positive drug test results for any of the eleven (11) substances listed in subsection (8) of Section 2 of this Act are deemed to fail by a medical review officer;*
  - (b) *The applicant's blood alcohol level is above four tenths of one percent (.04) concentration at the time of testing;*
  - (c) *The applicant's test results demonstrate the submission of an adulterated specimen; or*
  - (d) *The applicant refuses to submit to a drug or alcohol test as required by Section 2 of this Act.*
- (3) *Any applicant who is denied certification due to the results of the drug and alcohol testing required by Section 2 of this Act may be retested again, at his or her expense, within ten (10) days of notification of the results of the initial test.*
- (4) *If an applicant fails a drug and alcohol retest as provided in subsection (3) of this section and the applicant is denied certification, the applicant may reapply for certification only after an evaluation by a medical professional trained in substance abuse treatment and the successful completion of prescribed treatment and an acceptable result from a drug and alcohol test as required by Section 2 of this Act. Proof of the evaluation and the successful completion of the prescribed treatment shall be shown at the time of application.*
- (5) *Any applicant who is denied certification due to the results of the drug and alcohol testing required by Section 2 of this Act, may file an appeal of the denial with the Mine Safety Review Commission within thirty (30) days of the notification of the results of the test.*

SECTION 5. A NEW SECTION OF KRS CHAPTER 351 IS CREATED TO READ AS FOLLOWS:

- (1) *Records of drug or alcohol test results, written or otherwise, received by the Office of Mine Safety and Licensing, its contractors, subcontractors, or other employees are confidential communications and exempt from disclosure under the Kentucky Open Records Act, except as follows:*
- (a) *Where release of the information is authorized solely pursuant to a written consent form signed voluntarily by the person tested. The consent form shall contain the following:*
    - 1. *The name of the person who is authorized to obtain the information;*
    - 2. *The purpose of the disclosure;*
    - 3. *The precise information to be disclosed;*
    - 4. *The duration of the consent; and*
    - 5. *The signature of the person authorizing the release of the information;*
  - (b) *Where release of the information is compelled by a hearing officer or court of competent jurisdiction pursuant to an appeal taken under Sections 2, 3, 4, 5, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, and 22 of this Act;*
  - (c) *Where release of the information is relevant to a legal claim asserted by the applicant;*
  - (d) *Where the information is used by the entity conducting drug or alcohol testing when consulting with legal counsel in connection with matters brought under or related to Sections 2, 3, 4, 5, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, and 22 of this Act, or in its defense of civil or administrative actions related to the testing or results; or*
  - (e) *Where release of the information is deemed appropriate by the Mine Safety Review Commission or a court of competent jurisdiction in disciplinary proceeding brought under the terms of Sections 2, 3, 4, 5, 10, 11, 12, 13, 14, 15, 16, 17, 18, 20, 21, and 22 of this Act.*
- (2) *Information on drug and alcohol test results for tests administered pursuant to Sections 2, 3, 4, 5, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, and 22 of this Act shall not be released or used in any criminal proceeding against the applicant.*

SECTION 6. A NEW SECTION OF KRS CHAPTER 351 IS CREATED TO READ AS FOLLOWS:

- (1) *Any employer who is also a licensee that has implemented a drug-free workplace program certified by the Office of Mine Safety and Licensing shall be eligible to obtain a credit on the licensee's premium for workers' compensation insurance.*
- (2) *Each insurer authorized to write workers compensation insurance policies shall provide the credit on the workers' compensation premium to any employer who is also a licensee for which the insurer has written a workers' compensation policy. The credit on the workers' compensation premium shall not:*
  - (a) *Be available to those employers that are also licensees who do not maintain their drug-free workplace program for the entire workers' compensation policy period; or*
  - (b) *Apply to minimum premium policies.*
- (3) *The Office of Insurance shall approve workers' compensation rating plans that give a credit on the premium for a certified drug free workplace so long as the credit is actuarially sound. The credit shall be at least five percent (5%) unless the Office of Insurance determines that five percent (5%) is actuarially unsound.*
- (4) *The credit on the workers' compensation premium may be applied by the insurer at the final audit.*

Section 7. KRS 349.010 is amended to read as follows:

As used in this chapter:

- (1) "Abandoned" when used in connection with a well or hole means a well or hole which has never been used, or which, in the opinion of the department, will no longer be used for the production of coalbed methane or the injection or disposal of fluid therein;

- (2) "Coal interest holder" means every record coal owner, record coal lessee, mine licensee as defined in KRS 352.010(1)(s)~~(s)~~ and mine permittee as defined in KRS 350.010(21) whose coalbed is penetrated, or proposed to be penetrated, by a coalbed methane well;
- (3) "Coalbed" or "coal seam" means a seam of coal, whether workable or unworkable;
- (4) "Coalbed methane" means gas produced from a reservoir found in a coalbed, a mined-out area, or gob;
- (5) "Coalbed methane well" means any well drilled, deepened, converted, or reopened for the purpose of capturing coalbed methane for sale or use. Any well initially used for a coal mining-related purpose, such as a vent well, but which is subsequently used for the purpose of recovering coalbed methane for sale or use, shall then be deemed to be a coalbed methane well and shall comply with the provisions of this chapter at the time that the well is converted or used for the purpose of recovering coalbed methane for sale or use;
- (6) "Commissioner" means the commissioner of the Department for Natural Resources;
- (7) "Correlative rights" means the reasonable opportunity of each person entitled to recover, without waste, the coalbed methane in and under his or her tract or tracts, or the equivalent thereof;
- (8) "Department" means the Department for Natural Resources;
- (9) "Director" means the director of the Division of Oil and Gas Conservation as established in KRS 353.530;
- (10) "Drilling unit" means the maximum area in a pool which may be drained efficiently by one (1) well so as to produce the reasonable maximum recoverable coalbed methane in the area. Where the department has provided rules for the establishment of a drilling unit and an operator, proceeding within the framework of the rules so prescribed, has taken the action necessary to have a specified area established for production from a well, the area shall be a drilling unit;
- (11) "Division" means the Division of Mine Permits in the Department for Natural Resources;
- (12) "Field rules" means rules established by orders of the review board relating to the drilling, completion, production of, and specifications for coalbed methane wells in a particular geographic area as defined by an order;
- (13) "Gob" means the de-stressed zone associated with any full-seam extraction of coal that extends above and below the mined-out coalbed;
- (14) "Gob well" means a well drilled or a vent hole converted to a well pursuant to this chapter which produces or is capable of producing coalbed methane for sale or use, from a de-stressed zone associated with any full seam extraction of coal that extends above or below a mined-out coalbed;
- (15) "Horizontally drill" or "horizontal drilling" means the intentional act of drilling a borehole, shaft, or hole, which deviates from vertical for the purpose of penetrating a coal seam to produce coalbed methane;
- (16) "Mine licensee" means the mine licensee as defined in KRS 352.010(1)(s)~~(s)~~;
- (17) "Mine permittee" means the permittee as defined in KRS 350.010(21);
- (18) "Nonparticipating working interest owner" means a coalbed methane owner or lessee of a tract included in a drilling unit who elects to share in the operation of the coalbed methane well on a carried basis by agreeing to have his or her proportionate share of the costs allocable to his or her interest charged against his or her share of production from the coalbed methane well;
- (19) "Nonparticipating operator" means a nonparticipating working interest owner who is also the operator of the coalbed methane well;
- (20) "Operator" means any owner of the right to drill, develop, operate, and produce coalbed methane from a pool and to appropriate the coalbed methane produced therefrom, either for himself or herself, or for himself, herself, and others; in the event there is no coalbed methane lease in existence with respect to the tract in question, the owner of the coalbed methane rights therein shall be considered as an "operator" to the extent of seven-eighths (7/8) of the coalbed methane in that portion of the pool underlying the tract owned by that owner, and as a "royalty owner" as to one-eighth (1/8) interest in that coalbed methane;
- (21) "Other interested coalbed methane parties" means all working interest owners other than the operator, all royalty and overriding royalty interest owners or holders, and any other party who owns or holds a right or

interest in a drilling unit, coalbed methane well site for which a drilling permit has been issued or is pending, and all associated equipment, facilities, infrastructure, and improvements;

- (22) "Participating working interest owner" means a coalbed methane owner or lessee who elects to bear a share of the risks and costs of drilling, completing, equipping, operating, plugging, and abandoning a coalbed methane well equal to the proportion which the acreage in the drilling unit he or she owns or holds under lease bears to the total acreage of the drilling unit;
- (23) "Participating operator" means a participating working interest owner who is also the operator of the coalbed methane well;
- (24) "Person" means any person, corporation, association, partnership, limited liability company, receiver, governmental agency subject to this chapter, trustee, so-called common law or statutory trust, guardian, executor, administrator, or fiduciary of any kind, federal agency, state agency, city, commission, political subdivision of the Commonwealth, or any interstate body;
- (25) "Plat" means a map, drawing, or print showing the location of a well;
- (26) "Review board" means the Coalbed Methane Well Review Board;
- (27) "Royalty owner" means any owner of coalbed methane in place, or coalbed methane rights, to the extent that the owner is not an operator as defined in subsection (20) of this section;
- (28) "Stimulate" means any action taken to increase the flow of coalbed methane, or the inherent productivity of a coalbed methane well, including but not limited to fracturing, shooting, acidizing, or waterflooding, but excluding cleaning out, bailing, or workover operations;
- (29) "Surface owner" means the person in whose name the surface of the land is assessed for purposes of taxes imposed according to the property valuation administrator;
- (30) "Unit" means any tract or tracts which the department has determined are underlaid by a pool or pools of coalbed methane and are not drilling units as defined in subsection (10) of this section;
- (31) "Unitization" means the act of combining separately owned tracts or separate interests therein into a unit constituting all or some portion of a coalbed that produces or is capable of producing coalbed methane and the joint operation of that unit;
- (32) "Unit operator" means the party designated in a pooling order to develop a unit by the drilling of one (1) or more coalbed methane wells;
- (33) "Vent hole" means a borehole, shaft driven, or hole dug, drilled, deepened, converted or reopened, which is used for the purpose of releasing or venting coalbed methane to the atmosphere and not for the purpose of capturing or producing coalbed methane for sale or use;
- (34) "Venting" means the act of releasing coalbed methane to the atmosphere;
- (35) "Well" means any borehole, shaft driven, or hole dug, drilled, deepened, converted or reopened for the purpose of capturing or producing coalbed methane for sale or use; and
- (36) "Workable coalbed" means:
  - (a) Any coalbed twenty-four (24) inches or more in thickness;
  - (b) Any coalbed actually being operated commercially;
  - (c) Any coalbed that the department decides can be operated commercially, and the operation of which can reasonably be expected to commence within not more than ten (10) years; or
  - (d) Any coalbed that, from outcrop indication or other definite evidence, proves to the satisfaction of the department to be workable and, when operated, will require protection if wells are drilled through or into it.

Section 8. KRS 351.010 is amended to read as follows:

- (1) As used in this chapter, unless the context requires otherwise:

- (a) ***"Adulterated specimen" means a specimen containing a substance that is not a normal constituent or containing an endogenous substance at a concentration that is not a normal physiological concentration;***
- (b) "Approved" means that a device, apparatus, equipment, or machinery, or practice employed in the mining of coal has been approved by the commissioner of the Department for Natural Resources;
- (c)~~(b)~~ "Assistant mine foreman" means a certified person designated to assist the mine foreman in the supervision of a portion or the whole of a mine or of the persons employed therein;
- (d)~~(c)~~ "Board" means the Mining Board created in KRS 351.105;
- (e)~~(d)~~ "Commercial mine" means any coal mine from which coal is mined for sale, commercial use, or exchange. This term shall in no instance be construed to include a mine where coal is produced for own use;
- (f)~~(e)~~ "Commission" means the Mine Safety Review Commission created by KRS 351.1041;
- (g)~~(f)~~ "Commissioner" means commissioner of the Department for Natural Resources;
- (h)~~(g)~~ "Department" means the Department for Natural Resources;
- (i)~~(h)~~ "Drift" means an opening through strata or coal seams with opening grades sufficient to permit coal to be hauled therefrom or which is used for the purpose of ventilation, drainage, ingress, egress, and other purposes in connection with the mining of coal;
- (j)~~(i)~~ "Excavations and workings" means the excavated portions of a mine;
- (k)~~(j)~~ "Fire boss" (often referred to as mine examiner) means a person certified as a mine foreman or assistant mine foreman who is designated by management to examine a mine or part of a mine for explosive gas or other dangers before a shift crew enters;
- (l)~~(k)~~ "Gassy mine." All mines shall be classified as gassy or gaseous;
- (m)~~(l)~~ ***"Illicit substances" includes prescription drugs used illegally or in excess of therapeutic levels as well as illegal drugs;***
- (n) "Intake air" means air that has not passed through the last working place of the split or by the unsealed entrances to abandoned workings and by analysis contains not less than nineteen and one-half percent (19.5%) oxygen, no dangerous quantities of flammable gas, and no harmful amounts of poisonous gas or dust;
- (o)~~(m)~~ "Licensee" means any owner, operator, lessee, corporation, partnership, or other person who procures a license from the department to operate a coal mine;
- (p)~~(n)~~ ***"Medical Review Officer" or "MRO" means a licensed physician with knowledge of substance abuse disorders, laboratory testing, chain of custody, collection procedures, and the ability to verify positive, confirmed test results. The MRO shall possess the necessary medical training to interpret and evaluate a positive test result in relation to the person's medical history or any other relevant biomedical information;***
- (q) "Mine" means any open pit or any underground workings from which coal is produced for sale, exchange, or commercial use, and all shafts, slopes, drifts, or inclines leading thereto, and includes all buildings and equipment, above or below the surface of the ground, used in connection with the workings. Workings that are adjacent to each other and under the same management, but which are administered as distinct units, shall be considered a separate mine;
- (r)~~(o)~~ "Mine foreman" means a certified person whom the licensee or superintendent places in charge of the workings of the mine and of the persons employed therein;
- (s)~~(p)~~ "Open-pit mine" shall include open excavations and open-cut workings, including but not limited to auger operations and highwall mining systems for the extraction of coal;
- (t)~~(q)~~ "Operator" means the licensee, owner, lessee, or other person who operates or controls a coal mine;



- (u)~~(+)~~ "Permissible" refers to any equipment, device, or explosive that has been approved by the United States Bureau of Mines, the Mining Enforcement and Safety Administration, or the Mine Safety and Health Administration and that meets all requirements, restrictions, exceptions, limitations, and conditions attached to the classification by the approving agency;
- (v)~~(s)~~ "Preshift examination" means the examination of a mine or any portion thereof where miners are scheduled to work or travel, which shall be conducted not more than three (3) hours before any on-coming shift;
- (w)~~(+)~~ "Return air" means air that has passed through the last active working place on each split, or air that has passed through abandoned, inaccessible, or pillared workings;
- (x) **"Serious physical injury" means an injury which has a reasonable potential to cause death;**
- (y)~~(u)~~ "Shaft" means a vertical opening through the strata that is used in connection with the mining of coal, for the purpose of ventilation or drainage, or for hoisting men, coal, or materials;
- (z)~~(v)~~ "Slope" means an inclined opening used for the same purpose as a shaft;
- (aa)~~(w)~~ "Superintendent" means the person who, on behalf of the licensee, has immediate supervision of one (1) or more mines;
- (ab)~~(x)~~ "Supervisory personnel" means a person certified under the provisions of this chapter to assist in the supervision of a portion or the whole of the mine or of the persons employed therein;
- (ac)~~(y)~~ "Office" means the Office of Mine Safety and Licensing; and
- (ad)~~(z)~~ "Executive director" means the executive director of the Office of Mine Safety and Licensing.

- (2) Except as the context otherwise requires, this chapter applies only to commercial coal mines.
- (3) The definitions in KRS 352.010 apply also to this chapter, unless the context requires otherwise.

Section 9. KRS 351.101 is amended to read as follows:

The General Assembly hereby finds and declares the following:

- (1) The highest priority and concern of the Commonwealth must be the health and safety of the coal industry's most valuable resource, the miner.
- (2) The continued prosperity of the coal industry is of primary importance to the state.
- (3) A high priority must be given to increasing the productivity and competitiveness of the mines in this state.
- (4) An inordinate number of miners are killed or injured during the first few months of their experience in a mine and upon acquiring new work assignments in a mine.
- (5) These injuries result in the loss of life and serious injury to miners and are an impediment to the future growth of the state's coal industry.
- (6) Mining is a technical occupation with various specialties requiring individualized training and education.
- (7) Injuries can be reduced through proper miner training, education, and certification.
- (8) Mine safety can be improved by the imposition and enforcement of sanctions against licensed premises and certified and noncertified personnel whose willful and repeated violations of mine safety laws place miners in imminent danger of serious injury or death.
- (9) ***Abuse of illicit substances and alcohol in the mining industry represents a serious threat to the health and safety of all miners. Substance and alcohol abuse adversely affect the health and safety of miners. Mine safety can be significantly improved by establishing as a condition of certification that miners remain drug and alcohol free.***

Section 10. KRS 351.102 is amended to read as follows:

- (1) No person shall be assigned mining duties by a licensee as a laborer or supervisor unless the person holds a valid certificate of competency and qualification or a valid permit as trainee issued in accordance with this section.

- (2) *The Office of Mine Safety and Licensing shall require that all applicants for certified miner and initial applicants for other mining certifications pursuant to this chapter shall submit proof that he or she is drug and alcohol free. The proof shall be submitted in accordance with Sections 2 and 3 of this Act.*
- (3) A permit as trainee miner shall be issued by the commissioner to any person who has *submitted proof that he or she is drug and alcohol free in accordance with Sections 2 and 3 of this Act, and has* completed a program of education of a minimum of forty (40) hours for underground mining or twenty-four (24) hours for surface mining comprised of sixteen (16) hours of classroom training and eight (8) hours of mine specifics or who has completed a certified mine technology program and has passed an examination approved by the commissioner. An additional eight (8) hours of mine-specific training shall be administered to the trainee miner by the licensee, which training shall be documented on a form approved by the commissioner. This education and training program shall be determined and established by the board, as provided in KRS 351.106. *A requirement for a permit as a trainee miner shall be one (1) hour of classroom training dedicated to alcohol and substance abuse education.*
- (4)~~(3)~~ Trainee miners shall work within the sight and sound of a certified miner.
- (5)~~(4)~~ Any miner holding a certificate of competency and qualification may have one (1) person working with him and under his direction as a trainee miner. Any person certified as a mine foreman or assistant mine foreman shall have no more than five (5) persons working under his supervision or direction as trainee miners for the purpose of learning and being instructed in the duties of underground coal mining.
- (6)~~(5)~~ A certificate of competency and qualification as a miner shall be issued by the commissioner to any person who has a minimum of forty-five (45) working days' experience within a thirty-six (36) month period as a trainee miner and demonstrated competence as a miner. *Any trainee miner who exceeds six (6) months in obtaining the forty-five (45) working days of experience required in this section, shall submit proof of alcohol and drug free status in accordance with the provisions of Sections 2 and 3 of this Act.*
- (7)~~(6)~~ All examinations for the certification of a miner shall be of a practical nature and shall determine the competency and qualification of the applicant to engage in the mining of coal with reasonable safety to himself and his fellow employees. The examination may be given orally, upon approval by the commissioner, if the miner is unable to read or comprehend a written examination.
- (8)~~(7)~~ Examinations shall be held in any district office during regular business hours.
- (9)~~(8)~~ If the commissioner or his authorized representative finds that an applicant is not qualified and competent, he shall notify the applicant *as soon as possible, but in no case*~~not~~ *more than thirty (30)*~~ten (10)~~ days after the date of examination.
- (10)~~(9)~~ Any applicant aggrieved by an action of the commissioner or his authorized representative in failing or refusing to issue a certificate of qualification and competency shall, within ten (10) days of notice of the action complained of, appeal to the commissioner who shall either affirm the action or issue the certificate to the applicant.
- (11)~~(10)~~ If the applicant is aggrieved by the action of the commissioner, he may appeal to the commission which shall hold a hearing on the matter in accordance with KRS Chapter 13B.
- (12)~~(11)~~ The applicant may appeal from the final order of the commission by filing in the Franklin Circuit Court a petition for appeal in accordance with KRS Chapter 13B.

Section 11. KRS 351.103 is amended to read as follows:

- (1) All persons possessing valid certificates as mine inspectors, electrical inspectors, mine safety instructors, assistant mine foreman, mine foreman, shotfirer, and other mining specialties as established by the board, or certified miner shall be eligible to work at any time as miners, provided they fulfill the annual requirements for retraining and reeducation as provided in KRS ~~351.106~~~~351.105~~.
- (2) Supervisory, clerical, and technically-trained employees of the mine operator whose work contributes only indirectly to mine operations shall not be required to possess a miner's certificate of competency and qualification.

Section 12. KRS 351.1041 is amended to read as follows:

- (1) The Mine Safety Review Commission is created as an independent governmental entity attached to the Environmental and Public Protection Cabinet, Office of the Secretary, for administrative purposes. The commission shall:
  - (a) Conduct hearings and issue orders regarding a licensee, coal operation, or other person involved in the mining of coal in accordance with KRS 351.194;
  - (b) Jointly with the department establish a process for the department's referral of allegations of mine safety violations, *violation of a miner's drug and alcohol free condition of certification, or supervisory personnel's failure to immediately report a fatal accident or an accident involving serious physical injury* to the commission for adjudication;
  - (c) Make any recommendations to the department that it believes appropriate upon its review, consideration, and analysis of:
    1. All reports of coal mining fatalities provided by the commissioner under KRS 351.070(14);
    2. Any case in which a miner or a mine owner or operator, in the professional opinion of the department has a history of significant and substantial safety violations even though there has been no serious *physical* injury or death resulting from the violations;
    3. Any case in which a miner or a mine owner or operator has been convicted of a criminal charge for a violation of a federal mine safety standard or standards; and
    4. Any case in which the Federal Mine Safety and Health Administration has made a recommendation relating to certification of an individual certified under this chapter.
- (2) The Mine Safety Review Commission shall consist of three (3) members appointed by the Governor subject to the consent of the Senate and the House of Representatives in accordance with KRS 11.160. Of the members of the Mine Safety Review Commission first appointed under this section, one (1) shall be appointed for a term of one (1) year; one (1) shall be appointed for a term of two (2) years; and one (1) shall be appointed for a term of three (3) years. After the initial appointments, members of the board shall be appointed for terms of four (4) years. A member may be reappointed at the expiration of his or her previous term. Members shall continue to serve until a successor is appointed and qualified.
- (3) The members of the Mine Safety Review Commission shall have the qualifications required of Judges of the Court of Appeals, except for residence in a district, and shall be subject to the same standards of conduct made applicable to a part-time judge by the Rules of the Kentucky Supreme Court. The members shall receive the per diem equivalent of the salary of a Judge of the Court of Appeals for each day spent in conducting the business of the commission.
- (4) The Governor shall designate a member of the Mine Safety Review Commission to serve as chair and shall fill any vacancy in the office of chair.
- (5) The Governor may remove any member for good cause including violation of the Code of Judicial Conduct and repeated failure to perform satisfactorily the specific duties assigned in this chapter or KRS Chapter 352. The Governor may remove the member only after furnishing him or her with a written copy of the charges against that member and holding a public hearing if requested by the member.
- (6) The commission shall meet on the call of the chair or a majority of the members of the commission.
- (7) The Environmental and Public Protection Cabinet shall provide administrative services to the Mine Safety Review Commission. If the commission deems it necessary to employ hearing officers to assist it, the Environmental and Public Protection Cabinet shall employ hearing officers to assist the commission in accordance with KRS Chapter 13B, notwithstanding the provisions of KRS 13B.030(2)(b).
- (8) The commission may conduct hearings, compel the attendance of witnesses, administer oaths, and conduct oversight activities as may be required to ensure the full implementation of its duties.
- (9) The department shall provide the Mine Safety Review Commission with all information requested by the commission for the fulfillment of its responsibilities under this chapter and KRS Chapter 352.
- (10) The secretary of the Environmental and Public Protection Cabinet shall effectuate the hiring of any staff deemed necessary and affordable for the efficient operations of the Mine Safety Review Commission. This

may include an executive director, general counsel, or other administrative support positions, to be appointed in accordance with KRS 12.010 and 12.050.

Section 13. KRS 351.106 is amended to read as follows:

- (1) The Mining Board shall establish criteria and standards for a program of education and training to be required of prospective miners, miners, and all certified persons. This education and training shall be provided in a manner determined by the commissioner to be adequate to meet the standards established by the board, which shall include as a minimum the requirements of KRS 351.102 and the requirements of the federal government for the training of miners for new work assignments, and at least sixteen (16) hours of annual retraining and reeducation for all certified persons *of which thirty (30) minutes annually shall be dedicated to alcohol and substance abuse education.*
- (2) *One (1) hour of initial substance abuse training and education shall be required as part of the certified miner's first annual retraining conducted in a classroom that occurs after August 1, 2006. This requirement shall not apply to certified persons who received the one (1) hour initial substance abuse training and education as part of their forty (40) hour or twenty-four (24) hour new miner training.*
- (3) *In addition to the thirty (30) minutes of annual alcohol and substance abuse education required for certified miners, supervisory personnel shall be required to receive an additional thirty (30) minutes of alcohol and substance abuse awareness training annually.*
- (4) Beginning with the first full calendar year after the effective date established by the board and during each calendar year thereafter, each certified miner shall receive at least sixteen (16) hours of retraining and reeducation.
- ~~(5)(3)~~ Newly-hired experienced miner training shall satisfy the miner's annual retraining requirement if a time lapse occurs between the miner's last training anniversary date and the next scheduled training anniversary date for the mine where he is newly employed, if the miner has complied with the annual retraining requirements within the last twelve (12) months from the date of his newly hired experienced miner training.
- ~~(6)(4)~~ Retraining and reeducation sessions shall be conducted at times and in numbers to reasonably assure each certified miner an opportunity to attend.
- ~~(7)(5)~~ The licensee shall pay all certified miners their regular wages and benefits while they receive training required by the department.
- ~~(8)(6)~~ Willful failure of a working miner to complete annual retraining and reeducation requirements shall constitute grounds for revocation, suspension, or probation of his certificate.
- ~~(9)(7)~~ If the department discovers a miner working without proper training or the licensee cannot provide proof of training, the miner shall be withdrawn immediately from the mine and the licensee shall pay the miner his regular wages until the training is administered and properly documented.
- ~~(10)(8)~~ When employment is terminated, the licensee shall provide the employee a copy of his training records, upon request. If the employee does not request his training records immediately, the licensee shall, within fifteen (15) days, provide the employee with those training records.
- ~~(11)(9)~~ The board may, upon its own motion or whenever requested to do so by the commissioner, deem applicable certificates issued by other states to be proof of training and education equal to the requirements of KRS 351.102 or deem training provided by appropriate federal agencies to be adequate to meet training and education requirements established by the board, if the training and education meet the minimum requirements of this chapter.
- ~~(12)(10)~~ The ~~secretary~~~~commissioner~~ may promulgate administrative regulations necessary to establish a program to implement the provisions of this chapter according to the criteria and standards established by the board. This program shall include but not be limited to implementation of a program of instruction and the conduct of examinations to test each applicant's knowledge and understanding of the training and instruction.
- ~~(13)(11)~~ The commissioner shall keep and maintain current records on all certified miners, all of which shall be maintained by computer for ready access.
- ~~(14)(12)~~ The commissioner is authorized and directed to utilize state mine inspectors, mine safety instructors, the state mine foreman examiner, private and public institutions of education, and other qualified persons available to him in implementing the program of instruction and examination.

~~(15)(13)~~ The commissioner may make recommendations to the board as he may deem appropriate. The commissioner shall provide information to the board at the board's request. The commissioner is authorized and directed to utilize state and federal moneys and personnel that may be available to the department for educational and training purposes in the implementation of the provisions of this chapter.

~~(16)(14)~~ All training and education required by this section may be conducted in classrooms, on the job, or in simulated mines.

Section 14. KRS 351.110 is amended to read as follows:

- (1) The board shall not admit any applicant for certification as a mine inspector, mine safety analyst, electrical inspector, mine safety instructor, mine foreman, or assistant mine foreman to take an examination given by it unless the applicant has the experience required by this chapter, **and has submitted proof that he or she is drug and alcohol free in accordance with Sections 2 and 3 of this Act** and ~~until the applicant~~ has presented to the examiner at the time of registration for the examination a United States postal money order or certified check in the amount of fifty dollars (\$50). All money orders or certified checks required herein shall be made payable to the State Treasurer, Frankfort, Kentucky.
- (2) All money paid to the State Treasurer for licenses and fees required by this chapter shall be for the sole use of the department and shall be in addition to any moneys appropriated by the General Assembly for the use of the department.
- (3) The board may refuse to examine any applicant who cannot readily understand the written English language or cannot express himself intelligently in English, or who is obviously intoxicated.

Section 15. KRS 351.120 is amended to read as follows:

- (1) The commissioner shall issue a certificate to each person who possesses the qualifications required by law for mine inspector, electrical inspector, surface or underground mine safety instructor, surface mine safety analyst, assistant mine foreman, mine foreman, shotfirer, and other mining specialties as established by the board, or miner who has passed the examination given by direction of the board for that position, **and who has met the requirements for drug- and alcohol-free status.**
- (2) The certificate shall be in such form as the commissioner prescribes, shall be signed by the commissioner, and shall show that the holder has passed the required examination and possesses the qualifications required by law for mine inspector, electrical inspector, surface or underground mine safety instructor, surface mine safety analyst, assistant mine foreman, mine foreman, shotfirer, and other mining specialties as established by the board, or miner and is authorized to act as such.
- (3) Certificates issued to mine foremen and assistant mine foremen shall be classified as follows:
  - (a) Mine foreman certificates, authorizing the holder to act as foreman for all classes of coal mines; and
  - (b) Assistant mine foreman certificates, authorizing the holder to act as assistant foreman.
- (4) Any mine foreman or assistant mine foreman may act as a fire boss or mine examiner. This shall not apply to persons holding a second class mine foreman certificate issued before June 16, 1972.
- (5) The class of mine foreman's certificate awarded shall be determined by the board according to the experience of the applicant.
- (6) No certificate shall be granted to any person who does not present to the board satisfactory evidence, in the form of affidavits, that the applicant has had the required practical experience in underground or surface coal mines. A data sheet shall be filed by each applicant showing places of employment, beginning month and year and ending month and year employed by each company and list jobs performed, showing at least the number of required years. Affidavit and data sheet forms shall be furnished by the department. **The applicant also shall submit proof that he or she is drug and alcohol free. The proof shall be submitted in accordance with Sections 2 and 3 of this Act.** For the purpose of this section, persons holding a four (4) year degree in mining engineering from a recognized institution shall be credited with the equivalent of two (2) years of practical experience in coal mines when applying for any mine foreman or assistant mine foreman certificate. Persons holding an associate degree in mining from a recognized institution shall be credited with the equivalent of two (2) years' experience when applying for a mine foreman certificate and one (1) year when applying for an assistant mine foreman certificate. Persons desiring to use their mining engineering or mining technology

degree as credit for practical experience toward a mine foreman or assistant mine foreman certificate shall file proof of having received their degree prior to the examination.

- (7) Applicants for an underground mine foreman certificate shall have five (5) years' practical underground coal mining experience acquired after achieving the age of eighteen (18), with at least one (1) year of this experience acquired on an active working section of an underground mine. Applicants for an underground assistant mine foreman certificate shall have three (3) years' practical underground experience acquired after achieving the age of eighteen (18), with at least one (1) year of this experience acquired on an active working section of an underground mine.
- (8) Applicants for surface mine foremen certification shall have three (3) years' practical surface mine experience acquired after achieving the age of eighteen (18); for surface mine foreman certification with a specialty in coal extraction, at least one (1) year of the required practical experience shall have been acquired from direct involvement in the mining or extraction of coal at a surface mine. For a surface mine foreman certification with a specialty in postmining activities, at least one (1) year of the required experience shall have been acquired from direct involvement in the performance of such activities at a surface or underground mine, coal preparation plant, or other coal-handling facility. Notwithstanding any requirement in this subsection to the contrary, a person having three (3) years' of underground or surface mining experience shall qualify for a surface mine foreman certification with a specialty in postmining activities if the person has documented experience of at least one (1) year in the performance of these activities. Persons holding a surface mine foreman certificate prior to July 15, 1998, are not affected by this section.
- (9) Persons possessing certificates of qualifications to act as mine inspector, mine foreman, assistant mine foreman, or fire boss prior to July 15, 1982, are not affected by this section.
- (10) When approved by the commissioner, a person who has successfully completed any mine foreman or assistant mine foreman examination *and submitted proof that he or she is drug and alcohol free, in accordance with Sections 2 and 3 of this Act*, may be granted a temporary certification that is valid only until the board acts upon his or her certification at its next regularly scheduled meeting.
- (11) A member of the supervisory personnel shall be present at the working section except in cases of emergencies at all times employees under his supervision are at the working section on coal-producing shifts.
- (12) *The commissioner immediately shall suspend any certification for violation of drug- and alcohol-free status or for failure or refusal to submit to a drug and alcohol test authorized by Sections 2, 3, 4, 5, and 20 of this Act. No certification may be revoked until the certified person has been granted adequate opportunity for a hearing before the Mine Safety Review Commission conducted in accordance with KRS Chapter 13B. The hearing may be initiated by the filing of a petition by the person whose certification has been suspended by the commissioner or by the Office of Mine Safety and Licensing under process and administrative regulations developed by the Mine Safety Review Commission in accordance with KRS 351.1041.*
- (13) *A miner whose certification has been suspended or revoked for violating the drug- and alcohol-free condition of certification may reapply for certification with the Mining Board, provided that he or she has successfully passed a drug and alcohol test meeting the requirements in Sections 2 and 3 of this Act within thirty (30) days prior to reapplication and has fulfilled the terms of final orders entered by the Mine Safety Review Commission.*

Section 16. KRS 351.127 is amended to read as follows:

- (1) A certified emergency medical technician or mine emergency technician shall be employed at every licensed coal mine whose employees are actively engaged in the extraction, production, or preparation of coal. Persons employed as mine emergency technicians shall be trained in a manner established in an administrative regulation promulgated by the department. *Persons seeking certification as a mine emergency medical technician or mine emergency technician shall be subject to the following additional requirements:*
  - (a) *All persons seeking certification as a mine emergency technician shall demonstrate drug- and alcohol-free status in accordance with Sections 2 and 3 of this Act;*
  - (b) *The drug and alcohol testing for those seeking certification as mine emergency technicians shall be administered prior to the examination for the certification, in accordance with Sections 2 and 3 of this Act; and*

- (c) ***Certification as a mine emergency technician shall not be issued until the results of the drug and alcohol testing have been obtained. Notification shall be given to the person in accordance with Section 4 of this Act.***
- (2) These emergency medical technicians or mine emergency technicians shall be employed in the following manner:
  - (a) One (1) emergency medical technician or mine emergency technician shall be employed on every shift with a workforce of up to fifty (50) employees;
  - (b) An additional emergency medical technician or mine emergency technician shall be employed for every additional fifty (50), or any portion thereof, employees per shift who are actively engaged in the extraction, production, or preparation of coal.
- (3) If these emergency medical technicians or mine emergency technicians are also employed in other capacities at the coal mine, they shall be available for quick response to emergencies and shall have available to them at all times the equipment necessary to respond to emergencies, as prescribed by the commissioner.
- (4) If the licensee selects existing employees to be trained as emergency medical technicians or mine emergency technicians, the employees selected shall be paid their regular wages during training.
- (5) Certified emergency medical technicians and mine emergency technicians shall receive annual retraining in the manner established in an administrative regulation promulgated by the department, during which they shall receive their regular wages.

Section 17. KRS 351.1291 is amended to read as follows:

- (1) All inexperienced surface coal miners shall complete a twenty-four (24) hour course of instruction composed of sixteen (16) hours of classroom training and eight (8) hours of mine specifics that is devised or approved by the department in subjects including but not limited to: accident prevention, cutting and welding, equipment operation, fire protection, first-aid methods, ground control and transportation, handling and use of explosives, mine communications, mine electrical safety standards, mining law, including the statutory rights of miners, safety around bins and hoppers, ***alcohol and substance abuse education and training***, and any other subjects deemed appropriate by the department. For purposes of this section, "inexperienced coal miners" means all persons who have not previously worked at least forty-five (45) days at a surface coal mine in this Commonwealth.
- (2) All surface coal miners shall complete an eight (8) hour course of annual retraining devised or approved by the department in the subjects identified in subsection (1) of this section, ***thirty (30) minutes of which shall be dedicated to alcohol and substance abuse education.***
- (3) ***One (1) hour of initial substance abuse training and education shall be provided as part of the certified miner's first annual retraining conducted in a classroom that occurs after August 1, 2006. This requirement does not apply to a certified person who received the one (1) hour initial substance abuse training and education as part of his or her forty (40) hour or twenty-four (24) hour new miner training.***
- (4) ***In addition to the thirty (30) minutes of annual alcohol and substance abuse education required for certified miners, supervisory personnel shall be required to undergo an additional thirty (30) minutes of alcohol and substance abuse awareness training annually.***
- (5) ***Each applicant for a certified surface miner, in addition to meeting the educational requirements of this chapter, shall pass a drug and alcohol test in accordance with Section 2 and 3 of this Act.***
- (6) The commissioner shall certify all surface coal miners who complete the courses of instruction ***and show proof of drug and alcohol free condition of certification*** required in ~~subsections (1) and (2) of~~ this section.

Section 18. KRS 351.170 is amended to read as follows:

- (1) ***All reports of any facility licensed pursuant to this chapter shall be made to the executive director.*** The licensee of each commercial coal mine shall give at the end of each calendar year accurate information, on blank forms furnished by the commissioner, as to the number of accidents that have occurred, the number of persons employed, the tons of coal mined, and any other related information that the commissioner requests.
- (2) ***The operator or superintendent of each licensed facility shall report by the close of the next business day, any certified persons who:***

- (a) *Have been discharged for violation of a company's substance or alcohol abuse policies;*
- (b) *Refused to submit to a test required by the company's substance or alcohol abuse policies or Sections 2, 3, 4, 5, and 20 of this Act; or*
- (c) *Tested positive and failed to complete an employee assistance program.*

Section 19. KRS 352.010 is amended to read as follows:

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

- (a) "Abandoned workings" means excavations, either caved or sealed, that are deserted and in which further mining is not intended, or open workings which are ventilated and not inspected regularly;
- (b) "Active workings" means all places in a mine that are ventilated and inspected regularly;
- (c) "Approved" means that a device, apparatus, equipment, machinery, or practice employed in the mining of coal has been approved by the commissioner of the Department for Natural Resources;
- (d) "Assistant mine foreman" means a certified person designated to assist the mine foreman in the supervision of a portion or the whole of a mine or of the persons employed therein;
- (e) "Board" means the Mining Board created in KRS 351.105;
- (f) "Commercial mine" means any coal mine from which coal is mined for sale, commercial use, or exchange. This term shall in no instance be construed to include a mine where coal is produced for own use;
- (g) "Commissioner" means commissioner of the Department for Natural Resources;
- (h) "Department" means the Department for Natural Resources;
- (i) "Drift" means an opening through strata or coal seams with opening grades sufficient to permit coal to be hauled therefrom, or which is used for the purpose of ventilation, drainage, ingress, egress, and other purposes in connection with the mining of coal;
- (j) "Excavations and workings" means the excavated portions of a mine;
- (k) ***"Executive Director" means the executive director of the Office of Mine Safety and Licensing;***
- (l) "Face equipment" means mobile or portable mining machinery having electric motors or accessory equipment normally installed or operated in by the last open crosscut in any entry or room;
- ~~(m)(1)~~ "Fire boss" (often referred to as mine examiner) means a person certified as a mine foreman or assistant mine foreman who is designated by management to examine a mine or part of a mine for explosive gas or other dangers before a shift crew enters;
- ~~(n)(1)~~ "Gassy mine." All underground mines shall be classified as gassy or gaseous;
- ~~(o)(1)~~ "High voltage" means any voltage of one thousand (1,000) volts or more;
- ~~(p)(1)~~ "Imminent danger" means the existence of any condition or practice which could reasonably be expected to cause death or serious physical ~~injury~~ **harm** before the condition or practice can be abated;
- ~~(q)(1)~~ "Inactive workings" shall include all portions of a mine in which operations have been suspended for an indefinite period, but have not been abandoned;
- ~~(r)(1)~~ "Intake air" means air that has not passed through the last working place of the split or by the unsealed entrances to abandoned workings and by analysis contains not less than nineteen and one-half percent (19.5%) of oxygen, no dangerous quantities of flammable gas, and no harmful amounts of poisonous gas or dust;
- ~~(s)(1)~~ "Licensee" means any owner, operator, lessee, corporation, partnership, or other person who procures a license from the department to operate a coal mine;
- ~~(t)(1)~~ "Low voltage" means up to and including six hundred sixty (660) volts;
- ~~(u)(1)~~ "Medium voltage" means voltages greater than six hundred sixty (660) and up to nine hundred ninety-nine (999) volts;



- (v)~~((u))~~ "Mine" means any open pit or any underground workings from which coal is produced for sale, exchange, or commercial use, and all shafts, slopes, drifts, or inclines leading thereto, and includes all buildings and equipment, above or below the surface of the ground, used in connection with the workings. Workings that are adjacent to each other and under the same management and which are administered as distinct units shall be considered separate mines;
- (w)~~((v))~~ "Mine foreman" means a certified person whom the licensee or superintendent places in charge of the workings of the mine and of persons employed therein;
- (x)~~((w))~~ "Open-pit mine" shall include open excavations and open-cut workings including auger operations and highwall mining systems for the extraction of coal;
- (y)~~((x))~~ "Operator" means the licensee, owner, lessee, or other person who operates or controls a coal mine;
- (z)~~((y))~~ "Permissible" means that any equipment, device, or explosive that has been approved by the United States Bureau of Mines, the Mining Enforcement and Safety Administration, or the Mine Safety and Health Administration meets all requirements, restrictions, exceptions, limitations, and conditions attached to the classification;
- (aa)~~((z))~~ "Preshift examination" refers to the examination of an underground mine or part of a mine where miners are scheduled to work or travel, and shall be conducted not more than three (3) hours before any on-coming shift;
- (ab)~~((aa))~~ "Return air" means air that has passed through the last active working place on each split, or air that has passed through abandoned, inaccessible, or pillared workings;
- (ac) ***"Serious physical injury" means an injury which has a reasonable potential to cause death;***
- (ad)~~((ab))~~ "Shaft" means a vertical opening through the strata that is or may be used, in connection with the mining of coal, for the purpose of ventilation or drainage, or for hoisting men, coal, or materials;
- (ae)~~((ae))~~ "Slope" means an inclined opening used for the same purpose as a shaft;
- (af)~~((ad))~~ "Superintendent" means the person who, on behalf of the licensee, has immediate supervision of one (1) or more mines;
- (ag)~~((ae))~~ "Supervisory personnel" shall mean a person or persons certified under the provisions of KRS Chapter 351 to assist in the supervision of a portion or the whole of the mine or of the persons employed therein;
- (ah)~~((af))~~ "Tipple or dumping point" means the structure where coal is dumped or unloaded from the mine car into railroad cars, trucks, wagons, or other means of conveyance;
- (ai)~~((ag))~~ "Working face" means any place in a coal mine at which the extraction of coal from its natural deposit in the earth is performed during the mining cycle;
- (aj)~~((ah))~~ "Working place" means the area of a coal mine inby the last open crosscut;
- (ak)~~((ai))~~ "Working section" means all areas of a coal mine from the loading point to and including the working faces; and
- (al)~~((aj))~~ "Workmanlike manner" means consistent with established practices and methods utilized in the coal industry.

- (2) The definitions in KRS 351.010 apply also to this chapter, unless the context requires otherwise.
- (3) Except as the context otherwise requires, this chapter applies only to commercial mines as defined in KRS 351.010 and shall not apply to electrical facilities owned, operated, or otherwise controlled by a retail electric supplier or generation and transmission cooperative as defined in KRS 278.010 or organized under KRS Chapter 279 for the purpose of communication, metering, or for the generation, control, transformation, transmission, and distribution of electric energy located in buildings used exclusively by utilities for such purposes or located outdoors on property owned or leased by the utility or on public highways, streets, roads, or outdoors by established easement rights on private property and that are covered by the National Electric Safety Code (NESC) or other applicable safety codes, or other authorities having jurisdiction and shall not

apply to installations under the exclusive control of utilities for the purpose of communication, metering, or for the generation, control, transformation, transmission, and distribution of electric energy located in buildings used exclusively by utilities for such purposes or located outdoors on property owned or leased by the utility or on public highways, streets, roads, or outdoors by established rights on private property.

Section 20. KRS 352.180 is amended to read as follows:

- (1) Whenever *a* serious ~~physical~~~~personal~~ injury or loss of life occurs in a mine or in the machinery connected therewith or whenever a fire, explosion, *entrapment of an individual, inundation of a mine by waters or gases*, or other serious accident occurs, the superintendent of the mine, or, if he is absent, *the mine manager, or if he is absent, the mine foreman in charge of the mine or his designee*, shall *within fifteen (15) minutes of having actual knowledge of the occurrence and access to communications*~~immediately~~ give notice to the ~~department~~~~mine inspector~~ and to the representative of the miner, stating the particulars of the accident~~, and if anyone is killed thereby to the commissioner~~.
- (2) *Upon receipt of notification of the occurrence*, the mine inspector shall immediately go to the scene of the accident and make an investigation and suggestions and render the assistance as he deems necessary for the future safety of the employees, investigate the cause of the fire, explosion, or accident, make a record thereof, and forward it to the commissioner.
- (3) The record *of the investigation* shall be preserved with the other records of *the commissioner's*~~his~~ office. To aid in making the investigations, the commissioner or the mine inspector may compel the attendance of witnesses and administer oaths.
- (4) *Failure to comply with the reporting requirements of this section shall create a rebuttable presumption of an intentional order to violate mine safety laws that places miners in imminent danger of serious physical injury or death and shall be subject to revocation, suspension, or probation of the mine license and a civil monetary penalty of one hundred thousand (\$100,000) dollars.*
- (5) *The Office of Mine Safety and Licensing may require testing of certified persons to determine whether the presence of intoxicants or controlled or illicit substances are a contributing factor in any mine accident in which serious physical injury or loss of life occurs or which was reported under this section. The executive director or his designee may order the testing of certified persons who:*
  - (a) *Were working in the immediate area of the accident; or*
  - (b) *In the judgment of the executive director or his designee, may reasonably have contributed to or witnessed the accident or fatality.*
- (6) *The post-accident testing permitted by subsection (5) shall:*
  - (a) *Meet all guidelines set forth in Sections 2 ,3, 4, and 5 of this Act;*
  - (b) *Be paid for by the Office of Mine Safety and Licensing; and*
  - (c) *Be performed on samples obtained within eight (8) hours of the accident.*
- (7) *Toxicology screens and eleven-panel drug testing shall be performed on victims when death occurs on mine property. The testing pursuant to this subsection may be performed on specimens of either blood, saliva, or other appropriate bodily fluids.*

Section 21. KRS 352.210 is amended to read as follows:

- (1) No person shall knowingly injure any shaft, lamp, instrument, air course or brattice, obstruct or throw open airways, disturb any part of the machinery or appliances, open a door used for directing ventilation without closing it afterwards, enter any part of a mine against caution, disobey any order given in carrying out any of the provisions of KRS Chapter 351 or 352, do any act endangering the life or health of any person employed in the mine or endangering the security of the mine.
- (2) No person shall enter or be on any *licensed facility*~~mine property~~ while intoxicated or under the influence of alcohol or a controlled substance *or be in possession of any*~~No~~ alcoholic beverage or controlled substance *at any licensed facility*~~shall be permitted in or about any mine~~; provided, however, this shall not apply to private vehicles driven to and from the mine.

- (3) *The licensee shall notify the executive director by the close of the next business day of any certified persons who have been discharged for violation of the company's substance abuse or alcohol abuse policies or who tested positive and failed to complete an employee assistance program.*

Section 22. KRS 352.390 is amended to read as follows:

The Mine Safety Review Commission shall revoke, suspend, or probate certificates if it is established in the judgment of the commission that the holder has become unworthy to hold the certificate by reason of violation of law, intemperate habits, *failure to maintain drug and alcohol free condition of certification*, incapacity, abuse of authority, failure to comply with the mining laws of the Commonwealth of Kentucky, or for other just cause. The same procedure provided in subsections (11)~~((10))~~ and (12)~~((11))~~ of KRS 351.102 shall apply to the certificate holder.

**Approved April 22, 2006.**

## CHAPTER 242

(SB 154)

AN ACT relating to Commerce.

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

Section 1. KRS 355.1-101 is amended to read as follows:

- (1) This chapter shall be known and may be cited as Uniform Commercial Code.
- (2) *This article may be cited as Uniform Commercial Code - General Provisions.*

SECTION 2. KRS 355.1-102 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

*This article applies to a transaction to the extent that it is governed by another article of the Uniform Commercial Code.*

SECTION 3. KRS 355.1-103 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

- (1) *The Uniform Commercial Code shall be liberally construed and applied to promote its underlying purposes and policies, which are:*
- (a) *To simplify, clarify, and modernize the law governing commercial transactions;*
  - (b) *To permit the continued expansion of commercial practices through custom, usage, and agreement of the parties; and*
  - (c) *To make uniform the law among the various jurisdictions.*
- (2) *Unless displaced by the particular provisions of the Uniform Commercial Code, the principles of law and equity, including the law merchant and the law relative to capacity to contract, principal and agent, estoppel, fraud, misrepresentation, duress, coercion, mistake, bankruptcy, and other validating or invalidating cause supplement its provisions.*
- (3) *Official comments to the Uniform Commercial Code, as published from time to time by the National Conference of Commissioners on Uniform State Laws, represent the express legislative intent of the General Assembly and shall be used as a guide for interpretation of this chapter, except that if the text and the official comments conflict, the text shall control.*

Section 4. KRS 355.1-104 is amended to read as follows:

*The Uniform Commercial Code*~~[This chapter]~~ being a general act intended as a unified coverage of its subject matter, no part of it shall be deemed to be impliedly repealed by subsequent legislation if such construction can reasonably be avoided.

SECTION 5. KRS 355.1-105 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

*If any provision or clause of the Uniform Commercial Code or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the Uniform Commercial Code which*

*can be given effect without the invalid provision or application, and to this end the provisions of the Uniform Commercial Code are severable.*

SECTION 6. KRS 355.1-106 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

*In the Uniform Commercial Code, unless the statutory context otherwise requires:*

- (1) *Words in the singular number include the plural, and those in the plural include the singular; and*
- (2) *Words of any gender also refer to any other gender.*

SECTION 7. KRS 355.1-107 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

*Section headnotes are part of the Uniform Commercial Code.*

SECTION 8. KRS 355.1-108 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

*This chapter modifies, limits, and supersedes the federal Electronic Signatures in Global and National Commerce Act, 15 U.S.C. sec. 7001 et seq., except that nothing in this chapter modifies, limits, or supersedes Section 7001(c) of that Act or authorizes electronic delivery of any of the notices described in Section 7003(b) of that Act.*

SECTION 9. KRS 355.1-201 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

- (1) *Unless the context otherwise requires, words or phrases defined in this section, or in the additional definitions contained in other articles of the Uniform Commercial Code that apply to particular articles or parts thereof, have the meanings stated.*
- (2) *Subject to definitions contained in other articles of the Uniform Commercial Code that apply to particular articles or parts thereof:*
  - (a) *"Action," in the sense of a judicial proceeding, includes recoupment, counterclaim, set-off, suit in equity, and any other proceeding in which rights are determined.*
  - (b) *"Aggrieved party" means a party entitled to pursue a remedy.*
  - (c) *"Agreement," as distinguished from "contract," means the bargain of the parties in fact, as found in their language or inferred from other circumstances, including course of performance, course of dealing, or usage of trade as provided in Section 17 of this Act.*
  - (d) *"Bank" means a person engaged in the business of banking and includes a savings bank, savings and loan association, credit union, and trust company.*
  - (e) *"Bearer" means a person in possession of a negotiable instrument, document of title, or certificated security that is payable to bearer or indorsed in blank.*
  - (f) *"Bill of lading" means a document evidencing the receipt of goods for shipment issued by a person engaged in the business of transporting or forwarding goods.*
  - (g) *"Branch" includes a separately incorporated foreign branch of a bank.*
  - (h) *"Burden of establishing" a fact means the burden of persuading the trier of fact that the existence of the fact is more probable than its nonexistence.*
  - (i) *"Buyer in ordinary course of business" means a person that buys goods in good faith, without knowledge that the sale violates the rights of another person in the goods, and in the ordinary course from a person, other than a pawnbroker, in the business of selling goods of that kind. A person buys goods in the ordinary course if the sale to the person comports with the usual or customary practices in the kind of business in which the seller is engaged or with the seller's own usual or customary practices. A person that sells oil, gas, or other minerals at the wellhead or minehead is a person in the business of selling goods of that kind. A buyer in ordinary course of business may buy for cash, by exchange of other property, or on secured or unsecured credit, and may acquire goods or documents of title under a preexisting contract for sale. Only a buyer that takes possession of the goods or has a right to recover the goods from the seller under Article 2 of this chapter may be a buyer in ordinary course of business. "Buyer in ordinary course of business" does not include a person that acquires goods in a transfer in bulk or as security for or in total or partial satisfaction of a money debt.*

- (j) *"Conspicuous," with reference to a term, means so written, displayed, or presented that a reasonable person against which it is to operate ought to have noticed it. Whether a term is "conspicuous" or not is a decision for the court. Conspicuous terms include the following:*
  - 1. *A heading in capitals equal to or greater in size than the surrounding text, or in contrasting type, font, or color to the surrounding text of the same or lesser size; and*
  - 2. *Language in the body of a record or display in larger type than the surrounding text, or in contrasting type, font, or color to the surrounding text of the same size, or set off from surrounding text of the same size by symbols or other marks that call attention to the language.*
- (k) *"Consumer" means an individual who enters into a transaction primarily for personal, family, or household purposes.*
- (l) *"Contract," as distinguished from "agreement," means the total legal obligation that results from the parties' agreement as determined by the Uniform Commercial Code as supplemented by any other applicable laws.*
- (m) *"Creditor" includes a general creditor, a secured creditor, a lien creditor, and any representative of creditors, including an assignee for the benefit of creditors, a trustee in bankruptcy, a receiver in equity, and an executor or administrator of an insolvent debtor's or assignor's estate.*
- (n) *"Defendant" includes a person in the position of defendant in a counterclaim, cross-claim, or third-party claim.*
- (o) *"Delivery," with respect to an instrument, document of title, or chattel paper, means voluntary transfer of possession.*
- (p) *"Document of title" includes bill of lading, dock warrant, dock receipt, warehouse receipt or order for the delivery of goods, and also any other document which in the regular course of business or financing is treated as adequately evidencing that the person in possession of it is entitled to receive, hold, and dispose of the document and the goods it covers. To be a document of title, a document must purport to be issued by or addressed to a bailee and purport to cover goods in the bailee's possession which are either identified or are fungible portions of an identified mass.*
- (q) *"Fault" means a default, breach, or wrongful act or omission.*
- (r) *"Fungible goods" means:*
  - 1. *Goods of which any unit, by nature or usage of trade, is the equivalent of any other like unit; or*
  - 2. *Goods that by agreement are treated as equivalent.*
- (s) *"Genuine" means free of forgery or counterfeiting.*
- (t) *"Good faith," except as otherwise provided in Article 5 of this chapter, means honesty in fact and the observance of reasonable commercial standards of fair dealing.*
- (u) *"Holder" means:*
  - 1. *The person in possession of a negotiable instrument that is payable either to bearer or to an identified person that is the person in possession; or*
  - 2. *The person in possession of a document of title if the goods are deliverable either to bearer or to the order of the person in possession.*
- (v) *"Insolvency proceeding" includes an assignment for the benefit of creditors or other proceeding intended to liquidate or rehabilitate the estate of the person involved.*
- (w) *"Insolvent" means:*
  - 1. *Having generally ceased to pay debts in the ordinary course of business other than as a result of bona fide dispute;*
  - 2. *Being unable to pay debts as they become due; or*

3. *Being insolvent within the meaning of federal bankruptcy law.*
- (x) *"Money" means a medium of exchange currently authorized or adopted by a domestic or foreign government. The term includes a monetary unit of account established by an intergovernmental organization or by agreement between two or more countries.*
  - (y) *"Organization" means a person other than an individual.*
  - (z) *"Party," as distinguished from "third party," means a person that has engaged in a transaction or made an agreement subject to the Uniform Commercial Code.*
  - (aa) *"Person" means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, government, governmental subdivision, agency, or instrumentality, public corporation, or any other legal or commercial entity.*
  - (ab) *"Present value" means the amount as of a date certain of one or more sums payable in the future, discounted to the date certain by use of either an interest rate specified by the parties if that rate is not manifestly unreasonable at the time the transaction is entered into or, if an interest rate is not so specified, a commercially reasonable rate that takes into account the facts and circumstances at the time the transaction is entered into.*
  - (ac) *"Purchase" means taking by sale, lease, discount, negotiation, mortgage, pledge, lien, security interest, issue or reissue, gift, or any other voluntary transaction creating an interest in property.*
  - (ad) *"Purchaser" means a person that takes by purchase.*
  - (ae) *"Record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.*
  - (af) *"Remedy" means any remedial right to which an aggrieved party is entitled with or without resort to a tribunal.*
  - (ag) *"Representative" means a person empowered to act for another, including an agent, an officer of a corporation or association, and a trustee, executor, or administrator of an estate.*
  - (ah) *"Right" includes remedy.*
  - (ai) *"Security interest" means an interest in personal property or fixtures which secures payment or performance of an obligation. "Security interest" includes any interest of a consignor and a buyer of accounts, chattel paper, a payment intangible, or a promissory note in a transaction that is subject to Article 9 of this chapter. "Security interest" does not include the special property interest of a buyer of goods on identification of those goods to a contract for sale under KRS 355.2-401, but a buyer may also acquire a "security interest" by complying with Article 9 of this chapter. Except as otherwise provided in KRS 355.2-505, the right of a seller or lessor of goods under Article 2 or 2A of this chapter to retain or acquire possession of the goods is not a "security interest," but a seller or lessor may also acquire a "security interest" by complying with Article 9 of this chapter. The retention or reservation of title by a seller of goods notwithstanding shipment or delivery to the buyer under KRS 355.2-401 is limited in effect to a reservation of a "security interest." Whether a transaction in the form of a lease creates a "security interest" is determined pursuant to Section 11 of this Act.*
  - (aj) *"Send" in connection with a writing, record, or notice means:*
    - 1. *To deposit in the mail or deliver for transmission by any other usual means of communication with postage or cost of transmission provided for and properly addressed and, in the case of an instrument, to an address specified thereon or otherwise agreed, or if there be none to any address reasonable under the circumstances; or*
    - 2. *In any other way to cause to be received any record or notice within the time it would have arrived if properly sent.*
  - (ak) *"Signed" includes using any symbol executed or adopted with present intention to adopt or accept a writing.*
  - (al) *"State" means a State of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States.*

- (am) *"Surety" includes a guarantor or other secondary obligor.*
- (an) *"Term" means a portion of an agreement that relates to a particular matter.*
- (ao) *"Unauthorized signature" means a signature made without actual, implied, or apparent authority. The term includes a forgery.*
- (ap) *"Warehouse receipt" means a receipt issued by a person engaged in the business of storing goods for hire.*
- (aq) *"Writing" includes printing, typewriting, or any other intentional reduction to tangible form. "Written" has a corresponding meaning.*

SECTION 10. KRS 355.1-202 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

- (1) *Subject to subsection (6) of this section, a person has "notice" of a fact if the person:*
  - (a) *Has actual knowledge of it;*
  - (b) *Has received a notice or notification of it; or*
  - (c) *From all the facts and circumstances known to the person at the time in question, has reason to know that it exists.*
- (2) *"Knowledge" means actual knowledge. "Knows" has a corresponding meaning.*
- (3) *"Discover," "learn," or words of similar import refer to knowledge rather than to reason to know.*
- (4) *A person "notifies" or "gives" a notice or notification to another person by taking such steps as may be reasonably required to inform the other person in ordinary course, whether or not the other person actually comes to know of it.*
- (5) *Subject to subsection (6) of this section, a person "receives" a notice or notification when:*
  - (a) *It comes to that person's attention; or*
  - (b) *It is duly delivered in a form reasonable under the circumstances at the place of business through which the contract was made or at another location held out by that person as the place for receipt of such communications.*
- (6) *Notice, knowledge, or a notice or notification received by an organization is effective for a particular transaction from the time it is brought to the attention of the individual conducting that transaction and, in any event, from the time it would have been brought to the individual's attention if the organization had exercised due diligence. An organization exercises due diligence if it maintains reasonable routines for communicating significant information to the person conducting the transaction and there is reasonable compliance with the routines. Due diligence does not require an individual acting for the organization to communicate information unless the communication is part of the individual's regular duties or the individual has reason to know of the transaction and that the transaction would be materially affected by the information.*

SECTION 11. KRS 355.1-203 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

- (1) *Whether a transaction in the form of a lease creates a lease or security interest is determined by the facts of each case.*
- (2) *A transaction in the form of a lease creates a security interest if the consideration that the lessee is to pay the lessor for the right to possession and use of the goods is an obligation for the term of the lease and is not subject to termination by the lessee, and:*
  - (a) *The original term of the lease is equal to or greater than the remaining economic life of the goods;*
  - (b) *The lessee is bound to renew the lease for the remaining economic life of the goods or is bound to become the owner of the goods;*
  - (c) *The lessee has an option to renew the lease for the remaining economic life of the goods for no additional consideration or for nominal additional consideration upon compliance with the lease agreement; or*

- (d) *The lessee has an option to become the owner of the goods for no additional consideration or for nominal additional consideration upon compliance with the lease agreement.*
- (3) *A transaction in the form of a lease does not create a security interest merely because:*
  - (a) *The present value of the consideration the lessee is obligated to pay the lessor for the right to possession and use of the goods is substantially equal to or is greater than the fair market value of the goods at the time the lease is entered into;*
  - (b) *The lessee assumes risk of loss of the goods;*
  - (c) *The lessee agrees to pay, with respect to the goods, taxes, insurance, filing, recording, or registration fees, or service or maintenance costs;*
  - (d) *The lessee has an option to renew the lease or to become the owner of the goods;*
  - (e) *The lessee has an option to renew the lease for a fixed rent that is equal to or greater than the reasonably predictable fair market rent for the use of the goods for the term of the renewal at the time the option is to be performed; or*
  - (f) *The lessee has an option to become the owner of the goods for a fixed price that is equal to or greater than the reasonably predictable fair market value of the goods at the time the option is to be performed.*
- (4) *Additional consideration is nominal if it is less than the lessee's reasonably predictable cost of performing under the lease agreement if the option is not exercised. Additional consideration is not nominal if:*
  - (a) *When the option to renew the lease is granted to the lessee, the rent is stated to be the fair market rent for the use of the goods for the term of the renewal determined at the time the option is to be performed; or*
  - (b) *When the option to become the owner of the goods is granted to the lessee, the price is stated to be the fair market value of the goods determined at the time the option is to be performed.*
- (5) *The "remaining economic life of the goods" and "reasonably predictable" fair market rent, fair market value, or cost of performing under the lease agreement must be determined with reference to the facts and circumstances at the time the transaction is entered into.*

SECTION 12. KRS 355.1-204 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

*Except as otherwise provided in Articles 3, 4, and 5 of this chapter, a person gives value for rights if the person acquires them:*

- (1) *In return for a binding commitment to extend credit or for the extension of immediately available credit, whether or not drawn upon and whether or not a charge-back is provided for in the event of difficulties in collection;*
- (2) *As security for, or in total or partial satisfaction of, a preexisting claim;*
- (3) *By accepting delivery under a preexisting contract for purchase; or*
- (4) *In return for any consideration sufficient to support a simple contract.*

SECTION 13. KRS 355.1-205 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

- (1) *Whether a time for taking an action required by the Uniform Commercial Code is reasonable depends on the nature, purpose, and circumstances of the action.*
- (2) *An action is taken seasonably if it is taken at or within the time agreed or, if no time is agreed, at or within a reasonable time.*

SECTION 14. KRS 355.1-206 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

*Whenever the Uniform Commercial Code creates a "presumption" with respect to a fact, or provides that a fact is "presumed," the trier of fact must find the existence of the fact unless and until evidence is introduced that supports a finding of its nonexistence.*

SECTION 15. A NEW SECTION OF ARTICLE 1 OF KRS CHAPTER 355 IS CREATED TO READ AS FOLLOWS AND TO BE NUMBERED AS KRS 355.1-301:



- (1) *This section applies to a transaction to the extent that it is governed by another article of the Uniform Commercial Code.*
- (2) *Except as otherwise provided in this section, when a transaction bears a reasonable relation to this state and also to another state or nation, the parties may agree that the law of either this state or such other state or nation shall govern their rights and duties.*
- (3) *In the absence of an agreement effective under subsection (2) of this section, the rights and obligations of the parties are determined by the law that would be selected by application of this State's conflict of laws principles.*
- (4) *To the extent that the Uniform Commercial Code governs a transaction, if one of the following provisions of the Uniform Commercial Code specifies the applicable law, that provision governs and a contrary agreement is effective only to the extent permitted by the law so specified:*
  - (a) *KRS 355.2-402;*
  - (b) *KRS 355.2A-105 and KRS 355.2A-106;*
  - (c) *KRS 355.4-102;*
  - (d) *KRS 355.4A-507;*
  - (e) *KRS 355.5-116;*
  - (f) *KRS 355.8-110;*
  - (g) *KRS 355.9-301 through 355.9-307.*

SECTION 16. A NEW SECTION OF ARTICLE 1 OF KRS CHAPTER 355 IS CREATED TO READ AS FOLLOWS AND TO BE NUMBERED AS KRS 355.1-302:

- (1) *Except as otherwise provided in subsection (2) of this section or elsewhere in the Uniform Commercial Code, the effect of provisions of the Uniform Commercial Code may be varied by agreement.*
- (2) *The obligations of good faith, diligence, reasonableness, and care prescribed by the Uniform Commercial Code may not be disclaimed by agreement. The parties, by agreement, may determine the standards by which the performance of those obligations is to be measured if those standards are not manifestly unreasonable. Whenever the Uniform Commercial Code requires an action to be taken within a reasonable time, a time that is not manifestly unreasonable may be fixed by agreement.*
- (3) *The presence in certain provisions of the Uniform Commercial Code of the phrase "unless otherwise agreed," or words of similar import, does not imply that the effect of other provisions may not be varied by agreement under this section.*

SECTION 17. A NEW SECTION OF ARTICLE 1 OF KRS CHAPTER 355 IS CREATED TO READ AS FOLLOWS AND TO BE NUMBERED AS KRS 355.1-303:

- (1) *A "course of performance" is a sequence of conduct between the parties to a particular transaction that exists if:*
  - (a) *The agreement of the parties with respect to the transaction involves repeated occasions for performance by a party; and*
  - (b) *The other party, with knowledge of the nature of the performance and opportunity for objection to it, accepts the performance or acquiesces in it without objection.*
- (2) *A "course of dealing" is a sequence of conduct concerning previous transactions between the parties to a particular transaction that is fairly to be regarded as establishing a common basis of understanding for interpreting their expressions and other conduct.*
- (3) *A "usage of trade" is any practice or method of dealing having such regularity of observance in a place, vocation, or trade as to justify an expectation that it will be observed with respect to the transaction in question. The existence and scope of such a usage must be proved as facts. If it is established that such a usage is embodied in a trade code or similar record, the interpretation of the record is a question of law.*

- (4) *A course of performance or course of dealing between the parties or usage of trade in the vocation or trade in which they are engaged or of which they are or should be aware is relevant in ascertaining the meaning of the parties' agreement, may give particular meaning to specific terms of the agreement, and may supplement or qualify the terms of the agreement. A usage of trade applicable in the place in which part of the performance under the agreement is to occur may be so utilized as to that part of the performance.*
- (5) *Except as otherwise provided in subsection (6) of this section, the express terms of an agreement and any applicable course of performance, course of dealing, or usage of trade must be construed whenever reasonable as consistent with each other. If such a construction is unreasonable:*
  - (a) *Express terms prevail over course of performance, course of dealing, and usage of trade;*
  - (b) *Course of performance prevails over course of dealing and usage of trade; and*
  - (c) *Course of dealing prevails over usage of trade.*
- (6) *Subject to KRS 355.2-209 a course of performance is relevant to show a waiver or modification of any term inconsistent with the course of performance.*
- (7) *Evidence of a relevant usage of trade offered by one party is not admissible unless that party has given the other party notice that the court finds sufficient to prevent unfair surprise to the other party.*

SECTION 18. A NEW SECTION OF ARTICLE 1 OF KRS CHAPTER 355 IS CREATED TO READ AS FOLLOWS AND TO BE NUMBERED AS KRS 355.1-304:

*Every contract or duty within the Uniform Commercial Code imposes an obligation of good faith in its performance and enforcement.*

SECTION 19. A NEW SECTION OF ARTICLE 1 OF KRS CHAPTER 355 IS CREATED TO READ AS FOLLOWS AND TO BE NUMBERED AS KRS 355.1-305:

- (1) *The remedies provided by the Uniform Commercial Code must be liberally administered to the end that the aggrieved party may be put in as good a position as if the other party had fully performed but neither consequential or special damages nor penal damages may be had except as specifically provided in the Uniform Commercial Code or by other rule of law.*
- (2) *Any right or obligation declared by the Uniform Commercial Code is enforceable by action unless the provision declaring it specifies a different and limited effect.*

SECTION 20. A NEW SECTION OF ARTICLE 1 OF KRS CHAPTER 355 IS CREATED TO READ AS FOLLOWS AND TO BE NUMBERED AS KRS 355.1-306:

*A claim or right arising out of an alleged breach may be discharged in whole or in part without consideration by agreement of the aggrieved party in an authenticated record.*

SECTION 21. A NEW SECTION OF ARTICLE 1 OF KRS CHAPTER 355 IS CREATED TO READ AS FOLLOWS AND TO BE NUMBERED AS KRS 355.1-307:

*A document in due form purporting to be a bill of lading, policy or certificate of insurance, official weigher's or inspector's certificate, consular invoice, or any other document authorized or required by the contract to be issued by a third party is prima facie evidence of its own authenticity and genuineness and of the facts stated in the document by the third party.*

SECTION 22. A NEW SECTION OF ARTICLE 1 OF KRS CHAPTER 355 IS CREATED TO READ AS FOLLOWS AND TO BE NUMBERED AS KRS 355.1-308:

- (1) *A party that with explicit reservation of rights performs or promises performance or assents to performance in a manner demanded or offered by the other party does not thereby prejudice the rights reserved. Such words as "without prejudice," "under protest," or the like are sufficient.*
- (2) *Subsection (1) of this section does not apply to an accord and satisfaction.*

SECTION 23. A NEW SECTION OF ARTICLE 1 OF KRS CHAPTER 355 IS CREATED TO READ AS FOLLOWS AND TO BE NUMBERED AS KRS 355.1-309:

*A term providing that one party or that party's successor in interest may accelerate payment or performance or require collateral or additional collateral "at will" or when the party "deems itself insecure," or words of similar import, means that the party has power to do so only if that party in good faith believes that the prospect of*

*payment or performance is impaired. The burden of establishing lack of good faith is on the party against which the power has been exercised.*

SECTION 24. A NEW SECTION OF ARTICLE 1 OF KRS CHAPTER 355 IS CREATED TO READ AS FOLLOWS AND TO BE NUMBERED AS KRS 355.1-310:

*An obligation may be issued as subordinated to performance of another obligation of the person obligated, or a creditor may subordinate its right to performance of an obligation by agreement with either the person obligated or another creditor of the person obligated. Subordination does not create a security interest as against either the common debtor or a subordinated creditor.*

Section 25. KRS 355.2-103 is amended to read as follows:

- (1) In this article unless the context otherwise requires:
  - (a) "Buyer" means a person who buys or contracts to buy goods.
  - (b) ~~(Reserved) ["Good faith" in the case of a merchant means honesty in fact and the observance of reasonable commercial standards of fair dealing in the trade.]~~
  - (c) "Receipt" of goods means taking physical possession of them.
  - (d) "Seller" means a person who sells or contracts to sell goods.
- (2) Other definitions applying to this article or to specified parts thereof, and the sections in which they appear are:
  - "Acceptance." KRS 355.2-606.
  - "Banker's credit." KRS 355.2-325.
  - "Between merchants." KRS 355.2-104.
  - "Cancellation." KRS 355.2-106 (4).
  - "Commercial unit." KRS 355.2-105.
  - "Confirmed credit." KRS 355.2-325.
  - "Conforming to contract." KRS 355.2-106.
  - "Contract for sale." KRS 355.2-106.
  - "Cover." KRS 355.2-712.
  - "Entrusting." KRS 355.2-403.
  - "Financing agency." KRS 355.2-104.
  - "Future goods." KRS 355.2-105.
  - "Goods." KRS 355.2-105.
  - "Identification." KRS 355.2-501.
  - "Installment contract." KRS 355.2-612.
  - "Letter of credit." KRS 355.2-325.
  - "Lot." KRS 355.2-105.
  - "Merchant." KRS 355.2-104.
  - "Overseas." KRS 355.2-323.
  - "Person in position of seller." KRS 355.2-707.
  - "Present sale." KRS 355.2-106.
  - "Sale." KRS 355.2-106.
  - "Sale on approval." KRS 355.2-326.
  - "Sale or return." KRS 355.2-326.

"Termination." KRS 355.2-106.

- (3) The following definitions in other articles apply to this article:

"Check." KRS 355.3-104.

"Consignee." KRS 355.7-102.

"Consignor." KRS 355.7-102.

"Consumer goods." KRS 355.9-102.

"Dishonor." KRS 355.3-502.

"Draft." KRS 355.3-104.

- (4) In addition Article 1 contains general definitions and principles of construction and interpretation applicable throughout this article.

Section 26. KRS 355.2-202 is amended to read as follows:

Terms with respect to which the confirmatory memoranda of the parties agree or which are otherwise set forth in a writing intended by the parties as a final expression of their agreement with respect to such terms as are included therein may not be contradicted by evidence of any prior agreement or of a contemporaneous oral agreement but may be explained or supplemented

- (a) by *course of performance*, course of dealing, or usage of trade (~~*Section 17 of this Act*~~ ~~KRS 355.1-205~~) ~~or by course of performance (KRS 355.2-208)~~; and
- (b) by evidence of consistent additional terms unless the court finds the writing to have been intended also as a complete and exclusive statement of the terms of the agreement.

Section 27. KRS 355.2A-103 is amended to read as follows:

- (1) In this article unless the context otherwise requires:

- (a) "Buyer in ordinary course of business" means a person who in good faith and without knowledge that the sale to him is in violation of the ownership rights or security interest or leasehold interest of a third party in the goods, buys in ordinary course from a person in the business of selling goods of that kind but does not include a pawnbroker. "Buying" may be for cash or by exchange of other property or on secured or unsecured credit and includes receiving goods or documents of title under a pre-existing contract for sale but does not include a transfer in bulk or as security for or in total or partial satisfaction of a money debt.
- (b) "Cancellation" occurs when either party puts an end to the lease contract for default by the other party.
- (c) "Commercial unit" means such a unit of goods as by commercial usage is a single whole for purposes of lease and division of which materially impairs its character or value on the market or in use. A commercial unit may be a single article, as a machine, or a set of articles, as a suite of furniture or a line of machinery, or a quantity, as a gross or carload, or any other unit treated in use or in the relevant market as a single whole.
- (d) "Conforming" goods or performance under a lease contract means goods or performance that are in accordance with the obligations under the lease contract.
- (e) "Consumer lease" means a lease that a lessor regularly engaged in the business of leasing or selling makes to a lessee who is an individual and who takes under the lease primarily for a personal, family, or household purpose.
- (f) "Fault" means wrongful act, omission, breach, or default.
- (g) "Finance lease" means a lease with respect to which:
  1. The lessor does not select, manufacture, or supply the goods;
  2. The lessor acquires the goods or the right to possession and use of the goods in connection with the lease; and
  3. One of the following occurs:

- a. The lessee receives a copy of the contract by which the lessor acquired the goods or the right to possession and use of the goods before signing the lease contract;
  - b. The lessee's approval of the contract by which the lessor acquired the goods or the right to possession and use of the goods is a condition to effectiveness of the lease contract;
  - c. The lessee, before signing the lease contract, receives an accurate and complete statement designating the promises and warranties, and any disclaimers of warranties, limitations or modifications of remedies, or liquidated damages, including those of a third party, such as the manufacturer of the goods, provided to the lessor by the person supplying the goods in connection with or as part of the contract by which the lessor acquired the goods or the right to possession and use of the goods; or
  - d. If the lease is not a consumer lease, the lessor, before the lessee signs the lease contract, informs the lessee in writing (a) of the identity of the person supplying the goods to the lessor, unless the lessee has selected that person and directed the lessor to acquire the goods or the right to possession and use of the goods from that person, (b) that the lessee is entitled under this article to the promises and warranties, including those of any third party, provided to the lessor by the person supplying the goods in connection with or as part of the contract by which the lessor acquired the goods or the right to possession and use of the goods, and (c) that the lessee may communicate with the person supplying the goods to the lessor and receive an accurate and complete statement of those promises and warranties, including any disclaimers and limitations of them or of remedies.
- (h) "Goods" means all things that are movable at the time of identification to the lease contract, or are fixtures (KRS 355.2A-309), but the term does not include money, documents, instruments, accounts, chattel paper, general intangibles, or minerals or the like, including oil and gas, before extraction. The term also includes the unborn young of animals.
- (i) "Installment lease contract" means a lease contract that authorizes or requires the delivery of goods in separate lots to be separately accepted, even though the lease contract contains a clause "each delivery is a separate lease" or its equivalent.
- (j) "Lease" means a transfer of the right to possession and use of goods for a term in return for consideration, but a sale, including a sale on approval or a sale or return, or retention or creation of a security interest is not a lease. Unless the context clearly indicates otherwise, the term includes a sublease.
- (k) "Lease agreement" means the bargain, with respect to the lease, of the lessor and the lessee in fact as found in their language or by implication from other circumstances including course of dealing or usage of trade or course of performance as provided in this article. Unless the context clearly indicates otherwise, the term includes a sublease agreement.
- (l) "Lease contract" means the total legal obligation that results from the lease agreement as affected by this article and any other applicable rules of law. Unless the context clearly indicates otherwise, the term includes a sublease contract.
- (m) "Leasehold interest" means the interest of the lessor or the lessee under a lease contract.
- (n) "Lessee" means a person who acquires the right to possession and use of goods under a lease. Unless the context clearly indicates otherwise, the term includes a sublessee.
- (o) "Lessee in ordinary course of business" means a person who in good faith and without knowledge that the lease to him is in violation of the ownership rights or security interest or leasehold interest of a third party in the goods leases in ordinary course from a person in the business of selling or leasing goods of that kind but does not include a pawnbroker. "Leasing" may be for cash or by exchange of other property or on secured or unsecured credit and includes receiving goods or documents of title under a pre-existing lease contract but does not include a transfer in bulk or as security for or in total or partial satisfaction of a money debt.
- (p) "Lessor" means a person who transfers the right to possession and use of goods under a lease. Unless the context clearly indicates otherwise, the term includes a sublessor.

- (q) "Lessor's residual interest" means the lessor's interest in the goods after expiration, termination, or cancellation of the lease contract.
  - (r) "Lien" means a charge against or interest in goods to secure payment of a debt or performance of an obligation, but the term does not include a security interest.
  - (s) "Lot" means a parcel or a single article that is the subject matter of a separate lease or delivery, whether or not it is sufficient to perform the lease contract.
  - (t) "Merchant lessee" means a lessee that is a merchant with respect to goods of the kind subject to the lease.
  - (u) "Present value" means the amount as of a date certain of one (1) or more sums payable in the future, discounted to the date certain. The discount is determined by the interest rate specified by the parties if the rate was not manifestly unreasonable at the time the transaction was entered into; otherwise, the discount is determined by a commercially reasonable rate that takes into account the facts and circumstances of each case at the time the transaction was entered into.
  - (v) "Purchase" includes taking by sale, lease, mortgage, security interest, pledge, gift, or any other voluntary transaction creating an interest in goods.
  - (w) "Sublease" means a lease of goods the right to possession and use of which was acquired by the lessor as a lessee under an existing lease.
  - (x) "Supplier" means a person from whom a lessor buys or leases goods to be leased under a finance lease.
  - (y) "Supply contract" means a contract under which a lessor buys or leases goods to be leased.
  - (z) "Termination" occurs when either party pursuant to a power created by agreement or law puts an end to the lease contract otherwise than for default.
- (2) Other definitions applying to this article and the sections in which they appear are:
- "Accessions." KRS 355.2A-310(1).
  - "Construction mortgage." KRS 355.2A-309(1)(d).
  - "Encumbrance." KRS 355.2A-309(1)(e).
  - "Fixtures." KRS 355.2A-309(1)(a).
  - "Fixture filing." KRS 355.2A-309(1)(b).
  - "Purchase money lease." KRS 355.2A-309(1)(c).
- (3) The following definitions in other articles apply to this article:
- "Account." KRS 355.9-102(1)(b).
  - "Between merchants." KRS 355.2-104(3).
  - "Buyer." KRS 355.2-103(1)(a).
  - "Chattel paper." KRS 355.9-102(1)(k).
  - "Consumer goods." KRS 355.9-102(1)(w).
  - "Document." KRS 355.9-102(1)(ad).
  - "Entrusting." KRS 355.2-403(3).
  - "General intangible." KRS 355.9-102(1)(ap).
  - ~~["Good faith." KRS 355.2-103(1)(b).]~~
  - "Instrument." KRS 355.9-102(1)(au).
  - "Merchant." KRS 355.2-104(1).
  - "Mortgage." KRS 355.9-102(1)(bc).
  - "Pursuant to commitment." KRS 355.9-102(1)(bp).

"Receipt." KRS 355.2-103(1)(c).

"Sale." KRS 355.2-106(1).

"Sale on approval." KRS 355.2-326.

"Sale or return." KRS 355.2-326.

"Seller." KRS 355.2-103(1)(d).

- (4) In addition Article 1 contains general definitions and principles of construction and interpretation applicable throughout this article.

Section 28. KRS 355.2A-501 is amended to read as follows:

- (1) Whether the lessor or the lessee is in default under a lease contract is determined by the lease agreement and this article.
- (2) If the lessor or the lessee is in default under the lease contract, the party seeking enforcement has rights and remedies as provided in this article and, except as limited by this article, as provided in the lease agreement.
- (3) If the lessor or the lessee is in default under the lease contract, the party seeking enforcement may reduce the party's claim to judgment, or otherwise enforce the lease contract by self-help or any available judicial procedure or nonjudicial procedure, including administrative proceeding, arbitration, or the like, in accordance with this article.
- (4) Except as otherwise provided in *subsection (1) of Section 19 of this Act*~~[KRS 355.1-106(1)]~~ or this article or the lease agreement, the rights and remedies referred to in subsections (2) and (3) are cumulative.
- (5) If the lease agreement covers both real property and goods, the party seeking enforcement may proceed under this part as to the goods, or under other applicable law as to both the real property and the goods in accordance with that party's rights and remedies in respect of the real property, in which case this part does not apply.

Section 29. KRS 355.2A-518 is amended to read as follows:

- (1) After a default by a lessor under the lease contract of the type described in subsection (1) of KRS 355.2A-508, or, if agreed, after other default by the lessor, the lessee may cover by making any purchase or lease of or contract to purchase or lease goods in substitution for those due from the lessor.
- (2) Except as otherwise provided with respect to damages liquidated in the lease agreement (KRS 355.2A-504) or otherwise determined pursuant to agreement of the parties (*Section 16 of this Act*~~[KRS 355.1-102(3)]~~ and KRS 355.2A-503), if a lessee's cover is by a lease agreement substantially similar to the original lease agreement and the new lease agreement is made in good faith and in a commercially reasonable manner, the lessee may recover from the lessor as damages:
  - (a) The present value, as of the date of the commencement of the term of the new lease agreement, of the rent under the new lease agreement applicable to that period of the new lease term which is comparable to the then remaining term of the original lease agreement minus the present value as of the same date of the total rent for the then remaining lease term of the original lease agreement; and
  - (b) Any incidental or consequential damages, less expenses saved in consequence of the lesser's default.
- (3) If a lessee's cover is by lease agreement that for any reason does not qualify for treatment under subsection (2), or is by purchase or otherwise, the lessee may recover from the lessor as if the lessee had elected not to cover and KRS 355.2A-519 governs.

Section 30. KRS 355.2A-519 is amended to read as follows:

- (1) Except as otherwise provided with respect to damages liquidated in the lease agreement (KRS 355.2A-504) or otherwise determined pursuant to agreement of the parties (*Section 16 of this Act*~~[KRS 355.1-102(3)]~~ and KRS 355.2A-503), if a lessee elects not to cover or a lessee elects to cover and the cover is by lease agreement that for any reason does not qualify for treatment under subsection (2) of KRS 355.2A-518, or is by purchase or otherwise, the measure of damages for nondelivery or repudiation by the lessor or for rejection or revocation of acceptance by the lessee is the present value, as of the date of the default, of the then market rent minus the present value as of the same date of the original rent, computed for the remaining lease term of the original

lease agreement, together with incidental and consequential damages, less expenses saved in consequence of the lessor's default.

- (2) Market rent is to be determined as of the place for tender or, in cases of rejection after arrival or revocation of acceptance, as of the place of arrival.
- (3) Except as otherwise agreed, if the lessee has accepted goods and given notification (subsection (3) of KRS 355.2A-516), the measure of damages for nonconforming tender or delivery or other default by a lessor is the loss resulting in the ordinary course of events from the lessor's default as determined in any manner that is reasonable together with incidental and consequential damages, less expenses saved in consequence of the lessor's default.
- (4) Except as otherwise agreed, the measure of damages for breach of warranty is the present value at the time and place of acceptance of the difference between the value of the use of the goods accepted and the value if they had been as warranted for the lease term, unless special circumstances show proximate damages of a different amount, together with incidental and consequential damages, less expenses saved in consequence of the lessor's default or breach of warranty.

Section 31. KRS 355.2A-527 is amended to read as follows:

- (1) After a default by a lessee under the lease contract of the type described in KRS 355.2A-523(1) or 355.2A-523(3)(a) or after the lessor refuses to deliver or takes possession of goods (KRS 355.2A-525 or 355.2A-526), or, if agreed, after other default by a lessee, the lessor may dispose of the goods concerned or the undelivered balance thereof by lease, sale, or otherwise.
- (2) Except as otherwise provided with respect to damages liquidated in the lease agreement (KRS 355.2A-504) or otherwise determined pursuant to agreement of the parties (**Section 16 of this Act**~~{KRS 355.1-102(3)}~~ and 355.2A-503), if the disposition is by lease agreement substantially similar to the original lease agreement and the new lease agreement is made in good faith and in a commercially reasonable manner, the lessor may recover from the lessee as damages:
  - (a) Accrued and unpaid rent as of the date of the commencement of the term of the new lease agreement;
  - (b) The present value, as of the same date of the total rent for the then remaining lease term of the original lease agreement minus the present value, as of the same date, of the rent under the new lease agreement applicable to that period of the new lease term which is comparable to the then remaining term of the original lease agreement; and
  - (c) Any incidental damages allowed under KRS 355.2A-530, less expenses saved in consequence of the lessee's default.
- (3) If the lessor's disposition is by lease agreement that for any reason does not qualify for treatment under subsection (2), or is by sale or otherwise, the lessor may recover from the lessee as if the lessor had elected not to dispose of the goods and KRS 355.2A-528 governs.
- (4) A subsequent buyer or lessee who buys or leases from the lessor in good faith for value as a result of a disposition under this section takes the goods free of the original lease contract and any rights of the original lessee even though the lessor fails to comply with one (1) or more of the requirements of this article.
- (5) The lessor is not accountable to the lessee for any profit made on any disposition. A lessee who has rightfully rejected or justifiably revoked acceptance shall account to the lessor for any excess over the amount of the lessee's security interest (subsection (5) of KRS 355.2A-508).

Section 32. KRS 355.2A-528 is amended to read as follows:

- (1) Except as otherwise provided with respect to damages liquidated in the lease agreement (KRS 355.2A-504) or otherwise determined pursuant to agreement of the parties (**Section 16 of this Act**~~{KRS 355.1-102(3)}~~ and 355.2A-503), if a lessor elects to retain the goods or a lessor elects to dispose of the goods and the disposition is by lease agreement that for any reason does not qualify for treatment under KRS 355.2A-527(2), or is by sale or otherwise, the lessor may recover from the lessee as damages for a default of the type described in KRS 355.2A-523(1) or 355.2A-523(3)(a), or, if agreed, for other default by the lessee:
  - (a) Accrued and unpaid rent as of the date of default if the lessee has never taken possession of the goods, or, if the lessee has taken possession of the goods, as of the date the lessor repossesses the goods or an earlier date on which the lessee makes a tender of the goods to the lessor;



- (b) The present value as of the date determined under clause (a) of the total rent for the then remaining lease term of the original lease agreement minus the present value as of the same date of the market rent at the place where the goods are located computed for the same lease term; and
  - (c) Any incidental damages allowed under KRS 355.2A-530, less expenses saved in consequence of the lessee's default.
- (2) If the measure of damages provided in subsection (1) is inadequate to put a lessor in as good a position as performance would have, the measure of damages is the present value of the profit, including reasonable overhead, the lessor would have made from full performance by the lessee, together with any incidental damages allowed under KRS 355.2A-530, due allowance for costs reasonably incurred and due credit for payments or proceeds of disposition.

Section 33. KRS 355.3-103 is amended to read as follows:

- (1) In this article:

- (a) "Acceptor" means a drawee who has accepted a draft.
- (b) *"Consumer account" means an account established by an individual primarily for personal, family, or household purposes.*
- (c) *"Consumer transaction" means a transaction in which an individual incurs an obligation primarily for personal, family, or household purposes.*
- (d) "Drawee" means a person ordered in a draft to make payment.
- ~~(e)(e)}~~ "Drawer" means a person who signs or is identified in a draft as a person ordering payment.
- ~~(f)(d)}~~ ~~(Reserved){"Good faith" means honesty in fact and the observance of reasonable commercial standards of fair dealing.}~~
- ~~(g)(e)}~~ "Maker" means a person who signs or is identified in a note as a person undertaking to pay.
- ~~(h)(f)}~~ "Order" means a written instruction to pay money signed by the person giving the instruction. The instruction may be addressed to any person, including the person giving the instruction, or to one (1) or more persons jointly or in the alternative but not in succession. An authorization to pay is not an order unless the person authorized to pay is also instructed to pay.
- ~~(i)(e)}~~ "Ordinary care" in the case of a person engaged in business means observance of reasonable commercial standards, prevailing in the area in which the person is located, with respect to the business in which the person is engaged. In the case of a bank that takes an instrument for processing for collection or payment by automated means, reasonable commercial standards do not require the bank to examine the instrument if the failure to examine does not violate the bank's prescribed procedures and the bank's procedures do not vary unreasonably from general banking usage not disapproved by this article or Article 4 of this chapter.
- ~~(j)(h)}~~ "Party" means a party to an instrument.
- (k) *"Principal obligor," with respect to an instrument, means the accommodated party or any other party to the instrument against whom a secondary obligor has recourse under this article.*
- ~~(l)(i)}~~ "Promise" means a written undertaking to pay money signed by the person undertaking to pay. An acknowledgment of an obligation by the obligor is not a promise unless the obligor also undertakes to pay the obligation.
- ~~(m)(j)}~~ "Prove" with respect to a fact means to meet the burden of establishing the fact (*subsection (2) of Section 9 of this Act*~~KRS 355.1-201(8)}~~).
- (n) *(Reserved)*
- ~~(o)(k)}~~ "Remitter" means a person who purchases an instrument from its issuer if the instrument is payable to an identified person other than the purchaser.
- (p) *"Remotely-created item" means an item drawn on an account, which is not created by the payor bank and does not bear a handwritten signature purporting to be the signature of the drawer.*

(q) *"Secondary obligor," with respect to an instrument, means:*

- 1. An indorser or an accommodation party;*
- 2. A drawer having the obligation described in KRS 355.3-414(4); or*
- 3. Any other party to the instrument that has recourse against another party to the instrument pursuant to subsection (2) of Section 35 of this Act.*

(2) Other definitions applying to this article and the sections in which they appear are:

"Acceptance." KRS 355.3-409

"Accommodated party." KRS 355.3-419

"Accommodation party." KRS 355.3-419

***"Account." Section 45 of this Act***

"Alteration." KRS 355.3-407

"Anomalous indorsement." KRS 355.3-205

"Blank indorsement." KRS 355.3-205

"Cashier's check." KRS 355.3-104

"Certificate of deposit." KRS 355.3-104

"Certified check." KRS 355.3-409

"Check." KRS 355.3-104

"Consideration." KRS 355.3-303

"Draft." KRS 355.3-104

"Holder in due course." KRS 355.3-302

"Incomplete instrument." KRS 355.3-115

"Indorsement." KRS 355.3-204

"Indorser." KRS 355.3-204

"Instrument." KRS 355.3-104

"Issue." KRS 355.3-105

"Issuer." KRS 355.3-105

"Negotiable instrument." KRS 355.3-104

"Negotiation." KRS 355.3-201

"Note." KRS 355.3-104

"Payable at a definite time." KRS 355.3-108

"Payable on demand." KRS 355.3-108

"Payable to bearer." KRS 355.3-109

"Payable to order," KRS 355.3-109

"Payment." KRS 355.3-602

"Person entitled to enforce." KRS 355.3-301

"Presentment." KRS 355.3-501

"Reacquisition." KRS 355.3-207

"Special indorsement." KRS 355.3-205

"Teller's check." KRS 355.3-104

"Transfer of instrument." KRS 355.3-203

"Traveler's check." KRS 355.3-104

"Value." KRS 355.3-303

- (3) The following definitions in other articles apply to this article:

~~["Bank." KRS 355.4-105]~~

"Banking day." KRS 355.4-104

"Clearing house." KRS 355.4-104

"Collecting bank." KRS 355.4-105

"Depository bank." KRS 355.4-105

"Documentary draft." KRS 355.4-104

"Intermediary bank." KRS 355.4-105

"Item." KRS 355.4-104

"Payor bank." KRS 355.4-105

"Suspends payments." KRS 355.4-104

- (4) In addition, Article 1 of this chapter contains general definitions and principles of construction and interpretation applicable throughout this article.

Section 34. KRS 355.3-106 is amended to read as follows:

- (1) Except as provided in this section, for the purposes of KRS 355.3-104(1), a promise or order is unconditional unless it states:
- (a) An express condition to payment;
  - (b) That the promise or order is subject to or governed by another **record**~~[writing]~~; or
  - (c) That rights or obligations with respect to the promise or order are stated in another **record**~~[writing]~~. A reference to another **record**~~[writing]~~ does not of itself make the promise or order conditional.
- (2) A promise or order is not made conditional:
- (a) By a reference to another **record**~~[writing]~~ for a statement of rights with respect to collateral, prepayment, or acceleration; or
  - (b) Because payment is limited to resort to a particular fund or source.
- (3) If a promise or order requires, as a condition to payment, a countersignature by a person whose specimen signature appears on the promise or order, the condition does not make the promise or order conditional for the purposes of KRS 355.3-104(1). If the person whose specimen signature appears on an instrument fails to countersign the instrument, the failure to countersign is a defense to the obligation of the issuer, but the failure does not prevent a transferee of the instrument from becoming a holder of the instrument.
- (4) If a promise or order at the time it is issued or first comes into possession of a holder contains a statement, required by applicable statutory or administrative law, to the effect that the rights of a holder or transferee are subject to claims or defenses that the issuer could assert against the original payee, the promise or order is not thereby made conditional for the purposes of KRS 355.3-104(1); but if the promise or order is an instrument, there cannot be a holder in due course of the instrument.

Section 35. KRS 355.3-116 is amended to read as follows:

- (1) Except as otherwise provided in the instrument, two (2) or more persons who have the same liability on an instrument as makers, drawers, acceptors, indorsers who indorse as joint payees, or anomalous indorsers are jointly and severally liable in the capacity in which they sign.

- (2) Except as provided in KRS 355.3-419(6)~~(5)~~ or by agreement of the affected parties, a party having joint and several liability who pays the instrument is entitled to receive from any party having the same joint and several liability contribution in accordance with applicable law.

~~[(3) Discharge of one party having joint and several liability by a person entitled to enforce the instrument does not affect the right under subsection (2) of this section of a party having the same joint and several liability to receive contribution from the party discharged.]~~

Section 36. KRS 355.3-119 is amended to read as follows:

In an action for breach of an obligation for which a third person is answerable over pursuant to this article or Article 4 of this chapter, the defendant may give the third person~~[-written]~~ notice of the litigation ***in a record***, and the person notified may then give similar notice to any other person who is answerable over. If the notice states:

- (1) That the person notified may come in and defend; and
- (2) That failure to do so will bind the person notified in an action later brought by the person giving the notice as to any determination of fact common to the two (2) litigations,

the person notified is so bound unless after seasonable receipt of the notice the person notified does come in and defend.

Section 37. KRS 355.3-309 is amended to read as follows:

- (1) A person not in possession of an instrument is entitled to enforce the instrument if:
  - (a) The person ***seeking to enforce the instrument:***
    1. Was~~[-in possession of the instrument and]~~ entitled to enforce ***the instrument***~~[-it]~~ when loss of possession occurred; ***or***
    2. ***Has directly or indirectly acquired ownership of the instrument from a person who was entitled to enforce the instrument when loss of possession occurred;***
  - (b) The loss of possession was not the result of a transfer by the person or a lawful seizure; and
  - (c) The person cannot reasonably obtain possession of the instrument because the instrument was destroyed, its whereabouts cannot be determined, or it is in the wrongful possession of an unknown person or a person that cannot be found or is not amenable to service of process.
- (2) A person seeking enforcement of an instrument under subsection (1) of this section must prove the terms of the instrument and the person's right to enforce the instrument. If that proof is made, KRS 355.3-308 applies to the case as if the person seeking enforcement had produced the instrument. The court may not enter judgment in favor of the person seeking enforcement unless it finds that the person required to pay the instrument is adequately protected against loss that might occur by reason of a claim by another person to enforce the instrument. Adequate protection may be provided by any reasonable means.

Section 38. KRS 355.3-312 is amended to read as follows:

- (1) In this section:
  - (a) "Check" means a cashier's check, teller's check, or certified check.
  - (b) "Claimant" means a person who claims the right to receive the amount of a cashier's check, teller's check, or certified check that was lost, destroyed, or stolen.
  - (c) "Declaration of loss" means a~~[-written]~~ statement, made ***in a record*** under penalty of perjury, to the effect that:
    1. The declarer lost possession of a check;
    2. The declarer is the drawer or payee of the check, in the case of a certified check, or the remitter or payee of the check, in the case of a cashier's check or teller's check;
    3. The loss of possession was not the result of a transfer by the declarer or a lawful seizure; and
    4. The declarer cannot reasonably obtain possession of the check because the check was destroyed, its whereabouts cannot be determined, or it is in the wrongful possession of an unknown person or a person that cannot be found or is not amenable to service of process.

- (d) "Obligated bank" means the issuer of a cashier's check or teller's check or the acceptor of a certified check.
- (2) (a) A claimant may assert a claim to the amount of a check by a communication to the obligated bank describing the check with reasonable certainty and requesting payment of the amount of the check, if:
  - 1. The claimant is the drawer or payee of a certified check or the remitter or payee of a cashier's check or teller's check;
  - 2. The communication contains or is accompanied by a declaration of loss of the claimant with respect to the check;
  - 3. The communication is received at a time and in a manner affording the bank a reasonable time to act on it before the check is paid; and
  - 4. The claimant provides reasonable identification if requested by the obligated bank. Delivery of a declaration of loss is a warranty of the truth of the statements made in the declaration.
- (b) If a claim is asserted in compliance with this subsection, the following rules apply:
  - 1. The claim becomes enforceable at the later of:
    - a. The time the claim is asserted, or
    - b. The ninetieth day following the date of the check, in the case of a cashier's check or teller's check, or the ninetieth day following the date of the acceptance, in the case of a certified check.
  - 2. Until the claim becomes enforceable, it has no legal effect and the obligated bank may pay the check or, in the case of a teller's check, may permit the drawee to pay the check. Payment to a person entitled to enforce the check discharges all liability of the obligated bank with respect to the check.
  - 3. If the claim becomes enforceable before the check is presented for payment, the obligated bank is not obliged to pay the check.
  - 4. When the claim becomes enforceable, the obligated bank becomes obliged to pay the amount of the check to the claimant if payment of the check has not been made to a person entitled to enforce the check. Subject to KRS 355.4-302(1)(a), payment to the claimant discharges all liability of the obligated bank with respect to the check.
- (3) If the obligated bank pays the amount of a check to a claimant under subsection (2)(b)4. of this section and the check is presented for payment by a person having rights of a holder in due course, the claimant is obliged to:
  - (a) Refund the payment to the obligated bank if the check is paid; or
  - (b) Pay the amount of the check to the person having rights of a holder in due course if the check is dishonored.
- (4) If a claimant has the right to assert a claim under subsection (2) of this section and is also a person entitled to enforce a cashier's check, teller's check, or certified check which is lost, destroyed, or stolen, the claimant may assert rights with respect to the check either under this section or KRS 355.3-309.

Section 39. KRS 355.3-416 is amended to read as follows:

- (1) A person who transfers an instrument for consideration warrants to the transferee and, if the transfer is by indorsement, to any subsequent transferee that:
  - (a) The warrantor is a person entitled to enforce the instrument;
  - (b) All signatures on the instrument are authentic and authorized;
  - (c) The instrument has not been altered;
  - (d) The instrument is not subject to a defense or claim in recoupment of any party which can be asserted against the warrantor;~~and~~

- (e) The warrantor has no knowledge of any insolvency proceeding commenced with respect to the maker or acceptor or, in the case of an unaccepted draft, the drawer; **and**
- (f) ***With respect to a remotely-created item, that the person on whose account the item is drawn authorized the issuance of the item in the amount for which the item is drawn.***

- (2) A person to whom the warranties under subsection (1) of this section are made and who took the instrument in good faith may recover from the warrantor as damages for breach of warranty an amount equal to the loss suffered as a result of the breach, but not more than the amount of the instrument plus expenses and loss of interest incurred as a result of the breach.
- (3) The warranties stated in subsection (1) of this section cannot be disclaimed with respect to checks. Unless notice of a claim for breach of warranty is given to the warrantor within thirty (30) days after the claimant has reason to know of the breach and the identity of the warrantor, the liability of the warrantor under subsection (2) of this section is discharged to the extent of any loss caused by the delay in giving notice of the claim.
- (4) A claim for relief for breach of warranty under this section accrues when the claimant has reason to know of the breach.

Section 40. KRS 355.3-417 is amended to read as follows:

- (1) (a) If an unaccepted draft is presented to the drawee for payment or acceptance and the drawee pays or accepts the draft,
  - 1. The person obtaining payment or acceptance, at the time of presentment; and
  - 2. A previous transferor of the draft, at the time of transfer,
 warrant to the drawee making payment or accepting the draft in good faith the conditions set out in paragraph (b) of this subsection.
- (b)
  - 1. The warrantor is, or was, at the time the warrantor transferred the draft, a person entitled to enforce the draft or authorized to obtain payment or acceptance of the draft on behalf of a person entitled to enforce the draft;
  - 2. The draft has not been altered;~~[-and]~~
  - 3. The warrantor has no knowledge that the signature of the drawer of the draft is unauthorized; **and**
  - 4. ***With respect to any remotely-created item, that the person on whose account the item is drawn authorized the issuance of the item in the amount for which the item is drawn.***
- (2) A drawee making payment may recover from any warrantor damages for breach of warranty equal to the amount paid by the drawee less the amount the drawee received or is entitled to receive from the drawer because of the payment. In addition, the drawee is entitled to compensation for expenses and loss of interest resulting from the breach. The right of the drawee to recover damages under this subsection is not affected by any failure of the drawee to exercise ordinary care in making payment. If the drawee accepts the draft, breach of warranty is a defense to the obligation of the acceptor. If the acceptor makes payment with respect to the draft, the acceptor is entitled to recover from any warrantor for breach of warranty the amounts stated in this subsection.
- (3) If a drawee asserts a claim for breach of warranty under subsection (1) of this section based on an unauthorized indorsement of the draft or an alteration of the draft, the warrantor may defend by proving that the indorsement is effective under KRS 355.3-404 or 355.3-405 or the drawer is precluded under KRS 355.3-406 or 355.4-406 from asserting against the drawee the unauthorized indorsement or alteration.
- (4) (a) If:
  - 1.
    - a. A dishonored draft is presented for payment to the drawer or an indorser; or
    - b. Any other instrument is presented for payment to a party obliged to pay the instrument; and
  - 2. Payment is received,
 the rules set out in paragraph (b) of this section apply:

- (b) 1. The person obtaining payment and a prior transferor of the instrument warrant to the person making payment in good faith that the warrantor is, or was, at the time the warrantor transferred the instrument, a person entitled to enforce the instrument or authorized to obtain payment on behalf of a person entitled to enforce the instrument.
- 2. The person making payment may recover from any warrantor for breach of warranty an amount equal to the amount paid plus expenses and loss of interest resulting from the breach.
- (5) The warranties stated in subsections (1) and (4) of this section cannot be disclaimed with respect to checks. Unless notice of a claim for breach of warranty is given to the warrantor within thirty (30) days after the claimant has reason to know of the breach and the identity of the warrantor, the liability of the warrantor under subsection (2) or (4) of this section is discharged to the extent of any loss caused by the delay in giving notice of the claim.
- (6) A claim for relief for breach of warranty under this section accrues when the claimant has reason to know of the breach.

Section 41. KRS 355.3-419 is amended to read as follows:

- (1) If an instrument is issued for value given for the benefit of a party to the instrument ("accommodated party") and another party to the instrument ("accommodation party") signs the instrument for the purpose of incurring liability on the instrument without being a direct beneficiary of the value given for the instrument, the instrument is signed by the accommodation party "for accommodation."
- (2) An accommodation party may sign the instrument as maker, drawer, acceptor, or indorser and, subject to subsection (4) of this section, is obliged to pay the instrument in the capacity in which the accommodation party signs. The obligation of an accommodation party may be enforced notwithstanding any statute of frauds and whether or not the accommodation party receives consideration for the accommodation.
- (3) A person signing an instrument is presumed to be an accommodation party and there is notice that the instrument is signed for accommodation if the signature is an anomalous indorsement or is accompanied by words indicating that the signer is acting as surety or guarantor with respect to the obligation of another party to the instrument. Except as provided in KRS 355.3-605, the obligation of an accommodation party to pay the instrument is not affected by the fact that the person enforcing the obligation had notice when the instrument was taken by that person that the accommodation party signed the instrument for accommodation.
- (4) If the signature of a party to an instrument is accompanied by words indicating unambiguously that the party is guaranteeing collection rather than payment of the obligation of another party to the instrument, the signer is obliged to pay the amount due on the instrument to a person entitled to enforce the instrument only if:
  - (a) Execution of judgment against the other party has been returned unsatisfied;
  - (b) The other party is insolvent or in an insolvency proceeding;
  - (c) The other party cannot be served with process; or
  - (d) It is otherwise apparent that payment cannot be obtained from the other party.
- (5) ***If the signature of a party to an instrument is accompanied by words indicating that the party guarantees payment or the signer signs the instrument as an accommodation party in some other manner that does not unambiguously indicate an intention to guarantee collection rather than payment, the signer is obliged to pay the amount due on the instrument to a person entitled to enforce the instrument in the same circumstances as the accommodated party would be obliged, without prior resort to the accommodated party by the person entitled to enforce the instrument.***
- (6) An accommodation party who pays the instrument is entitled to reimbursement from the accommodated party and is entitled to enforce the instrument against the accommodated party. ***In proper circumstances, an accommodation party may obtain relief that requires the accommodated party to perform its obligations on the instrument.*** An accommodated party ~~that who~~ pays the instrument has no right of recourse against, and is not entitled to contribution from, an accommodation party.

Section 42. KRS 355.3-602 is amended to read as follows:

- (1) Subject to subsection (5)~~[(2)]~~ of this section, an instrument is paid to the extent payment is made~~to~~:

~~(a)~~ by or on behalf of a party obliged to pay the instrument~~;~~ and  
~~(b)~~ to a person entitled to enforce the instrument.

- (2) *Subject to subsection (5) of this section, a note is paid to the extent payment is made by or on behalf of a party obliged to pay the note to a person that formerly was entitled to enforce the note only if at the time of the payment the party obliged to pay has not received adequate notification that the note has been transferred and that payment is to be made to the transferee. A notification is adequate only if it is signed by the transferor or the transferee; reasonably identifies the transferred note; and provides an address at which payments subsequently are to be made. Upon request, a transferee shall seasonably furnish reasonable proof that the note has been transferred. Unless the transferee complies with the request, a payment to the person that formerly was entitled to enforce the note is effective for purposes of subsection (3) of this section even if the party obliged to pay the note has received a notification under this subsection.*
- (3) *Subject to subsection (5) of this section, to the extent of ~~a~~ the payment under subsections (1) and (2) of this section, the obligation of the party obliged to pay the instrument is discharged even though payment is made with knowledge of a claim to the instrument under KRS 355.3-306 by another person.*
- (4) *Subject to subsection (5) of this section, a transferee, or any party that has acquired rights in the instrument directly or indirectly from a transferee, including any such party that has rights as a holder in due course, is deemed to have notice of any payment that is made under subsection (2) of this section after the date that the note is transferred to the transferee but before the party obliged to pay the note receives adequate notification of the transfer.*
- ~~(5)(2)~~ The obligation of a party to pay the instrument is not discharged under *subsections (1) to (4)*~~subsection (4)~~ of this section if:

- (a) A claim to the instrument under KRS 355.3-306 is enforceable against the party receiving payment; and
1. Payment is made with knowledge by the payor that payment is prohibited by injunction or similar process of a court of competent jurisdiction; or
  2. In the case of an instrument other than a cashier's check, teller's check, or certified check, the party making payment accepted, from the person having a claim to the instrument, indemnity against loss resulting from refusal to pay the person entitled to enforce the instrument; or
- (b) The person making payment knows that the instrument is a stolen instrument and pays a person it knows is in wrongful possession of the instrument.

- (6) *As used in the section, "signed," with respect to a record that is not a writing, includes the attachment to or logical association with the record of an electronic symbol, sound, or process with the present intent to adopt or accept the record.*

Section 43. KRS 355.3-604 is amended to read as follows:

- (1) A person entitled to enforce an instrument, with or without consideration, may discharge the obligation of a party to pay the instrument:
- (a) By an intentional voluntary act, such as surrender of the instrument to the party, destruction, mutilation, or cancellation of the instrument, cancellation or striking out of the party's signature, or the addition of words to the instrument indicating discharge; or
  - (b) By agreeing not to sue or otherwise renouncing rights against the party by a signed ~~record~~~~writing~~.
- (2) Cancellation or striking out of an indorsement pursuant to subsection (1) of this section does not affect the status and rights of a party derived from the indorsement.
- (3) *In this section, "signed," with respect to a record that is not in writing, includes the attachment to or logical association with the record of an electronic symbol, sound, or process with the present intent to adopt or accept the record.*

SECTION 44. KRS 355.3-605 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

- (1) *If a person entitled to enforce an instrument releases the obligation of a principal obligor in whole or in part, and another party to the instrument is a secondary obligor with respect to the obligation of that principal obligor, the following rules apply:*



- (a) *Any obligations of the principal obligor to the secondary obligor with respect to any previous payment by the secondary obligor are not affected. Unless the terms of the release preserve the secondary obligor's recourse, the principal obligor is discharged, to the extent of the release, from any other duties to the secondary obligor under this article.*
  - (b) *Unless the terms of the release provide that the person entitled to enforce the instrument retains the right to enforce the instrument against the secondary obligor, the secondary obligor is discharged to the same extent as the principal obligor from any unperformed portion of its obligation on the instrument. If the instrument is a check and the obligation of the secondary obligor is based on an indorsement of the check, the secondary obligor is discharged without regard to the language or circumstances of the discharge or other release.*
  - (c) *If the secondary obligor is not discharged under paragraph (b) of this subsection, the secondary obligor is discharged to the extent of the value of the consideration for the release, and to the extent that the release would otherwise cause the secondary obligor a loss.*
- (2) *If a person entitled to enforce an instrument grants a principal obligor an extension of the time at which one or more payments are due on the instrument and another party to the instrument is a secondary obligor with respect to the obligation of that principal obligor, the following rules apply:*
- (a) *Any obligations of the principal obligor to the secondary obligor with respect to any previous payment by the secondary obligor are not affected. Unless the terms of the extension preserve the secondary obligor's recourse, the extension correspondingly extends the time for performance of any other duties owed to the secondary obligor by the principal obligor under this article.*
  - (b) *The secondary obligor is discharged to the extent that the extension would otherwise cause the secondary obligor a loss.*
  - (c) *To the extent that the secondary obligor is not discharged under paragraph (b) of this subsection, the secondary obligor may perform its obligations to a person entitled to enforce the instrument as if the time for payment had not been extended or, unless the terms of the extension provide that the person entitled to enforce the instrument retains the right to enforce the instrument against the secondary obligor as if the time for payment had not been extended, treat the time for performance of its obligations as having been extended correspondingly.*
- (3) *If a person entitled to enforce an instrument agrees, with or without consideration, to a modification of the obligation of a principal obligor other than a complete or partial release or an extension of the due date and another party to the instrument is a secondary obligor with respect to the obligation of that principal obligor, the following rules apply:*
- (a) *Any obligations of the principal obligor to the secondary obligor with respect to any previous payment by the secondary obligor are not affected. The modification correspondingly modifies any other duties owed to the secondary obligor by the principal obligor under this article.*
  - (b) *The secondary obligor is discharged from any unperformed portion of its obligation to the extent that the modification would otherwise cause the secondary obligor a loss.*
  - (c) *To the extent that the secondary obligor is not discharged under paragraph (b) of this subsection, the secondary obligor may satisfy its obligation on the instrument as if the modification had not occurred, or treat its obligation on the instrument as having been modified correspondingly.*
- (4) *If the obligation of a principal obligor is secured by an interest in collateral, another party to the instrument is a secondary obligor with respect to that obligation, and a person entitled to enforce the instrument impairs the value of the interest in collateral, the obligation of the secondary obligor is discharged to the extent of the impairment. The value of an interest in collateral is impaired to the extent the value of the interest is reduced to an amount less than the amount of the recourse of the secondary obligor, or the reduction in value of the interest causes an increase in the amount by which the amount of the recourse exceeds the value of the interest. For purposes of this subsection, impairing the value of an interest in collateral includes failure to obtain or maintain perfection or recordation of the interest in collateral, release of collateral without substitution of collateral of equal value or equivalent reduction of the underlying obligation, failure to perform a duty to preserve the value of collateral owed, under Article 9 of this chapter or other law, to a debtor or other person secondarily liable, and failure to comply with applicable law in disposing of or otherwise enforcing the interest in collateral.*

- (5) *A secondary obligor is not discharged under subsections (1)(c), (2), (3), or (4) of this section unless the person entitled to enforce the instrument knows that the person is a secondary obligor or has notice under subsection (3) of Section 41 of this Act that the instrument was signed for accommodation.*
- (6) *A secondary obligor is not discharged under this section if the secondary obligor consents to the event or conduct that is the basis of the discharge, or the instrument or a separate agreement of the party provides for waiver of discharge under this section specifically or by general language indicating that parties waive defenses based on suretyship or impairment of collateral. Unless the circumstances indicate otherwise, consent by the principal obligor to an act that would lead to a discharge under this section constitutes consent to that act by the secondary obligor if the secondary obligor controls the principal obligor or deals with the person entitled to enforce the instrument on behalf of the principal obligor.*
- (7) *A release or extension preserves a secondary obligor's recourse if the terms of the release or extension provide that:*
  - (a) *The person entitled to enforce the instrument retains the right to enforce the instrument against the secondary obligor; and*
  - (b) *The recourse of the secondary obligor continues as if the release or extension had not been granted.*
- (8) *Except as otherwise provided in subsection (9) of this section, a secondary obligor asserting discharge under this section has the burden of persuasion both with respect to the occurrence of the acts alleged to harm the secondary obligor and loss or prejudice caused by those acts.*
- (9) *If the secondary obligor demonstrates prejudice caused by an impairment of its recourse, and the circumstances of the case indicate that the amount of a loss is not reasonably susceptible of calculation or requires proof of facts that are not ascertainable, it is presumed that the act impairing recourse caused a loss or impairment equal to the liability of the secondary obligor on the instrument. In that event, the burden of persuasion as to any lesser amount of the loss is on the person entitled to enforce the instrument.*

Section 45. KRS 355.4-104 is amended to read as follows:

- (1) In this article, unless the context otherwise requires:
  - (a) "Account" means any deposit or credit account with a bank, including a demand, time, savings, passbook, share draft, or like account, other than an account evidenced by a certificate of deposit;
  - (b) "Afternoon" means the period of a day between noon and midnight;
  - (c) "Banking day" means the part of a day on which a bank is open to the public for carrying on substantially all of its banking functions;
  - (d) "Clearing house" means an association of banks or other payors regularly clearing items;
  - (e) "Customer" means a person having an account with a bank or for whom a bank has agreed to collect items including a bank that maintains an account at another bank;
  - (f) "Documentary draft" means a draft to be presented for acceptance or payment if specified documents, certificated securities (KRS 355.8-102) or instructions for uncertificated securities (KRS 355.8-102), or other certificates, statements, or the like are to be received by the drawee or other payor before acceptance or payment of the draft;
  - (g) "Draft" means a draft as defined in KRS 355.3-104 or an item, other than an instrument, that is an order;
  - (h) "Drawee" means a person ordered in a draft to make payment;
  - (i) "Item" means an instrument or a promise or order to pay money handled by a bank for collection or payment. The term does not include a payment order governed by Article 4A of this chapter or a credit or debit card slip;
  - (j) "Midnight deadline" with respect to a bank is midnight on its next banking day following the banking day on which it receives the relevant item or notice or from which the time for taking action commences to run, whichever is later;
  - (k) "Settle" means to pay in cash, by clearing-house settlement, in a charge or credit or by remittance, or otherwise as agreed. A settlement may be either provisional or final;

- (1) "Suspends payments" with respect to a bank means that it has been closed by order of the supervisory authorities, that a public officer has been appointed to take it over, or that it ceases or refuses to make payments in the ordinary course of business.
- (2) Other definitions applying to this article and the sections in which they appear are:
- "Agreement for electronic presentment." KRS 355.4-110.
- ~~["Bank." KRS 355.4-105.]~~
- "Collecting bank." KRS 355.4-105.
- "Depository bank." KRS 355.4-105.
- "Intermediary bank." KRS 355.4-105.
- "Payor bank." KRS 355.4-105.
- "Presenting bank." KRS 355.4-105.
- "Presentment notice." KRS 355.4-110.
- (3) The following definitions in other articles apply to this article:
- "Acceptance." KRS 355.3-409.
- "Alteration." KRS 355.3-407.
- "Cashier's check." KRS 355.3-104.
- "Certificate of deposit." KRS 355.3-104.
- "Certified check." KRS 355.3-409.
- "Check." KRS 355.3-104.
- ~~["Good faith." KRS 355.3-103.]~~
- "Holder in due course." KRS 355.3-302.
- "Instrument." KRS 355.3-104.
- "Notice of dishonor." KRS 355.3-503.
- "Order." KRS 355.3-103.
- "Ordinary care." KRS 355.3-103.
- "Person entitled to enforce." KRS 355.3-301.
- "Presentment." KRS 355.3-501.
- "Promise." KRS 355.3-103.
- "Prove." KRS 355.3-103.
- "Record." Section 9 of this Act.**
- "Remotely-created item." Section 33 of this Act.**
- "Teller's check." KRS 355.3-104.
- "Unauthorized signature." KRS 355.3-403.
- (4) In addition, Article 1 of this chapter contains general definitions and principles of construction and interpretation applicable throughout this article.
- Section 46. KRS 355.4-105 is amended to read as follows:
- In this article:
- (1) **(Reserved)**~~["Bank" means a person engaged in the business of banking, including a savings bank, savings and loan association, credit union, or trust company.]~~

- (2) "Depository bank" means the first bank to take an item even though it is also the payor bank, unless the item is presented for immediate payment over the counter;
- (3) "Payor bank" means a bank that is the drawee of a draft;
- (4) "Intermediary bank" means a bank to which an item is transferred in course of collection except the depository or payor bank;
- (5) "Collecting bank" means a bank handling the item for collection except the payor bank;
- (6) "Presenting bank" means a bank presenting an item except a payor bank.

Section 47. KRS 355.4-207 is amended to read as follows:

- (1) A customer or collecting bank that transfers an item and receives a settlement or other consideration warrants to the transferee and to any subsequent collecting bank that:
  - (a) The warrantor is a person entitled to enforce the item;
  - (b) All signatures on the item are authentic and authorized;
  - (c) The item has not been altered;
  - (d) The item is not subject to a defense or claim in recoupment (KRS 355.3-305(1)) of any party that can be asserted against the warrantor;~~[- and]~~
  - (e) The warrantor has no knowledge of any insolvency proceeding commenced with respect to the maker or acceptor or, in the case of an unaccepted draft, the drawer; **and**
  - (f) ***With respect to any remotely-created item, that person on whose account the item is drawn authorized the issuance of the item in the amount for which the item is drawn.***
- (2) If an item is dishonored, a customer or collecting bank transferring the item and receiving settlement or other consideration is obliged to pay the amount due on the item:
  - (a) According to the terms of the item at the time it was transferred; or
  - (b) If the transfer was of an incomplete item, according to its terms when completed as stated in KRS 355.3-115 and 355.3-407.

The obligation of a transferor is owed to the transferee and to any subsequent collecting bank that takes the item in good faith. A transferor cannot disclaim its obligation under this subsection by an indorsement stating that it is made "without recourse" or otherwise disclaiming liability.

- (3) A person to whom the warranties under subsection (1) of this section are made and who took the item in good faith may recover from the warrantor as damages for breach of warranty an amount equal to the loss suffered as a result of the breach, but not more than the amount of the item plus expenses and loss of interest incurred as a result of the breach.
- (4) The warranties stated in subsection (1) of this section cannot be disclaimed with respect to checks. Unless notice of a claim for breach of warranty is given to the warrantor within thirty (30) days after the claimant has reason to know of the breach and the identity of the warrantor, the warrantor is discharged to the extent of any loss caused by the delay in giving notice of the claim.
- (5) A claim for relief for breach of warranty under this section accrues when the claimant has reason to know of the breach.

Section 48. KRS 355.4-208 is amended to read as follows:

- (1) (a) If an unaccepted draft is presented to the drawee for payment or acceptance and the drawee pays or accepts the draft,
  - 1. The person obtaining payment or acceptance, at the time of presentment; and
  - 2. A previous transferor of the draft, at the time of transfer,
 warrant to the drawee that pays or accepts the draft in good faith the conditions set out in paragraph (b) of this subsection.

- (b) 1. The warrantor is, or was, at the time the warrantor transferred the draft, a person entitled to enforce the draft or authorized to obtain payment or acceptance of the draft on behalf of a person entitled to enforce the draft;
  - 2. The draft has not been altered;~~and~~
  - 3. The warrantor has no knowledge that the signature of the purported drawer of the draft is unauthorized; *and*
  - 4. *With respect to any remotely-created item, that the person on whose account the item is drawn authorized the issuance of the item in the amount for which the item is drawn.*
- (2) A drawee making payment may recover from a warrantor damages for breach of warranty equal to the amount paid by the drawee less the amount the drawee received or is entitled to receive from the drawer because of the payment. In addition, the drawee is entitled to compensation for expenses and loss of interest resulting from the breach. The right of the drawee to recover damages under this subsection is not affected by any failure of the drawee to exercise ordinary care in making payment. If the drawee accepts the draft:
- (a) Breach of warranty is a defense to the obligation of the acceptor; and
  - (b) If the acceptor makes payment with respect to the draft, the acceptor is entitled to recover from a warrantor for breach of warranty the amounts stated in this subsection.
- (3) If a drawee asserts a claim for breach of warranty under subsection (1) of this section based on an unauthorized indorsement of the draft or an alteration of the draft, the warrantor may defend by proving that the indorsement is effective under KRS 355.3-404 or 355.3-405 or the drawer is precluded under KRS 355.3-406 or 355.4-406 from asserting against the drawee the unauthorized indorsement or alteration.
- (4) If:
- (a) A dishonored draft is presented for payment to the drawer or an indorser; or
  - (b) Any other item is presented for payment to a party obliged to pay the item,
- and the item is paid, the person obtaining payment and a prior transferor of the item warrant to the person making payment in good faith that the warrantor is, or was, at the time the warrantor transferred the item, a person entitled to enforce the item or authorized to obtain payment on behalf of a person entitled to enforce the item. The person making payment may recover from any warrantor for breach of warranty an amount equal to the amount paid plus expenses and loss of interest resulting from the breach.
- (5) The warranties stated in subsections (1) and (4) of this section cannot be disclaimed with respect to checks. Unless notice of a claim for breach of warranty is given to the warrantor within thirty (30) days after the claimant has reason to know of the breach and the identity of the warrantor, the warrantor is discharged to the extent of any loss caused by the delay in giving notice of the claim.
- (6) A claim for relief for breach of warranty under this section accrues when the claimant has reason to know of the breach.

Section 49. KRS 355.4-212 is amended to read as follows:

- (1) Unless otherwise instructed, a collecting bank may present an item not payable by, through, or at a bank by sending to the party to accept or pay a **record providing**~~written~~ notice that the bank holds the item for acceptance or payment. The notice must be sent in time to be received on or before the day when presentment is due and the bank must meet any requirement of the party to accept or pay under KRS 355.3-501 by the close of the bank's next banking day after it knows of the requirement.
- (2) If presentment is made by notice and payment, acceptance, or request for compliance with a requirement under KRS 355.3-501 is not received by the close of business on the day after maturity or, in the case of demand items, by the close of business on the third banking day after notice was sent, the presenting bank may treat the item as dishonored and charge any drawer or indorser by sending it notice of the facts.

Section 50. KRS 355.4-301 is amended to read as follows:

- (1) If a payor bank settles for a demand item other than a documentary draft presented otherwise than for immediate payment over the counter before midnight of the banking day of receipt, the payor bank may revoke

the settlement and recover the settlement if, before it has made final payment and before its midnight deadline, it:

- (a) returns the item; or
  - (b) sends **a record providing**~~written~~ notice of dishonor or nonpayment if the item is unavailable for return.
- (2) If a demand item is received by a payor bank for credit on its books, it may return the item or send notice of dishonor and may revoke any credit given or recover the amount thereof withdrawn by its customer, if it acts within the time limit and in the manner specified in subsection (1) of this section.
- (3) Unless previous notice of dishonor has been sent, an item is dishonored at the time when for purposes of dishonor it is returned or notice sent in accordance with this section.
- (4) An item is returned:
- (a) As to an item presented through a clearing house, when it is delivered to the presenting or last collecting bank or to the clearing house or is sent or delivered in accordance with clearing-house rules; or
  - (b) In all other cases, when it is sent or delivered to the bank's customer or transferor or pursuant to instructions.

Section 51. KRS 355.4-403 is amended to read as follows:

- (1) A customer or any person authorized to draw on the account if there is more than one (1) person may stop payment of any item drawn on the customer's account or close the account by an order to the bank describing the item or account with reasonable certainty received at a time and in a manner that affords the bank a reasonable opportunity to act on it before any action by the bank with respect to the item described in KRS 355.4-303. If the signature of more than one (1) person is required to draw on an account, any of these persons may stop payment or close the account.
- (2) A stop-payment order is effective for six (6) months, but it lapses after fourteen (14) calendar days if the original order was oral and was not confirmed in **a record**~~writing~~ within that period. A stop-payment order may be renewed for additional six (6) month periods by a **record**~~writing~~ given to the bank within a period during which the stop-payment order is effective.
- (3) The burden of establishing the fact and amount of loss resulting from the payment of an item contrary to a stop-payment order or order to close an account is on the customer. The loss from payment of an item contrary to a stop-payment order may include damages for dishonor of subsequent items under KRS 355.4-402.

Section 52. KRS 355.4A-105 is amended to read as follows:

- (1) In this article:
  - (a) "Authorized account" means a deposit account of a customer in a bank designated by the customer as a source of payment of payment orders issued by the customer to the bank. If a customer does not so designate an account, any account of the customer is an authorized account if payment of a payment order from that account is not inconsistent with a restriction on the use of that account.
  - (b) "Bank" means a person engaged in the business of banking and includes a savings bank, savings and loan association, credit union, and trust company. A branch or separate office of a bank is a separate bank for purposes of this article.
  - (c) "Customer" means a person, including a bank, having an account with a bank or from whom a bank has agreed to receive payment orders.
  - (d) "Funds-transfer business day" of a receiving bank means the part of a day during which the receiving bank is open for the receipt, processing, and transmittal of payment orders and cancellations and amendments of payment orders.
  - (e) "Funds-transfer system" means a wire transfer network, automated clearing house, or other communication system of a clearing house or other association of banks through which a payment order by a bank may be transmitted to the bank to which the order is addressed.
  - (f) **(Reserved)**~~"Good faith" means honesty in fact and the observance of reasonable commercial standards of fair dealing.~~

(g) "Prove" with respect to a fact means to meet the burden of establishing the fact, as defined in **subsection (2) of Section 9 of this Act**~~[KRS 355.1-201(8)]~~.

(2) Other definitions applying to this article and the sections of this article in which they appear are:

"Acceptance" KRS 355.4A-209  
 "Beneficiary" KRS 355.4A-103  
 "Beneficiary's bank" KRS 355.4A-103  
 "Executed" KRS 355.4A-301  
 "Execution date" KRS 355.4A-301  
 "Funds transfer" KRS 355.4A-104  
 "Funds-transfer system rule" KRS 355.4A-501  
 "Intermediary bank" KRS 355.4A-104  
 "Originator" KRS 355.4A-104  
 "Originator's bank" KRS 355.4A-104  
 "Payment by beneficiary's bank to beneficiary" KRS 355.4A-405  
 "Payment by originator to beneficiary" KRS 355.4A-406  
 "Payment by sender to receiving bank" KRS 355.4A-403  
 "Payment date" KRS 355.4A-401  
 "Payment order" KRS 355.4A-103  
 "Receiving bank" KRS 355.4A-103  
 "Security procedure" KRS 355.4A-201  
 "Sender" KRS 355.4A-103

(3) The following definitions in Article 4 of KRS Chapter 355 apply to this article:

"Clearing house" KRS 355.4-104  
 "Item" KRS 355.4-104  
 "Suspends payments" KRS 355.4-104

(4) In addition Article 1 of KRS Chapter 355 contains general definitions and principles of construction and interpretation applicable throughout this article.

Section 53. KRS 355.4A-106 is amended to read as follows:

- (1) The time of receipt of a payment order or communication canceling or amending a payment order is determined by the rules applicable to receipt of a notice stated in **Section 10 of this Act**~~[KRS 355.1-201(27)]~~. A receiving bank may fix a cutoff time or times on a funds-transfer business day for the receipt and processing of payment orders and communications canceling or amending payment orders. Different cutoff times may apply to payment orders, cancellations, or amendments, or to different categories of payment orders, cancellations, or amendments. A cutoff time may apply to senders generally or different cutoff times may apply to different senders or categories of payment orders. If a payment order or communication canceling or amending a payment order is received after the close of a funds-transfer business day or after the appropriate cutoff time on a funds-transfer business day, the receiving bank may treat the payment order or communication as received at the opening of the next funds-transfer business day.
- (2) If this article refers to an execution date or payment date or states a day on which a receiving bank is required to take action, and the date or day does not fall on a funds-transfer business day, the next day that is a funds-transfer business day is treated as the date or day stated, unless the contrary is stated in this article.

Section 54. KRS 355.4A-204 is amended to read as follows:

- (1) If a receiving bank accepts a payment order issued in the name of its customer as sender which is:
  - (a) Not authorized and not effective as the order of the customer under KRS 355.4A-202; or
  - (b) Not enforceable, in whole or in part, against the customer under KRS 355.4A-203, the bank shall refund any payment of the payment order received from the customer to the extent the bank is not entitled to enforce payment and shall pay interest on the refundable amount calculated from the date the bank received payment to the date of the refund. However, the customer is not entitled to interest from the bank on the amount to be refunded if the customer fails to exercise ordinary care to determine that the order was not authorized by the customer and to notify the bank of the relevant facts within a reasonable time not exceeding ninety (90) days after the date the customer received notification from the bank that the order was accepted or that the customer's account was debited with respect to the order. The bank is not entitled to any recovery from the customer on account of a failure by the customer to give notification as stated in this section.
- (2) Reasonable time under subsection (1) may be fixed by agreement as stated in **subsection (2) of Section 16 of this Act**~~KRS 355.4-204(1)~~, but the obligation of a receiving bank to refund payment as stated in subsection (1) may not otherwise be varied by agreement.

Section 55. KRS 355.5-103 is amended to read as follows:

- (1) This article applies to letters of credit and to certain rights and obligations arising out of transactions involving letters of credit.
- (2) The statement of a rule in this article does not by itself require, imply, or negate application of the same or a different rule to a situation not provided for, or to a person not specified, in this article.
- (3) With the exception of this subsection, subsections (1) and (4) of this section, KRS 355.5-102(1)(i) and (j), 355.5-106(4), and 355.5-114(4), and except to the extent prohibited in **Section 16 of this Act**~~KRS 355.4-102(3)~~ and 355.5-117(4), the effect of this article may be varied by agreement or by a provision stated or incorporated by reference in an undertaking. A term in an agreement or undertaking generally excusing liability or generally limiting remedies for failure to perform obligations is not sufficient to vary obligations prescribed by this article.
- (4) Rights and obligations of an issuer to a beneficiary or a nominated person under a letter of credit are independent of the existence, performance, or nonperformance of a contract or arrangement out of which the letter of credit arises or which underlies it, including contracts or arrangements between the issuer and the applicant and between the applicant and the beneficiary.

Section 56. KRS 355.8-102 is amended to read as follows:

- (1) In this article:
  - (a) "Adverse claim" means a claim that a claimant has a property interest in a financial asset and that it is a violation of the rights of the claimant for another person to hold, transfer, or deal with the financial asset.
  - (b) "Bearer form," as applied to a certificated security, means a form in which the security is payable to the bearer of the security certificate according to its terms but not by reason of an indorsement.
  - (c) "Broker" means a person defined as a broker or dealer under the federal securities laws, but without excluding a bank acting in that capacity.
  - (d) "Certificated security" means a security that is represented by a certificate.
  - (e) "Clearing corporation" means:
    1. A person that is registered as a "clearing agency" under the federal securities laws;
    2. A federal reserve bank; or
    3. Any other person that provides clearance or settlement services with respect to financial assets that would require it to register as a clearing agency under the federal securities laws but for an exclusion or exemption from the registration requirement, if its activities as a clearing corporation, including promulgation of rules, are subject to regulation by a federal or state governmental authority.



- (f) "Communicate" means to:
1. Send a signed writing; or
  2. Transmit information by any mechanism agreed upon by the persons transmitting and receiving the information.
- (g) "Entitlement holder" means a person identified in the records of a securities intermediary as the person having a security entitlement against the securities intermediary. If a person acquires a security entitlement by virtue of KRS 355.8-501(2)(b) or (c), that person is the entitlement holder.
- (h) "Entitlement order" means a notification communicated to a securities intermediary directing transfer or redemption of a financial asset to which the entitlement holder has a security entitlement.
- (i) "Financial asset," except as otherwise provided in KRS 355.8-103, means:
1. A security;
  2. An obligation of a person or a share, participation, or other interest in a person or in property or an enterprise of a person, which is, or is of a type, dealt in or traded on financial markets, or which is recognized in any area in which it is issued or dealt in as a medium for investment; or
  3. Any property that is held by a securities intermediary for another person in a securities account if the securities intermediary has expressly agreed with the other person that the property is to be treated as a financial asset under this article.
- As context requires, the term means either the interest itself or the means by which a person's claim to it is evidenced, including a certificated or uncertificated security, a security certificate, or a security entitlement.
- (j) ~~(Reserved) ["Good faith," for purposes of the obligation of good faith in the performance or enforcement of contracts or duties within this article, means honesty in fact and the observance of reasonable commercial standards of fair dealing.]~~
- (k) "Indorsement" means a signature that alone or accompanied by other words is made on a security certificate in registered form or on a separate document for the purpose of assigning, transferring, or redeeming the security or granting a power to assign, transfer, or redeem it.
- (l) "Instruction" means a notification communicated to the issuer of an uncertificated security which directs that the transfer of the security be registered or that the security be redeemed.
- (m) "Registered form," as applied to a certificated security, means a form in which:
1. The security certificate specifies a person entitled to the security; and
  2. A transfer of the security may be registered upon books maintained for that purpose by or on behalf of the issuer, or the security certificate so states.
- (n) "Securities intermediary" means:
1. A clearing corporation; or
  2. A person, including a bank or broker, that in the ordinary course of its business maintains securities accounts for others and is acting in that capacity.
- (o) "Security," except as otherwise provided in KRS 355.8-103, means an obligation of an issuer or a share, participation, or other interest in an issuer or in property or an enterprise of an issuer:
1. Which is represented by a security certificate in bearer or registered form, or the transfer of which may be registered upon books maintained for that purpose by or on behalf of the issuer;
  2. Which is one of a class or series or by its terms is divisible into a class or series of shares, participations, interests, or obligations; and
  3. Which:
    - a. Is, or is of a type, dealt in or traded on securities exchanges or securities markets; or

- b. Is a medium for investment and by its terms expressly provides that it is a security governed by this article.
- (p) "Security certificate" means a certificate representing a security.
- (q) "Security entitlement" means the rights and property interest of an entitlement holder with respect to a financial asset specified in Part 5 of this article.
- (r) "Uncertificated security" means a security that is not represented by a certificate.
- (2) Other definitions applying to this article and the sections in which they appear are:
  - (a) "Appropriate person," KRS 355.8-107;
  - (b) "Control," KRS 355.8-106;
  - (c) "Delivery," KRS 355.8-301;
  - (d) "Investment company security," KRS 355.8-103;
  - (e) "Issuer," KRS 355.8-201;
  - (f) "Overissue," KRS 355.8-210;
  - (g) "Protected purchaser," KRS 355.8-303;
  - (h) "Securities account," KRS 355.8-501.
- (3) In addition, Article 1 of this chapter contains general definitions and principles of construction and interpretation applicable throughout this article.
- (4) The characterization of a person, business, or transaction for purposes of this article does not determine the characterization of the person, business, or transaction for purposes of any other law, regulation, or rule.

Section 57. KRS 355.9-102 is amended to read as follows:

- (1) In this article:
  - (a) "Accession" means goods that are physically united with other goods in such a manner that the identity of the original goods is not lost.
  - (b) 1. "Account," except as used in "account for," means a right to payment of a monetary obligation, whether or not earned by performance:
    - a. For property that has been or is to be sold, leased, licensed, assigned, or otherwise disposed of;
    - b. For services rendered or to be rendered;
    - c. For a policy of insurance issued or to be issued;
    - d. For a secondary obligation incurred or to be incurred;
    - e. For energy provided or to be provided;
    - f. For the use or hire of a vessel under a charter or other contract;
    - g. Arising out of the use of a credit or charge card or information contained on or for use with the card; or
    - h. As winnings in a lottery or other game of chance operated or sponsored by a state, governmental unit of a state, or person licensed or authorized to operate the game by a state or governmental unit of a state.
  - 2. The term includes health-care-insurance receivables.
  - 3. The term does not include:
    - a. Rights to payment evidenced by chattel paper or an instrument;
    - b. Commercial tort claims;
    - c. Deposit accounts;

- d. Investment property;
  - e. Letter-of-credit rights or letters of credit; or
  - f. Rights to payment for money or funds advanced or sold, other than rights arising out of the use of a credit or charge card or information contained on or for use with the card.
- (c) “Account debtor” means a person obligated on an account, chattel paper, or general intangible. The term does not include persons obligated to pay a negotiable instrument, even if the instrument constitutes part of chattel paper.
- (d) “Accounting,” except as used in “accounting for,” means a record:
- 1. Authenticated by a secured party;
  - 2. Indicating the aggregate unpaid secured obligations as of a date not more than thirty-five (35) days earlier or thirty-five (35) days later than the date of the record; and
  - 3. Identifying the components of the obligations in reasonable detail.
- (e) “Agricultural lien” means an interest~~[-other than a security interest,]~~ in farm products:
- 1. Which secures payment or performance of an obligation for:
    - a. Goods or services furnished in connection with a debtor’s farming operation; or
    - b. Rent on real property leased by a debtor in connection with its farming operation;
  - 2. Which is created by statute in favor of a person that:
    - a. In the ordinary course of its business furnished goods or services to a debtor in connection with a debtor’s farming operation; or
    - b. Leased real property to a debtor in connection with the debtor’s farming operation; and
  - 3. Whose effectiveness does not depend on the person’s possession of the personal property.
- (f) “As-extracted collateral” means:
- 1. Oil, gas, or other minerals that are subject to a security interest that:
    - a. Is created by a debtor having an interest in the minerals before extraction; and
    - b. Attaches to the minerals as extracted; or
  - 2. Accounts arising out of the sale at the wellhead or minehead of oil, gas, or other minerals in which the debtor had an interest before extraction.
- (g) “Authenticate” means:
- 1. To sign; or
  - 2. To execute or otherwise adopt a symbol, or encrypt or similarly process a record in whole or in part, with the present intent of the authenticating person to identify the person and adopt or accept a record.
- (h) “Bank” means an organization that is engaged in the business of banking. The term includes savings banks, savings and loan associations, credit unions, and trust companies.
- (i) “Cash proceeds” means proceeds that are money, checks, deposit accounts, or the like.
- (j) “Certificate of title” means a certificate of title with respect to which a statute provides for the security interest in question to be indicated on the certificate as a condition or result of the security interest’s obtaining priority over the rights of a lien creditor with respect to the collateral.
- (k) “Chattel paper” means a record or records that evidence both a monetary obligation and a security interest in specific goods, a security interest in specific goods and software used in the goods, a security interest in specific goods and license of software used in the goods, a lease of specific goods, or a lease of specific goods and license of software used in the goods. In this paragraph, “monetary obligation”

means a monetary obligation secured by the goods or owed under a lease of the goods and includes a monetary obligation with respect to software used in the goods. The term does not include:

1. Charters or other contracts involving the use or hire of a vessel; or
2. Records that evidence a right of payment arising out of the use of a credit or charge card or information contained on or for use with the card.

If a transaction is evidenced by records that include an instrument or series of instruments, the group of records taken together constitutes chattel paper.

- (l) “Collateral” means the property subject to a security interest or agricultural lien. The term includes:
  1. Proceeds to which a security interest attaches;
  2. Accounts, chattel paper, payment intangibles, and promissory notes that have been sold; and
  3. Goods that are the subject of a consignment.
- (m) “Commercial tort claim” means a claim arising in tort with respect to which:
  1. The claimant is an organization; or
  2. The claimant is an individual and the claim:
    - a. Arose in the course of the claimant’s business or profession; and
    - b. Does not include damages arising out of personal injury to or the death of an individual.
- (n) “Commodity account” means an account maintained by a commodity intermediary in which a commodity contract is carried for a commodity customer.
- (o) “Commodity contract” means a commodity futures contract, an option on a commodity futures contract, a commodity option, or another contract if the contract or option is:
  1. Traded on or subject to the rules of a board of trade that has been designated as a contract market for such a contract pursuant to federal commodities laws; or
  2. Traded on a foreign commodity board of trade, exchange, or market, and is carried on the books of a commodity intermediary for a commodity customer.
- (p) “Commodity customer” means a person for which a commodity intermediary carries a commodity contract on its books.
- (q) “Commodity intermediary” means a person that:
  1. Is registered as a futures commission merchant under federal commodities law; or
  2. In the ordinary course of its business provides clearance or settlement services for a board of trade that has been designated as a contract market pursuant to federal commodities law.
- (r) “Communicate” means:
  1. To send a written or other tangible record;
  2. To transmit a record by any means agreed upon by the persons sending and receiving the record; or
  3. In the case of transmission of a record to or by a filing office, to transmit a record by any means prescribed by filing-office rule.
- (s) “Consignee” means a merchant to which goods are delivered in a consignment.
- (t) “Consignment” means a transaction, regardless of its form, in which a person delivers goods to a merchant for the purpose of sale and:
  1. The merchant:
    - a. Deals in goods of that kind under a name other than the name of the person making delivery;
    - b. Is not an auctioneer; and

- c. Is not generally known by its creditors to be substantially engaged in selling the goods of others;
  - 2. With respect to each delivery, the aggregate value of the goods is one thousand dollars (\$1,000) or more at the time of delivery;
  - 3. The goods are not consumer goods immediately before delivery; and
  - 4. The transaction does not create a security interest that secures an obligation.
- (u) “Consignor” means a person that delivers goods to a consignee in a consignment.
- (v) “Consumer debtor” means a debtor in a consumer transaction.
- (w) “Consumer goods” means goods that are used or bought for use primarily for personal, family, or household purposes.
- (x) “Consumer-goods transaction” means a consumer transaction in which:
- 1. An individual incurs an obligation primarily for personal, family, or household purposes; and
  - 2. A security interest in consumer goods secures the obligation.
- (y) “Consumer obligor” means an obligor who is an individual and who incurred the obligation as part of a transaction entered into primarily for personal, family, or household purposes.
- (z) “Consumer transaction” means a transaction in which:
- 1. An individual incurs an obligation primarily for personal, family, or household purposes;
  - 2. A security interest secures the obligation; and
  - 3. The collateral is held or acquired primarily for personal, family, or household purposes.
- The term includes consumer-goods transactions.
- (aa) “Continuation statement” means an amendment of a financing statement which:
- 1. Identifies, by its file number, the initial financing statement to which it relates; and
  - 2. Indicates that it is a continuation statement for, or that it is filed to continue the effectiveness of, the identified financing statement.
- (ab) “Debtor” means:
- 1. A person having an interest, other than a security interest or other lien, in the collateral, whether or not the person is an obligor;
  - 2. A seller of accounts, chattel paper, payment intangibles, or promissory notes; or
  - 3. A consignee.
- (ac) “Deposit account” means a demand, time, savings, passbook, or similar account maintained with a bank. The term does not include investment property or accounts evidenced by an instrument.
- (ad) “Document” means a document of title or a receipt of the type described in KRS 355.7-201(2).
- (ae) “Electronic chattel paper” means chattel paper evidenced by a record or records consisting of information stored in an electronic medium.
- (af) “Encumbrance” means a right, other than an ownership interest, in real property. The term includes mortgages and other liens on real property.
- (ag) “Equipment” means goods other than inventory, farm products, or consumer goods.
- (ah) “Farm products” means goods, other than standing timber, with respect to which the debtor is engaged in a farming operation and which are:
- 1. Crops grown, growing, or to be grown, including:
    - a. Crops produced on trees, vines, and bushes; and

- b. Aquatic goods produced in aquacultural operations;
  - 2. Livestock, born or unborn, including aquatic goods produced in aquacultural operations;
  - 3. Supplies used or produced in a farming operation;
  - 4. Products of crops or livestock in their unmanufactured states; or
  - 5. Equine interests, including, but not limited to, interests in horses, mares, yearlings, foals, weanlings, stallions, syndicated stallions, and stallion shares (including seasons and other rights in connection therewith), whether or not the debtor is engaged in farming operations and without regard to the use thereof. If goods are farm products, they are neither equipment nor inventory.
- (ai) "Farming operation" means raising, cultivating, propagating, fattening, grazing, or any other farming, livestock, or aquacultural operation.
  - (aj) "File number" means the number assigned to an initial financing statement pursuant to KRS 355.9-519(1).
  - (ak) "Filing office" means an office designated in KRS 355.9-501 as the place to file a financing statement.
  - (al) "Filing-office rule" means a rule adopted pursuant to KRS 355.9-526.
  - (am) "Financing statement" means a record or records composed of an initial financing statement and any filed record relating to the initial financing statement.
  - (an) "Fixture filing" means the filing of a financing statement covering goods that are or are to become fixtures and satisfying KRS 355.9-502(1) and (2). The term includes the filing of a financing statement covering goods of a transmitting utility which are or are to become fixtures.
  - (ao) "Fixtures" means goods that have become so related to particular real property that an interest in them arises under real property law.
  - (ap) "General intangible" means any personal property, including things in action, other than accounts, chattel paper, commercial tort claims, deposit accounts, documents, goods, instruments, investment property, letter-of-credit rights, letters of credit, money, and oil, gas, or other minerals before extraction. The term includes payment intangibles and software.
  - (aq) ~~(Reserved) ["Good faith" means honesty in fact and the observance of reasonable commercial standards of fair dealing.]~~
  - (ar) "Goods" means all things that are movable when a security interest attaches.
    - 1. The term includes:
      - a. Fixtures;
      - b. Standing timber that is to be cut and removed under a conveyance or contract for sale;
      - c. The unborn young of animals;
      - d. Crops grown, growing, or to be grown, even if the crops are produced on trees, vines, or bushes; and
      - e. Manufactured homes.
    - 2. The term also includes a computer program embedded in goods and any supporting information provided in connection with a transaction relating to the program if:
      - a. The program is associated with the goods in such a manner that it customarily is considered part of the goods; or
      - b. By becoming the owner of the goods, a person acquires a right to use the program in connection with the goods.
    - 3. The term does not include a computer program embedded in goods that consist solely of the medium in which the program is embedded.

4. The term also does not include accounts, chattel paper, commercial tort claims, deposit accounts, documents, general intangibles, instruments, investment property, letter-of-credit rights, letters of credit, money, or oil, gas, or other minerals before extraction.
- (as) “Governmental unit” means a subdivision, agency, department, county, parish, municipality, or other unit of the government of the United States, a State, or a foreign country. The term includes an organization having a separate corporate existence if the organization is eligible to issue debt on which interest is exempt from income taxation under the laws of the United States.
- (at) “Health-care-insurance receivable” means an interest in or claim under a policy of insurance which is a right to payment of a monetary obligation for health-care goods or services provided *or to be provided*.
- (au) “Instrument” means a negotiable instrument or any other writing that evidences a right to the payment of a monetary obligation, is not itself a security agreement or lease, and is of a type that in ordinary course of business is transferred by delivery with any necessary indorsement or assignment. The term does not include:
  1. Investment property;
  2. Letters of credit; or
  3. Writings that evidence a right to payment arising out of the use of a credit or charge card or information contained on or for use with the card.
- (av) “Inventory” means goods, other than farm products, which:
  1. Are leased by a person as lessor;
  2. Are held by a person for sale or lease or to be furnished under a contract of service;
  3. Are furnished by a person under a contract of service; or
  4. Consist of raw materials, work in process, or materials used or consumed in a business.
- (aw) “Investment property” means a security, whether certificated or uncertificated, security entitlement, securities account, commodity contract, or commodity account.
- (ax) “Jurisdiction of organization,” with respect to a registered organization, means the jurisdiction under whose law the organization is organized.
- (ay) “Letter-of-credit right” means a right to payment or performance under a letter of credit, whether or not the beneficiary has demanded or is at the time entitled to demand payment or performance. The term does not include the right of a beneficiary to demand payment or performance under a letter of credit.
- (az) “Lien creditor” means:
  1. A creditor that has acquired a lien on the property involved by attachment, levy, or the like;
  2. An assignee for benefit of creditors from the time of assignment;
  3. A trustee in bankruptcy from the date of the filing of the petition; or
  4. A receiver in equity from the time of appointment.
- (ba) “Manufactured home” means a structure, transportable in one (1) or more sections, which, in the traveling mode, is eight (8) body feet or more in width or forty (40) body feet or more in length, or, when erected on site, is three hundred twenty (320) or more square feet, 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. The term includes any structure that meets all of the requirements of this paragraph except the size requirements and with respect to which the manufacturer voluntarily files a certification required by the United States Secretary of Housing and Urban Development and complies with the standards established under Title 42 of the United States Code.
- (bb) “Manufactured-home transaction” means a secured transaction:

1. That creates a purchase-money security interest in a manufactured home, other than a manufactured home held as inventory; or
  2. In which a manufactured home, other than a manufactured home held as inventory, is the primary collateral.
- (bc) "Mortgage" means a consensual interest in real property, including fixtures, which secures payment or performance of an obligation.
- (bd) "New debtor" means a person that becomes bound as debtor under KRS 355.9-203(4) by a security agreement previously entered into by another person.
- (be) "New value" means:
1. Money;
  2. Money's worth in property, services, or new credit; or
  3. Release by a transferee of an interest in property previously transferred to the transferee.
- The term does not include an obligation substituted for another obligation.
- (bf) "Noncash proceeds" means proceeds other than cash proceeds.
- (bg) "Obligor" means a person that, with respect to an obligation secured by a security interest in or an agricultural lien on the collateral:
1. Owes payment or other performance of the obligation;
  2. Has provided property other than the collateral to secure payment or other performance of the obligation; or
  3. Is otherwise accountable in whole or in part for payment or other performance of the obligation.
- The term does not include issuers or nominated persons under a letter of credit.
- (bh) "Original debtor," except as used in KRS 355.9-310(3), means a person that, as debtor, entered into a security agreement to which a new debtor has become bound under KRS 355.9-203(4).
- (bi) "Payment intangible" means a general intangible under which the account debtor's principal obligation is a monetary obligation.
- (bj) "Person related to," with respect to an individual, means:
1. The spouse of the individual;
  2. A brother, brother-in-law, sister, or sister-in-law of the individual;
  3. An ancestor or lineal descendant of the individual or the individual's spouse; or
  4. Any other relative, by blood or marriage, of the individual or the individual's spouse who shares the same home with the individual.
- (bk) "Person related to," with respect to an organization, means:
1. A person directly or indirectly controlling, controlled by, or under common control with the organization;
  2. An officer or director of, or a person performing similar functions with respect to, the organization;
  3. An officer or director of, or a person performing similar functions with respect to, a person described in subparagraph 1. of this paragraph;
  4. The spouse of an individual described in subparagraph 1., 2., or 3. of this paragraph; or
  5. An individual who is related by blood or marriage to an individual described in subparagraph 1., 2., 3., or 4. of this paragraph and shares the same home with the individual.
- (bl) "Proceeds," except as used in KRS 355.9-609(2), means the following property:
1. Whatever is acquired upon the sale, lease, license, exchange, or other disposition of collateral;



2. Whatever is collected on, or distributed on account of, collateral;
  3. Rights arising out of collateral;
  4. To the extent of the value of collateral, claims arising out of the loss, nonconformity, or interference with the use of, defects or infringement of rights in, or damage to, the collateral; or
  5. To the extent of the value of collateral and to the extent payable to the debtor or the secured party, insurance payable by reason of the loss or nonconformity of, defects or infringement of rights in, or damage to, the collateral.
- (bm) “Promissory note” means an instrument that evidences a promise to pay a monetary obligation, does not evidence an order to pay, and does not contain an acknowledgment by a bank that the bank has received for deposit a sum of money or funds.
- (bn) “Proposal” means a record authenticated by a secured party which includes the terms on which the secured party is willing to accept collateral in full or partial satisfaction of the obligation it secures pursuant to KRS 355.9-620, 355.9-621, and 355.9-622.
- (bo) “Public-finance transaction” means a secured transaction in connection with which:
1. Debt securities are issued;
  2. All or a portion of the securities issued have an initial stated maturity of at least twenty (20) years; and
  3. The debtor, obligor, secured party, account debtor or other person obligated on collateral, assignor or assignee of a secured obligation, or assignor or assignee of a security interest is a state or a governmental unit of a state.
- (bp) “Pursuant to commitment,” with respect to an advance made or other value given by a secured party, means pursuant to the secured party’s obligation, whether or not a subsequent event of default or other event not within the secured party’s control has relieved or may relieve the secured party from its obligation.
- (bq) “Record,” except as used in “for record,” “of record,” “record or legal title,” and “record owner,” means information that is inscribed on a tangible medium or which is stored in an electronic or other medium and is retrievable in perceivable form.
- (br) “Registered organization” means an organization organized solely under the law of a single state or the United States and as to which the state or the United States must maintain a public record showing the organization to have been organized.
- (bs) “Secondary obligor” means an obligor to the extent that:
1. The obligor’s obligation is secondary; or
  2. The obligor has a right of recourse with respect to an obligation secured by collateral against the debtor, another obligor, or property of either.
- (bt) “Secured party” means:
1. A person in whose favor a security interest is created or provided for under a security agreement, whether or not any obligation to be secured is outstanding;
  2. A person that holds an agricultural lien;
  3. A consignor;
  4. A person to which accounts, chattel paper, payment intangibles, or promissory notes have been sold;
  5. A trustee, indenture trustee, agent, collateral agent, or other representative in whose favor a security interest or agricultural lien is created or provided for; or
  6. A person that holds a security interest arising under KRS 355.2-401, 355.2-505, 355.2-711(3), 355.2A-508(5), 355.4-210, or 355.5-118.

- (bu) "Security agreement" means an agreement that creates or provides for a security interest.
  - (bv) "Send," in connection with a record or notification, means:
    1. To deposit in the mail, deliver for transmission, or transmit by any other usual means of communication, with postage or cost of transmission provided for, addressed to any address reasonable under the circumstances; or
    2. To cause the record or notification to be received within the time that it would have been received if properly sent under subparagraph 1. of this paragraph.
  - (bw) "Software" means a computer program and any supporting information provided in connection with a transaction relating to the program. The term does not include a computer program that is included in the definition of goods.
  - (bx) "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States.
  - (by) "Supporting obligation" means a letter-of-credit right or secondary obligation that supports the payment or performance of an account, chattel paper, a document, a general intangible, an instrument, or investment property.
  - (bz) "Tangible chattel paper" means chattel paper evidenced by a record or records consisting of information that is inscribed on a tangible medium.
  - (ca) "Termination statement" means an amendment of a financing statement which:
    1. Identifies, by its file number, the initial financing statement to which it relates; and
    2. Indicates either that it is a termination statement or that the identified financing statement is no longer effective.
  - (cb) "Transmitting utility" means a person primarily engaged in the business of:
    1. Operating a railroad, subway, street railway, or trolley bus;
    2. Transmitting communications electrically, electromagnetically, or by light;
    3. Transmitting goods by pipeline or sewer; or
    4. Transmitting or producing and transmitting electricity, steam, gas, or water.
- (2) The following definitions in other articles apply to this article:
- |  |                 |
|--|-----------------|
| "Applicant"  | KRS 355.5-102.  |
| "Beneficiary"  | KRS 355.5-102.  |
| "Broker"   | KRS 355.8-102.  |
| "Certificated security"  | KRS 355.8-102.  |
| "Check"  | KRS 355.3-104.  |
| "Clearing corporation"   | KRS 355.8-102.  |
| "Contract for sale"  | KRS 355.2-106.  |
| "Customer"   | KRS 355.4-104.  |
| "Entitlement holder"   | KRS 355.8-102.  |
| "Financial asset"  | KRS 355.8-102.  |
| "Holder in due course"   | KRS 355.3-302.  |
| "Issuer" (with respect to a letter of<br>credit or letter-of-credit right) | KRS 355.5-102.  |
| "Issuer" (with respect to a security)                                      | KRS 355.8-201.  |
| "Lease"  | KRS 355.2A-103. |

“Lease agreement”	KRS 355.2A-103.
“Lease contract”	KRS 355.2A-103.
“Leasehold interest”	KRS 355.2A-103.
“Lessee”	KRS 355.2A-103.
“Lessee in ordinary course of business”	KRS 355.2A-103.
“Lessor”	KRS 355.2A-103.
“Lessor’s residual interest”	KRS 355.2A-103.
“Letter of credit”	KRS 355.5-102.
“Merchant”	KRS 355.2-104.
“Negotiable instrument”	KRS 355.3-104.
“Nominated person”	KRS 355.5-102.
“Note”	KRS 355.3-104.
“Proceeds of a letter of credit”	KRS 355.5-114.
“Prove”	KRS 355.3-103.
“Sale”	KRS 355.2-106.
“Securities account”	KRS 355.8-501.
“Securities intermediary”	KRS 355.8-102.
“Security”	KRS 355.8-102.
“Security certificate”	KRS 355.8-102.
“Security entitlement”	KRS 355.8-102.
“Uncertificated security”	KRS 355.8-102.

- (3) Article 1 of this chapter contains general definitions and principles of construction and interpretation applicable throughout this article.

Section 58. KRS 355.9-304 is amended to read as follows:

- (1) The local law of a bank’s jurisdiction governs perfection, the effect of perfection or nonperfection, and the priority of a security interest in a deposit account maintained with that bank.
- (2) The following rules determine a bank’s jurisdiction for purposes of this part of this article:
  - (a) If an agreement between the bank and *its customer*~~[the debtor]~~ governing the deposit account expressly provides that a particular jurisdiction is the bank’s jurisdiction for purposes of this part of this article, this article, or this chapter, that jurisdiction is the bank’s jurisdiction.
  - (b) If paragraph (a) of this subsection does not apply and an agreement between the bank and its customer governing the deposit account expressly provides that the agreement is governed by the law of a particular jurisdiction, that jurisdiction is the bank’s jurisdiction.
  - (c) If neither paragraph (a) nor paragraph (b) of this subsection applies and an agreement between the bank and its customer governing the deposit account expressly provides that the deposit account is maintained at an office in a particular jurisdiction, that jurisdiction is the bank’s jurisdiction.
  - (d) If none of the preceding paragraphs applies, the bank’s jurisdiction is the jurisdiction in which the office identified in an account statement as the office serving the customer’s account is located.
  - (e) If none of the preceding paragraphs applies, the bank’s jurisdiction is the jurisdiction in which the chief executive office of the bank is located.

Section 59. KRS 355.9-309 is amended to read as follows:

The following security interests are perfected when they attach:

- (1) A purchase-money security interest in consumer goods, except as otherwise provided in KRS 355.9-311(2) with respect to consumer goods that are subject to a statute or treaty described in KRS 355.9-311(1);
- (2) An assignment of accounts or payment intangibles which does not by itself or in conjunction with other assignments to the same assignee transfer a significant part of the assignor's outstanding accounts or payment intangibles;
- (3) A sale of a payment intangible;
- (4) A sale of a promissory note;
- (5) A security interest created by the assignment of a health-care-insurance receivable to the provider of the health-care goods or services;
- (6) A security interest arising under KRS 355.2-401, 355.2-505, 355.2-711(3), or 355.2A-508(5), until the debtor obtains possession of the collateral;
- (7) A security interest of a collecting bank arising under KRS 355.4-210;
- (8) A security interest of an issuer or nominated person arising under KRS 355.5-118;
- (9) A security interest arising in the delivery of a financial asset under KRS 355.9-206(3);
- (10) A security interest in investment property created by a broker or securities intermediary;
- (11) A security interest in a commodity contract or a commodity account created by a commodity intermediary;
- (12) An assignment for the benefit of all creditors of the transferor and subsequent transfers by the assignee thereunder;~~and~~
- (13) A security interest created by an assignment of a beneficial interest in a decedent's estate; **and**
- (14) A sale by an individual of an account that is a right to payment of winnings in a lottery or other game of chance.**

Section 60. KRS 355.9-619 is amended to read as follows:

- (1) In this section, "transfer statement" means a record authenticated by a secured party stating:
  - (a) That the debtor has defaulted in connection with an obligation secured by specified collateral;
  - (b) That the secured party has exercised its post-default remedies with respect to the collateral;
  - (c) That, by reason of the exercise, a transferee has acquired the rights of the debtor in the collateral; and
  - (d) The name and mailing address of the secured party, debtor, and transferee.
- (2) A transfer statement entitles the transferee to the transfer of record of all rights of the debtor in the collateral specified in the statement in any official filing, recording, registration, or certificate-of-title system covering the collateral. If a transfer statement is presented with the applicable fee and request form to the official or office responsible for maintaining the system, the official or office shall:
  - (a) Accept the transfer statement;
  - (b) Promptly amend its records to reflect the transfer; and
  - (c) If applicable, issue a new appropriate certificate of title in the name of the transferee.
- (3) A transfer of the record or legal title to collateral to a secured party under subsection (2) of this section or otherwise is not of itself a disposition of collateral under this article and does not of itself relieve the secured party of its duties under this article.
- (4) A secured party who complies with KRS 186.045(6) is considered to have provided a transfer statement for purposes of this section.**

Section 61. KRS 355.9-706 is amended to read as follows:

- (1) The filing of an initial financing statement in the office specified in KRS 355.9-501, continues the effectiveness of a financing statement filed before July 1, 2001, if:

- (a) The filing of an initial financing statement in that office would be effective to perfect a security interest under the revision of Article 9 in 2000 Ky. Acts ch. 408;
  - (b) The pre-effective-date financing statement was filed in an office in another state or another office in this Commonwealth; and
  - (c) The initial financing statement satisfies subsection (3) of this section.
- (2) The filing of an initial financing statement under subsection (1) of this section continues the effectiveness of the pre-effective-date financing statement:
- (a) If the initial financing statement is filed before July 1, 2001, for the period provided in the former KRS 355.9-403 with respect to a financing statement; and
  - (b) If the initial financing statement is filed on or after July 1, 2001, for the period provided in KRS 355.9-515 with respect to an initial financing statement.
- (3) To be effective for purposes of subsection (1) of this section, an initial financing statement must:
- (a) Satisfy the requirements of Part 5 of this article for an initial financing statement;
  - (b) Identify the pre-effective-date financing statement by indicating the office in which the financing statement was filed and providing the dates of filing and file numbers, if any, of the financing statement and of the most recent continuation statement filed with respect to the financing statement; and
  - (c) Indicate that the pre-effective-date financing statement remains effective.
- (4) When a secured party files an initial financing statement with the Secretary of State under subsection (1) of this section or under KRS 355.9-707, the secured party may send a copy of the initial financing statement to the county clerk of the county in which the pre-effective-date financing statement was filed, and, additionally, may send to the county clerk copies of any continuation statement subsequently filed with the Secretary of State that relates to an initial financing statement filed under subsection (1) of this section or under KRS 355.9-707. The secured party's election not to send a copy of an initial financing statement or a continuation statement to the county clerk does not affect in any way the perfection of the secured party's security interest. The county clerk shall append to the pre-effective-date financing statement the copy of any initial financing statement or continuation statement received from a secured party and shall retain the entire file as required by KRS 355.9-710.
- (5) ***KRS 355.9-506 shall apply to determine whether a financing statement filed under subsection (1) of this section satisfies the requirements of subsection (3)(a) of this section. A financing statement filed under subsection (1) of this section substantially satisfying the requirements of subsections (3)(b) and (c) of this section is effective even if it has minor errors or omissions, unless the errors or omissions make the financing statement seriously misleading.***

SECTION 62. A NEW SECTION OF KRS 190.090 TO 190.140 IS CREATED TO READ AS FOLLOWS:

- (1) ***The holder of a retail installment contract shall commence an action against the retail buyer to recover monetary damages or other relief for breach of the retail installment contract within the earlier of the following:***
- (a) ***Four (4) years after the maturity date of the retail installment contract;***
  - (b) ***If the motor vehicle has been repossessed, voluntarily or involuntarily, four (4) years after the date the motor vehicle was sold or otherwise disposed of by the repossessing retail seller, sales finance company, or other owner of the retail installment contract; or***
  - (c) ***If the maturity date is accelerated by reason of default, regardless of whether the motor vehicle has been repossessed, within four (4) years of the accelerated maturity date.***
- (2) ***The provisions of this section shall control over any contrary provision of KRS Chapter 413.***

Section 63. KRS 186A.190 is amended to read as follows:

- (1) Except as provided in subsection (4) of this section ***and in KRS 355.9-311(4)***, the perfection and discharge of a security interest in any property for which has been issued a Kentucky certificate of title shall be by notation on the certificate of title. The notation of the security interest on the certificate of title shall be in accordance

with this chapter and shall remain effective from the date on which the security interest is noted on the certificate of title for a period of seven (7) years, or, in the case of a manufactured home, for a period of thirty (30) years, or until discharged under this chapter and KRS Chapter 186. The filing of a continuation statement within the six (6) months preceding the expiration of the initial period of a notation's effectiveness extends the expiration date for seven (7) additional years.

- (2) Except as provided in subsection (4) of this section, the notation of security interests relating to property required to be titled in Kentucky through the county clerk shall be done in the office of the county clerk of the county in which the debtor resides. If the debtor is other than a natural person, the following provisions govern the determination of the county of the debtor's residence:
- (a) A partnership shall be deemed a resident of the county in which its principal place of business in this state is located. If the debtor does not have a place of business in this state, then the debtor shall be deemed a nonresident for purposes of filing in this state;
  - (b) A limited partnership organized under KRS Chapter 362 shall be deemed a resident of the county in which its office is located, as set forth in its certificate of limited partnership or most recent amendment thereto filed pursuant to KRS Chapter 362. If such office is not located in this state, the debtor shall be deemed a nonresident for purposes of filing in this state;
  - (c) A limited partnership not organized under the laws of this state and authorized to do business in this state under KRS Chapter 362 shall be deemed a resident of the county in which the office of its process agent is located, as set forth in the designation or most recent amendment thereto filed with the Secretary of State of the Commonwealth of Kentucky;
  - (d) A corporation organized under KRS Chapter 271B, 273, or 274 or a limited liability company organized under KRS Chapter 275 shall be deemed a resident of the county in which its registered office is located, as set forth in its most recent corporate filing with the Secretary of State which officially designates its current registered office;
  - (e) A corporation not organized under the laws of this state, but authorized to transact or do business in this state under KRS Chapter 271B, 273, or 274, or a limited liability company not organized under the laws of this state, but authorized to transact business in this state under KRS Chapter 275, shall be deemed a resident of the county in which its registered office is located, as set forth in its most recent filing with the Secretary of State which officially designates its current registered office;
  - (f) A cooperative corporation or association organized under KRS Chapter 272 shall be deemed a resident of the county in which its principal business is transacted, as set forth in its articles of incorporation or most recent amendment thereto filed with the Secretary of State of the Commonwealth of Kentucky;
  - (g) A cooperative corporation organized under KRS Chapter 279 shall be deemed a resident of the county in which its principal office is located, as set forth in its articles of incorporation or most recent amendment thereto filed with the Secretary of State of the Commonwealth of Kentucky;
  - (h) A business trust organized under KRS Chapter 386 shall be deemed a resident of the county in which its principal place of business is located, as evidenced by the recordation of its declaration of trust in that county pursuant to KRS Chapter 386;
  - (i) A credit union organized under KRS Chapter 290 shall be deemed a resident of the county in which its principal place of business is located, as set forth in its articles of incorporation or most recent amendment thereto filed with the Secretary of State of the Commonwealth of Kentucky; and
  - (j) Any other organization (defined in KRS 355.1-201) shall be deemed a resident of the county in which its principal place of business in this state is located, except that any limited partnership or corporation not organized under the laws of this state and not authorized to transact or do business in this state shall be deemed a nonresident for purposes of filing in this state. If the organization does not have a place of business in this state, then it shall be deemed a nonresident for purposes of filing in this state.

If the debtor does not reside in the Commonwealth, the notation of the security interest shall be done in the office of the county clerk in which the property is principally situated or operated. Notwithstanding the existence of any filed financing statement under the provisions of KRS Chapter 355 relating to any property registered or titled in Kentucky, the sole means of perfecting and discharging a security interest in property for which a certificate of title is required by this chapter is by notation on the property's certificate of title under

the provisions of this chapter or in accordance with the provisions of KRS 186.045(3). In other respects the security interest is governed by the provisions of KRS Chapter 355.

- (3) Except as provided in subsection (4) of this section, before ownership of property subject to a lien evidenced by notation on the certificate of title may be transferred, the transferor shall obtain the release of the prior liens in his name against the property being transferred. Once a security interest has been noted on the owner's title, a subsequent title shall not be issued by any county clerk free of the notation unless the owner's title is presented to the clerk and it has been noted thereon that the security interest has been discharged. If this requirement is met, information relating to any security interest shown on the title as having been discharged may be omitted from the title to be issued by the clerk. If information relating to the discharge of a security interest is presented to a clerk under the provisions of KRS 186.045(3), the clerk shall discharge the security interest and remove the lien information from AVIS.
- (4) Notwithstanding subsections (1), (2), and (3) of this section, a county clerk shall, following inspection of the vehicle by the sheriff, to determine that the vehicle has not been stolen, issue a new title to a vehicle, clear of all prior liens, to a person after he provides to the county clerk an affidavit devised by the Transportation Cabinet and completed by the person. In the affidavit, the person shall attest that:
  - (a) He possesses the vehicle;
  - (b) A debt on the vehicle was owed him for more than thirty (30) days before he provided the notices required by paragraphs (c) and (d) of this subsection;
  - (c) More than fourteen (14) days before presenting the affidavit to the county clerk, the person attempted to notify the owner of the vehicle and all known lienholders, including those noted on the title, by certified mail, return receipt requested, of his name, address, and telephone number as well as his intention to obtain a new title, clear of all prior liens, unless the owner or a lienholder objected in writing;
  - (d) More than fourteen (14) days before presenting the affidavit to the county clerk, the person had published a legal notice stating his intention to obtain title to the vehicle. The legal notice appeared at least twice in a seven (7) day period in a newspaper published, and with a statewide circulation, in Kentucky. The legal notice stated:
    1. The person's name, address, and telephone number;
    2. The owner's name;
    3. The names of all known lienholders, including those noted on the title;
    4. The vehicle's make, model, and year; and
    5. The person's intention to obtain title to the vehicle unless the owner or a lienholder objects in writing within fourteen (14) days after the last publication of the legal notice; and
  - (e) Neither the owner nor a lienholder has objected in writing to the person's right to obtain title to the vehicle.
- (5) No more than two (2) active security interests may be noted upon a certificate of title.
- (6) In noting a security interest upon a certificate of title, the county clerk shall ensure that the certificate of title bears the lienholder's name, mailing address and zip code, the date the lien was noted, the notation number, and the county in which the security interest was noted. The clerk shall obtain the information required by this subsection for notation upon the certificate of title from the title lien statement described in KRS 186A.195 to be provided to the county clerk by the secured party.
- (7) For all the costs incurred in the notation and discharge of a security interest on the certificate of title, the county clerk shall receive the fee prescribed by KRS 64.012. The fee prescribed by this subsection shall be paid at the time of submittal of the title lien statement described in KRS 186A.195.
- (8) A copy of the application, certified by the county clerk, indicating the lien will be noted on the certificate of title shall be forwarded to the lienholder.

Section 64. The following KRS sections are repealed:

355.1-109 Section captions.

- 355.1-110 Comments of National Conference of Commissioners on Uniform State Laws and American Law Institute may be consulted in construction and application of chapter.
- 355.1-207 Performance or acceptance under reservation of rights.
- 355.1-208 Option to accelerate at will.
- 355.1-209 Subordinated obligations.
- 355.2-208 Course of performance or practical construction.
- 355.2A-207 Course of performance or practical construction.
- 378.040 Conveyance or encumbrance of personal property without delivery -- Effect prior to recording.
- 382.675 Recording motor vehicle liens.

**Approved April 22, 2006.**

## **CHAPTER 243**

### **(HB 155)**

AN ACT relating to emergency medical services.

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

Section 1. KRS 311A.015 is amended to read as follows:

- (1) The Kentucky Board of Emergency Medical Services is created and ***shall be attached to the Kentucky Community and Technical College System.***
- (2) ***The board*** shall consist of eighteen (18) members who are residents of Kentucky appointed by the Governor in conjunction with recognized state emergency medical services related organizations. Membership shall be made up of the following:
  - (a) One (1) paramedic who works for a government agency but is not serving in an educational, management, or supervisory capacity;
  - (b) One (1) emergency medical technician-basic who works for a government agency but is not serving in an educational, management, or supervisory capacity;
  - (c) One (1) first responder who is not serving in an educational, management, or supervisory capacity;
  - (d) One (1) physician licensed in Kentucky having a primary practice in the delivery of emergency medical care selected from a list of three (3) physicians submitted by the Kentucky Medical Association;
  - (e) One (1) physician licensed in Kentucky serving as medical director of an advanced life support ambulance service, selected from a list of three (3) physicians submitted by the Kentucky Medical Association;
  - (f) One (1) physician licensed in Kentucky who routinely is involved in the emergency care of ill and injured children selected from a list of three (3) physicians submitted by the Kentucky Medical Association;
  - (g) One (1) trauma surgeon licensed in Kentucky selected from a list of three (3) physicians submitted by the Kentucky Medical Association;
  - (h) One (1) citizen having no involvement in the delivery of medical or emergency services;
  - (i) One (1) emergency medical services educator ***certified by the board***~~[from a Kentucky technical college, community college, college, or university that provides an emergency medical services educational program];~~
  - (j) One (1) mayor of a city that operates, either directly or through contract services, a licensed Class I ground ambulance service;
  - (k) One (1) county judge/executive from a county that operates, whether directly or through contract services, a licensed Class I ground ambulance service;



- (l) One (1) volunteer-staffed, licensed Class I ground ambulance service administrator who is a certified emergency medical technician or a licensed paramedic;
  - (m) One (1) fire-service-based, licensed Class I ground ambulance service administrator who is a certified emergency medical technician or a licensed paramedic;
  - (n) One (1) licensed air ambulance service administrator or paramedic for a licensed air ambulance service headquartered in Kentucky;
  - (o) One (1) private licensed Class 1 ground ambulance service administrator who is a certified emergency medical technician or a licensed paramedic who is a resident of Kentucky;
  - (p) One (1) hospital administrator selected from a list of five (5) nominees submitted by the Kentucky Hospital Association;
  - (q) One (1) basic life support, licensed Class I government-operated ground ambulance service administrator who is a certified emergency medical technician or a licensed paramedic; and
  - (r) One (1) advanced life support, government-operated ambulance service administrator who is a certified emergency medical technician or a licensed paramedic.
- ~~(3)(2)~~ No board member shall serve more than two (2) consecutive terms. A member appointed to a partial term vacancy exceeding two (2) years shall be deemed to have served a full term. A former member may be reappointed following an absence of one (1) term.
- ~~(4)(3)~~ The board shall annually:
- (a) Meet at least six (6) times a year;
  - (b) ***At the first meeting of the board after ~~the~~ September 1***, elect a chair and vice chair by majority vote of the members present; and
  - (c) Set a schedule of six (6) regular meetings for the next twelve (12) month period.
- ~~(5)(4)~~ The board shall adopt a quorum and rules of procedure by administrative regulation.
- ~~(6)(5)~~ (a) A member of the board who misses three (3) regular meetings in one (1) year shall be deemed to have resigned from the board and his or her position shall be deemed vacant.
- (b) The failure of a board member to attend a special or emergency meeting shall not result in any penalty.
  - (c) The year specified in this subsection shall begin with the first meeting missed and end three hundred sixty-five (365) days later or with the third meeting missed, whichever occurs earlier.
  - (d) The Governor shall appoint a person of the same class to fill the vacancy within ninety (90) days.
  - (e) The person removed under this subsection shall not be reappointed to the board for ten (10) years.
- ~~(7)(6)~~ Members of the board shall be entitled to reimbursement for actual and necessary expenses when carrying out official duties of the board in accordance with state administrative regulations relating to travel reimbursement. The board shall meet at least six (6) times each year.
- (8) ***Annual reports and recommendations from the board shall be sent by September 1 each year to the Governor, the president of the Kentucky Community and Technical College System, and the General Assembly.***

Section 2. KRS 311A.020 is amended to read as follows:

- (1) The board shall:
  - (a) Exercise all of the administrative functions of the state not regulated by the Board of Medical Licensure or Cabinet for Health and Family Services in the regulation of the emergency medical services system and the practice of first responders, emergency medical technicians, paramedics, ambulance services, and emergency medical services training institutions, ***with the exception of employment of personnel as described in subsections (5) and (6) of this section***;
  - (b) Issue any licenses or certifications authorized by this chapter;

- (c) Oversee the operations and establish the organizational structure of the Office of the Kentucky Board of Emergency Medical Services, which is created and shall be attached to the board for administrative purposes. The office shall be headed by the executive director appointed under paragraph (d) of this subsection and shall be responsible for:
1. Personnel and budget matters affecting the board;
  2. Fiscal activities of the board, including grant writing and disbursement of funds;
  3. Information technology, including the design and maintenance of databases;
  4. Certification and recertification of first responders;
  5. Certification and recertification of emergency medical technicians;
  6. Licensure and relicensure of ambulances and ambulance services;
  7. Licensure and relicensure of paramedics;
  8. Certification and recertification of paramedic course coordinators;
  9. Investigation of and resolution of quality complaints and ethics issues; and
  10. Other responsibilities that may be assigned to the executive director by the board;
- (d) Employ an executive director and deputy executive director and fix the compensation. The executive director and deputy executive director shall serve at the pleasure of the board, administer the day-to-day operations of the Office of the Kentucky Board of Emergency Medical Services, and supervise all directives of the board. The director and deputy executive director shall possess a baccalaureate degree and shall have no less than five (5) years of experience in public administration or in the administration of an emergency medical services program;
- (e) Employ or contract with a physician licensed in Kentucky who is board certified in emergency medicine and fix the compensation. The physician shall serve at the pleasure of the board and as the medical advisor to the Kentucky Board of Emergency Medical Services and the staff of the board;
- (f) Employ or contract with ~~an attorney [a general counsel]~~ licensed to practice law in Kentucky and fix the compensation. The ~~attorney [general counsel]~~ shall serve at the pleasure of the board **and have primary assignment to the board**;
- (g) Employ personnel sufficient to carry out the statutory responsibilities of the board.
1. Personnel assigned to investigate a first responder program complaint or regulate the first responder programs shall be certified first responders, emergency medical technicians, or licensed paramedics.
  2. Personnel assigned to investigate an emergency medical technician program complaint or regulate the emergency medical technician program shall be certified emergency medical technicians or paramedics.
  3. Personnel assigned to investigate a paramedic program complaint or regulate the paramedic program shall be licensed paramedics.
  4. A person who is employed by the board who is licensed or certified by the board shall retain his or her license or certification if he or she meets the in-service training requirements and pays the fees specified by administrative regulation.
  5. A person who is employed by the board may instruct in emergency medical subjects in which he or she is qualified, with the permission of the board. All instruction shall be rendered without remuneration other than his or her state salary and the employee shall be considered as on state duty when teaching.
  6. A person who is employed by the board may render services for which the person is qualified at a declared disaster or emergency or in a situation where trained personnel are not available until those personnel arrive to take over the patient, or where insufficient trained personnel are available to handle a specific emergency medical incident. All aid shall be rendered without remuneration other than the employee's state salary and the employee shall be considered as on

state duty when rendering aid. In cases specified in this paragraph, the state medical advisor shall serve as the emergency medical services medical director for the employee;

- (h) Establish committees and subcommittees and the membership thereof. Members of committees and subcommittees do not need to be members of the board;
  - (i) Enter into contracts, apply for grants and federal funds, and disburse funds to local units of government as approved by the General Assembly. All funds received by the board shall be placed in a trust and agency account in the State Treasury subject to expenditure by the board;
  - (j) Administer the Emergency Medical Services for Children Program; and
  - (k) Establish minimum curriculum and standards for emergency medical services training.
- (2) The board may utilize materials, services, or facilities as may be made available to it by other state agencies or may contract for materials, services, or facilities.
  - (3) The board may delegate to the executive director, by written order, any function other than promulgation of an administrative regulation specified in this chapter.
  - (4) Except for securing funding for trauma centers and the implementation of KRS 311A.170, the board shall not *serve as the lead agency relating to the development or regulation of trauma systems but shall be a partner with other state agencies in the development, implementation, and oversight of such systems*~~[regulate a trauma center]~~.
  - (5)
    - (a) *The Kentucky Community and Technical College System shall employ personnel for the work of the board, and the personnel in the positions described in this section and all other persons in administrative and professional positions shall be transferred to the personnel system of the Kentucky Community and Technical College System on the effective date of this Act in the appropriate classification to carry out the mission of the board. All employees transferred under this paragraph shall have all employment records and months of service credit transferred to the Kentucky Community and Technical Colleges System. Employees of the board transferred under this paragraph who subsequently return to state employment under KRS Chapter 18A shall have their employment records and months of service credit under the Kentucky Community and Technical College System transferred back to the KRS Chapter 18A personnel system and the employment records and months of service credit shall be used in calculations for all benefits under KRS Chapter 18A.*
    - (b) *New employees hired or contracted after the effective date of this Act shall be employed or contracted by the Kentucky Community and Technical College System.*
  - (6) *The board shall appoint a personnel committee consisting of the chair of the board, one (1) physician member of the board, one (1) ambulance service provider member of the board, one (1) additional member of the board selected by the chair of the board, and one (1) representative of the Kentucky Community and Technical College System administration. The personnel committee shall conduct an annual job performance review of the executive director, the medical advisor, and the board attorney that conforms with the personnel standards of the Kentucky Community and Technical College System and includes a recommendation for or against continued employment to be presented to the personnel office of the Kentucky Community and Technical College System.*
  - (7) *All state general funds appropriated to the board, all federal funds, all moneys collected by the board, and all equipment owned by the board shall be transferred to the Kentucky Community and Technical College System on July 1, 2006.*
  - (8) *The board shall develop a proposed biennial budget for all administrative and operational functions and duties in conjunction with the Kentucky Community and Technical College System budget submission process. The Kentucky Community and Technical System shall not make changes to the budget proposal submitted by the board, but may submit written comments on the board's budget proposal to the board and other agencies in the budget submission process.*

Section 3. KRS 311A.050 is amended to read as follows:

- (1) No person shall:

- (a) Call or hold himself or herself out as or use the title of emergency medical technician, first responder, paramedic, first responder instructor or instructor trainer, emergency medical technician instructor or instructor trainer, or paramedic instructor, paramedic instructor trainer, or paramedic course coordinator unless licensed or certified under the provisions of this chapter. The provisions of this subsection shall not apply if the board does not license or certify a person as an instructor, instructor trainer, or course coordinator in a particular discipline regulated by the board;
  - (b) Operate or offer to operate or represent or advertise the operation of a school or other educational program for first responders, emergency medical technicians, paramedics, or instructors or instructor trainers for first responders, emergency medical technicians, or paramedics unless the school or educational program has been approved under the provisions of this chapter. The provisions of this paragraph shall not apply to ***continuing education provided by a licensed ambulance service for anyone certified or licensed by the board***~~{in-house training}~~ given by an ambulance service for its employees or volunteers; or
  - (c) Knowingly employ a first responder, emergency medical technician, paramedic, or an instructor or instructor trainer for first responders, emergency medical technicians, or paramedics, or paramedic course coordinator unless that person is licensed or certified under the provisions of this chapter.
- (2) No person licensed or certified by the board or who is an applicant for licensure or certification by the board shall:
- (a) If licensed or certified, violate any provision of this chapter or any administrative regulation promulgated by the board;
  - (b) Use fraud or deceit in obtaining or attempting to obtain a license or certification from the board, or be granted a license upon mistake of a material fact;
  - (c) If licensed or certified by the board, grossly negligently or willfully act in a manner inconsistent with the practice of the discipline for which the person is certified or licensed;
  - (d) Be unfit or incompetent to practice a discipline regulated by the board by reason of negligence or other causes;
  - (e) Abuse, misuse, or misappropriate any drugs placed in the custody of the licensee or certified person for administration, or for use of others;
  - (f) Falsify or fail to make essential entries on essential records;
  - (g) Be convicted of a misdemeanor which involved acts that bear directly on the qualifications or ability of the applicant, licensee, or certified person to practice the discipline for which the person is an applicant, licensee, or certified person;
  - (h) Be convicted of a misdemeanor which involved fraud, deceit, breach of trust, or physical harm or endangerment to self or others, acts that bear directly on the qualifications or ability of the applicant, licensee, or certificate holder to practice acts in the license or certification held or sought;
  - (i) Be convicted of a misdemeanor offense under KRS Chapter 510 involving a patient or be found by the board to have had sexual contact as defined in KRS 510.010(7) with a patient while the patient was under the care of the licensee or certificate holder;
  - (j) Have had his or her license or credential to practice as a nurse or physician denied, limited, suspended, probated, revoked, or otherwise disciplined in Kentucky or in another jurisdiction on grounds sufficient to cause a license to be denied, limited, suspended, probated, revoked, or otherwise disciplined in this Commonwealth;
  - (k) Have a license or certification to practice in any activity regulated by the board denied, limited, suspended, probated, revoked, or otherwise disciplined in another jurisdiction on grounds sufficient to cause a license or certification to be denied, limited, suspended, probated, revoked, or otherwise disciplined in this Commonwealth;
  - (l) Violate any lawful order or directive previously entered by the board;
  - (m) Have been listed on the nurse aide abuse registry with a substantiated finding of abuse, neglect, or misappropriation of property; or

- (n) Be convicted of, have entered a guilty plea to, have entered an Alford plea to a felony offense, or completed a diversion program for a felony offense.
- (3) It shall be unlawful for ~~any person licensed or certified by the board or~~ an employer of a person licensed or certified by the board having knowledge of the facts to refrain from reporting to the board any person licensed or certified by the board who:
- (a) Has been convicted of, has entered a guilty plea to, has entered an Alford plea to a felony offense, or has completed a diversion program for a felony offense;
  - (b) Has been convicted of a misdemeanor or felony which involved acts that bear directly on the qualifications or ability of the applicant, licensee, or certified person to practice the discipline for which they are an applicant, licensee, or certified person;
  - (c) Is reasonably suspected of fraud or deceit in procuring or attempting to procure a license or certification from the board;
  - (d) Is reasonably suspected of grossly negligently or willfully acting in a manner inconsistent with the practice of the discipline for which they are certified or licensed;
  - (e) Is reasonably suspected of being unfit or incompetent to practice a discipline regulated by the board by reason of negligence or other causes including, but not limited to, being unable to practice the discipline for which they are licensed or certified with reasonable skill or safety;
  - (f) Is reasonably suspected of violating any provisions of this chapter or the administrative regulations promulgated under this chapter;
  - (g) Has a license or certification to practice an activity regulated by the board denied, limited, suspended, probated, revoked, or otherwise disciplined in another jurisdiction on grounds sufficient to cause a license or certification to be denied, limited, suspended, probated, revoked, or otherwise disciplined in this Commonwealth;
  - (h) Is practicing an activity regulated by the board without a current active license, or certification issued by the board;
  - (i) Is reasonably suspected of abusing, misusing, or misappropriating any drugs placed in the custody of the licensee or certified person for administration, or for use of others; or
  - (j) Is suspected of falsifying or in a grossly negligent manner making incorrect entries or failing to make essential entries on essential records.
- (4) A person who violates subsection (1)(a), (b), or (c) of this section shall be guilty of a Class A misdemeanor for a first offense and a Class D felony for each subsequent offense.
- (5) The provisions of this section shall not preclude prosecution for the unlawful practice of medicine, nursing, or other practice certified or licensed by an agency of the Commonwealth.
- (6) The filing of criminal charges or a criminal conviction for violation of the provisions of this chapter or the administrative regulations promulgated thereunder shall not preclude the office of the board from instituting or imposing board disciplinary action authorized by this chapter against any person or organization violating this chapter or the administrative regulations promulgated thereunder.
- (7) The institution or imposition of disciplinary action by the office of the board against any person or organization violating the provisions of this chapter or the administrative regulations promulgated thereunder shall not preclude the filing of criminal charges against or a criminal conviction of any person or organization for violation of the provisions of this chapter or the administrative regulations promulgated thereunder.

Section 4. KRS 311A.055 is amended to read as follows:

- (1) In accordance with the provisions of KRS Chapter 13B, all discipline for which the board is authorized to conduct investigations, hold hearings, and impose punishments is delegated to the executive director, state medical advisor, board attorney, and hearing panels as provided herein.
- (2) Any person may make a complaint to the executive director that an entity licensed or certified by the board, first responder, emergency medical technician, paramedic, emergency medical services medical advisor or

other person licensed or certified by the board has violated a provision of this chapter, an administrative regulation promulgated pursuant to this chapter, protocol, practice standard, or order of the board.

- (3) Each complaint shall:
  - (a) Be in writing;
  - (b) Identify specifically the person or organization against whom the complaint is made;
  - (c) Set forth the facts relating to the violation alleged and any other supporting information which may have a bearing on the matter;
  - (d) Contain the name, address, telephone number, facsimile number, and e-mail address, if available, of the complainant;
  - (e) Be subscribed and sworn to as to the truth of the statements contained in the complaint by the complainant; and
  - (f) Be notarized.
- (4) A complaint which is unsigned shall not be acted upon by the executive director. A complaint which is not subscribed and sworn in the manner specified in subsection (3) of this section shall be returned to the complainant for completion.
- (5) The executive director of the board may, on behalf of the board, based on knowledge available to the office of the board, make a complaint against any person or organization regulated by the board in the same manner as provided in subsection (3) of this section.
- (6) Upon receipt of a properly completed complaint, the executive director shall assign the complaint to a staff investigator who shall investigate the complaint and shall make findings of fact and recommendations to the executive director who shall then convene a preliminary inquiry board.
- (7) When the executive director assigns a complaint to a staff investigator he or she shall notify the person or organization against whom the complaint has been filed and shall notify the employer of a first responder, emergency medical technician, or paramedic and the emergency medical services medical director for the organization and for any paramedic against whom the complaint is filed and any other person or organization specified in this chapter.
- (8) The notification shall name the person or organization complained against, the complainant, the violations alleged, and the facts presented in the complaint and shall notify the person or organization complained against, the employer, and the emergency medical services medical director of:
  - (a) The fact that the complaint shall be answered, the steps for answering the complaint, and the action to be taken if the complaint is not answered;
  - (b) The time frame and steps in the proceedings of a complaint;
  - (c) The rights of the parties, including the right to counsel; and
  - (d) The right to testify at any hearing.
- (9) Upon the failure of a license or certificate holder to respond to a written accusation or to request a hearing within twenty (20) days after the sending of the accusation, the accused shall be considered to have admitted the truth of the facts and the circumstances in the allegation and appropriate discipline may be imposed.
- (10) The preliminary inquiry board shall consist of *one (1) member of the board selected by the chair, and two (2)*~~[the executive director, a person]~~ representing the same category of certification or licensure as the defendant who *are*~~[is]~~ not *members*~~[a member]~~ of the board appointed by the chairman of the board~~[, and the board attorney]~~.
- (11) After reviewing the complaint and results of any investigation conducted on behalf of the board, the preliminary inquiry board shall consider whether the accusation is sufficient to remand the matter for a hearing as provided in this section and KRS Chapter 13B. A majority vote of the members of the preliminary inquiry board shall be necessary for action to either remand the matter for hearing or dismiss the complaint without hearing.

- (12) If the preliminary inquiry board dismisses the complaint, all parties notified previously shall be notified of the action. If the preliminary inquiry board remands the matter for a hearing, all parties notified previously shall be notified of the action.
- (13) Each proceeding to consider the imposition of a penalty which the board is authorized to impose pursuant to this chapter shall be conducted in accordance with KRS Chapter 13B.
- (14) A hearing panel for purposes of making a decision in any disciplinary matter shall consist of one (1) physician who may be a member of the board or who meets the qualifications of an emergency medical services medical director; one (1) person from the category of persons or organizations of the same class as the defendant; and the hearing officer, who shall not be involved in emergency medical services.
- (15) The hearing officer may issue subpoenas to compel the attendance of witnesses and the production of documents in the conduct of an investigation. The subpoenas may be enforced by any Circuit Court for contempt. Any order or subpoena of the court requiring the attendance and testimony of witnesses and the production of documentary evidence may be enforced and shall be valid anywhere in this state.
- (16) At all hearings the board attorney or, on request of the board, the Attorney General of this state or one (1) of the assistant attorneys general designated shall appear and represent the board.
- (17) The ***emergency medical services provider or related*** employer of a person licensed or certified by the board and the emergency medical services medical director of such a person who is the defendant in a hearing shall be parties to the action and may appear and testify in the matter at any deposition or hearing on the matter and may propose conclusions of law, findings of fact, and penalties to the hearing panel.
- (18) To make a finding or recommend discipline, the two (2) members of the hearing panel who are not the hearing officer shall agree on the finding or discipline. In the event of a tie vote, the hearing officer shall cast the deciding vote.
- (19) The final order in any disciplinary proceeding shall be prepared by the executive director and sent to all parties in the manner prescribed by law.
- (20) Any person or entity aggrieved by a final order of the board may appeal to the Franklin Circuit Court in accordance with the provisions of KRS Chapter 13B.
- (21) The only discipline that the board may impose against an emergency medical services medical director is denial, suspension or withdrawal of the board's approval for that person to serve as an emergency medical services medical director.
- (22) If the executive director substantiates that sexual contact occurred between a licensee or certificate holder and a patient while the patient was under the care of or in a professional relationship with the licensee or certificate holder, the license or certification may be revoked or suspended with mandatory treatment of the person as prescribed by the executive director. The executive director may require the licensee or certificate holder to pay a specified amount for mental health services for the patient which are needed as a result of the sexual contact.

Section 5. KRS 311A.060 is amended to read as follows:

- (1) If it is determined that an entity regulated by the board, a paramedic, first responder, or emergency medical technician has violated a statute, administrative regulation, protocol, or practice standard relating to serving as an entity regulated by the board, a paramedic, first responder, or emergency medical technician, the office of the board may impose any of the sanctions provided in subsection (2) of this section. Any party to the complaint shall have the right to propose findings of fact and conclusions of law, and to recommend sanctions.
- (2) The office of the board ***shall require an acceptable plan of correction and*** may use any one (1) or more of the following sanctions when disciplining a paramedic, emergency medical technician first responder, emergency medical technician, or any entity regulated by the board:
  - (a) Private reprimand that shall be shared with each of the paramedic's, first responder's, or emergency medical technician's ***emergency medical services or related*** employer and medical director;
  - (b) Public reprimand;

- (c) Fines of fifty dollars (\$50) to five hundred dollars (\$500) for a natural person or fifty dollars (\$50) to five thousand dollars (\$5,000) for a public agency or business entity;
  - (d) Revocation of certification or licensure;
  - (e) Suspension of licensure until a time certain;
  - (f) Suspension until a certain act or acts are performed;
  - (g) Limitation of practice permanently;
  - (h) Limitation of practice until a time certain;
  - (i) Limitation of practice until a certain act or acts are performed;
  - (j) Repassing a portion of the paramedic, first responder, or emergency medical technician examination;
  - (k) Probation for a specified time; or
  - (l) If it is found that the person who is licensed or certified by the board has been convicted of, pled guilty to, entered an Alford plea to a felony offense, or has completed a diversion program for a felony offense the license or certification shall be revoked.
- (3) The filing of criminal charges or a criminal conviction for violation of the provisions of this chapter or the administrative regulations promulgated thereunder shall not preclude the office of the board from instituting or imposing board disciplinary action authorized by this chapter against any person or organization violating this chapter or the administrative regulations promulgated thereunder.
  - (4) The institution or imposition of disciplinary action by the office of the board against any person or organization violating the provisions of this chapter or the administrative regulations promulgated thereunder shall not preclude the filing of criminal charges against or a criminal conviction of any person or organization for violation of the provisions of this chapter or the administrative regulations promulgated thereunder.

Section 6. KRS 311A.075 is amended to read as follows:

- (1) The state medical advisor, one (1) physician board member selected by the chairman of the board, and one (1) member of the board of the same category of licensure or certification as the defendant selected by the chairman of the board, in writing, may determine that immediate temporary suspension of a license or certification of a natural person against which disciplinary action or an investigation is pending is necessary in order to protect the public. If the defendant is employed by an emergency medical services provider, the input of the employer's emergency medical services medical director shall be sought with regard to the matter. In the event of an action against an organization, the determination ***that an immediate temporary suspension is necessary in order to protect the public*** shall be made by the state medical advisor, ~~one (1) physician member of the board,~~ and ***two (2) [one (1)] other members [member]*** of the board who ***are appointed [is not a physician selected]*** by the chairman of the board. When this action may be necessary, the executive director, in writing, shall issue an emergency order suspending the licensee or certificate holder. Upon appeal of an emergency order, an emergency hearing shall be conducted in accordance with KRS 13B.125.
- (2) No board member shall be disqualified from serving on a disciplinary action hearing panel for the reason that he or she has previously sat on a hearing panel considering temporary suspension of the same license.
- (3) Disciplinary actions in which a license or certification has been temporarily suspended and a hearing shall be held in accordance with KRS 13B.125 within ninety (90) days unless the defendant requests an extension of time.
- (4) The order of immediate temporary suspension shall remain in effect until either retracted or superseded by final disciplinary action by the office of the board. In cases where disciplinary action is imposed, the office of the board may additionally order that the temporary suspension continue in effect until the later expiration of time permitted for appeal or termination of the appellate process.

Section 7. KRS 311A.125 is amended to read as follows:

- (1) For each licensure renewal of a paramedic following the issuance of an initial license or certification by the board, as a prerequisite for license or certification renewal, all individuals licensed under the provisions of this chapter shall be required to document continuing competence during the immediate past licensure or certification period as prescribed in administrative regulations promulgated by the board.



- (2) The compliance with continuing competency requirement shall be documented by the emergency medical services medical director and reported as set forth by the board in administrative regulations promulgated in accordance with KRS Chapter 13A.
- (3) The board shall approve providers of emergency medical services education and continuing education. The approval may include recognition of providers approved by national organizations and state boards of emergency medical services with comparable standards. Standards for these approvals shall be set forth by the board in administrative regulations promulgated in accordance with KRS Chapter 13A. The board need not approve ***continuing education training provided by a licensed ambulance service for anyone certified or licensed by the board***~~[the in-house conduct of in-service training of its own employees or volunteers by a licensed ambulance service]~~.
- (4) The board shall work cooperatively with professional emergency medical services organizations, approved schools, and other potential sources of continuing education programs to ensure that adequate continuing education offerings are available statewide. The board may enter into contractual agreements to implement the provisions of this section.

**Approved April 24, 2006.**

## CHAPTER 244

(HB 669)

AN ACT relating to agricultural products.

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

Section 1. KRS 45A.645 is amended to read as follows:

- (1) If purchasing agricultural products, state agencies, as defined by KRS 45A.505, ~~shall be encouraged to~~ purchase Kentucky-grown agricultural products, if ***the products are*** available ***and if the vendor can meet the applicable quality standards and pricing requirements of the state agency.***
- (2)
  - (a) Prospective vendors of Kentucky-grown agricultural products may apply to the Kentucky Department of Agriculture for marketing assistance for the purchase of Kentucky-grown logos or labeling statements to be used on Kentucky-grown agricultural products under KRS 260.015, the Kentucky logo or labeling program.
  - (b) Before a state agency may purchase Kentucky-grown agricultural products, the vendor shall be required to participate in the logo or labeling program established by KRS 260.015, and shall provide to the purchasing officer written certification that the agricultural products under consideration for purchase meet the definition of Kentucky-grown agricultural product.
  - (c) ***All state agencies that purchase Kentucky-grown agricultural products shall, on or before January 1 of each year, provide a report to the Legislative Research Commission and to the Department of Agriculture describing the amount of each product purchased.***
- (3) If a contract is awarded to a vendor that supplies agricultural products that are raised or produced outside the United States or its territories, the vendor shall be required to identify the country in which the agricultural product was raised or produced if the vendor is the producer or packager of the product or if the vendor is not the producer or packager, provided the information is available to the vendor from the producer or packager of the product. The producer or packager shall clearly label that information on any containers or packages holding the product.

**Approved April 24, 2006.**

## CHAPTER 245

(SB 191)

AN ACT relating to workers' compensation.

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

Legislative Research Commission PDF Version

## SECTION 1. A NEW SECTION OF KRS CHAPTER 342 IS CREATED TO READ AS FOLLOWS:

- (1) *The General Assembly finds and declares that there is a need to protect employees of workers' compensation self-insured employers who had claims for injuries that occurred prior to the creation of the workers' compensation self-insurance guaranty funds under this chapter. The General Assembly further finds that there may be instances in which the security of a former self-insured employer is insufficient to pay the entire workers' compensation claim of an injured employee who was injured prior to March 1, 1997.*
- (2) *There is hereby established the self-insurance fund for the purpose of making payments to workers' compensation claimants injured prior to March 1, 1997, when the security of a former self-insured employer has been depleted.*
- (3) *(a) The executive director shall be:*
  1. *Authorized to disburse moneys from the fund in accordance with written orders of an administrative law judge or the board; and*
  2. *Responsible for administration of the fund and conservation of the assets of the fund.**(b) The executive director may hire an administrator to oversee the payment of claims as provided in this section.*
- (4) *Notwithstanding any provision of the Kentucky Revised Statutes to the contrary, all amounts collected after the effective date of this Act as fines and penalties under KRS 342.267 and KRS 342.990 shall be paid into the self-insurance fund.*
- (5) *The self-insurance fund shall be responsible for the payment of compensation when there has been a default in the payment of compensation by a self-insured employer and the security held by the Office of Workers' Claims has been completely depleted.*
- (6) *The Office of Workers' Claims shall appoint an attorney on its staff or special counsel to represent the self-insurance fund in all proceedings brought to enforce claims against or on behalf of the self-insurance fund. Necessary expenses for this purpose including salaries or special counsel shall be borne by the self-insurance fund.*
- (7) *Any party seeking reopening under KRS 342.125 or action on a claim involving the self-insurance fund shall name the self-insurance fund in its action.*
- (8) *(a) The Workers' Compensation Funding Commission shall hold, invest, and reinvest the funds collected for the self-insurance fund;*  
*(b) The Funding Commission shall have the same authority and duties with regard to the self-insurance fund as described in KRS 342.1223; and*  
*(c) The Funding Commission shall disburse moneys of the fund as requested by the executive director of the Office of Workers' Claims pursuant to subsection (3) of this section.*
- (9) *Amounts in the self-insurance fund not expended at the close of the fiscal year shall not lapse but shall be carried forward to the next fiscal year. Any interest earnings of the self-insurance fund shall become part of the fund and shall not lapse.*

## Section 2. KRS 342.990 is amended to read as follows:

- (1) The executive director shall initiate enforcement of civil and criminal penalties imposed in this section.
- (2) When the executive director receives information that he deems sufficient to determine that a violation of this chapter has occurred, he shall seek civil penalties pursuant to subsections (3) to (7) of this section, or criminal penalties pursuant to subsections (8) and (9) of this section, or both.
- (3) The executive director shall initiate enforcement of a civil penalty by simultaneously citing the appropriate party for the offense and stating the civil penalty to be paid.
- (4) If, within fifteen (15) working days from the receipt of the citation, a cited party fails to notify the executive director that he intends to contest the citation, then the citation shall be deemed final.
- (5) If a cited party notifies the executive director that he intends to challenge a citation issued under this section, the executive director shall cause the matter to be heard as soon as practicable by an administrative law judge

and in accordance with the provisions of KRS Chapter 13B. The burden of proof shall be upon the attorney representing the executive director to prove the offense stated in the citation by a preponderance of the evidence. The parties shall stipulate to uncontested facts and issues prior to the hearing before the administrative law judge. The administrative law judge shall issue a ruling within sixty (60) days following the hearing.

- (6) A party may appeal the ruling of the administrative law judge to the Franklin Circuit Court in conformity with KRS 13B.140.
- (7) The following civil penalties shall be applicable for violations of particular provisions of this chapter:
  - (a) Any employer, insurer, or payment obligor subject to this chapter who fails to make a report required by KRS 342.038 within fifteen (15) days from the date it was due, shall be fined not less than one hundred dollars (\$100) nor more than one thousand dollars (\$1,000) for each offense.
  - (b) Any employer, insurer, or payment obligor acting on behalf of an employer who fails to make timely payment of a statement for services under KRS 342.020(1) without having reasonable grounds to delay payment may be fined not less than one hundred dollars (\$100) nor more than one thousand dollars (\$1,000) for each offense.
  - (c) Any person who violates KRS 342.020(9), 342.035(2), 342.040, 342.340, 342.400, 342.420, or 342.630 shall be fined not less than one hundred dollars (\$100) nor more than one thousand dollars (\$1,000) for each offense. With respect to employers who fail to maintain workers' compensation insurance coverage on their employees, each employee of the employer and each day of violation shall constitute a separate offense. With respect to KRS 342.040, any employer's insurance carrier or other party responsible for the payment of workers' compensation benefits shall be fined for failure to notify the executive director of a failure to make payments when due if a report indicating the reason payment of income benefits did not commence within twenty-one (21) days of the date the employer was notified of an alleged work-related injury or disease is not filed with the executive director within twenty-one (21) days of the date the employer received notice, and if the employee has not returned to work within that period of time. The date of notice indicated in the report filed with the office pursuant to KRS 342.038(1), shall raise a rebuttable presumption of the date on which the employer received notice.
  - (d) Any person who violates any of the provisions of KRS 342.165(2), 342.335, 342.395, 342.460, 342.465, or 342.470 shall be fined not less than two hundred dollars (\$200) nor more than two thousand dollars (\$2,000) for each offense. With respect to KRS 342.395, each required notice of rejection form executed by an employee or potential employee of an employer shall constitute a separate offense.
  - (e) Any person who fails to comply with the data reporting provisions of administrative regulations promulgated by the executive director pursuant to KRS 342.039, or with utilization review and medical bill audit administrative regulations promulgated pursuant to KRS 342.035(5), shall be fined not less than one hundred dollars (\$100) nor more than one thousand dollars (\$1,000) for each violation.
  - (f) Except as provided in paragraph (g) of this subsection, a person who violates any of the provisions of KRS 342.335(1) or (2) where the claim, compensation, benefit, or money referred to in KRS 342.335(1) or (2) is less than or equal to three hundred dollars (\$300) shall be fined per occurrence not more than one thousand dollars (\$1,000) per individual nor five thousand dollars (\$5,000) per corporation, or twice the amount of gain received as a result of the violation, whichever is greater.
  - (g) Any person who violates any of the provisions of KRS 342.335(1) or (2) where the claim, compensation, benefit, or money referred to in KRS 342.335(1) or (2) exceeds three hundred dollars (\$300) shall be fined per occurrence not more than five thousand dollars (\$5,000) per individual nor ten thousand dollars (\$10,000) per corporation, or twice the amount of gain received as a result of the violation, whichever is greater.
  - (h) Any person who violates the employee leasing provision of this chapter shall be fined not less than five hundred dollars (\$500) nor more than five thousand dollars (\$5,000) for each violation.
  - (i) Any violation of the provisions of this chapter relating to self-insureds shall constitute grounds for decertification of such self-insured, a fine of not less than five hundred dollars (\$500) nor more than five thousand dollars (\$5,000) per occurrence, or both.

- (j) Actions to collect the civil penalties imposed under this subsection shall be instituted in the Franklin District Court and the Franklin Circuit Court.
- (8) The executive director shall initiate enforcement of a criminal penalty by causing a complaint to be filed with the appropriate local prosecutor. If the prosecutor fails to act on the violation within twenty (20) days following the filing of the complaint, the executive director shall certify the inaction by the local prosecutor to the Attorney General who shall initiate proceedings to prosecute the violation. The provisions of KRS 15.715 shall not apply to this section.
- (9) The following criminal penalties shall be applicable for violations of particular provisions of this chapter:
  - (a) Any person who violates KRS 342.020(9), 342.035(2), 342.040, 342.400, 342.420, or 342.630, shall, for each offense, be fined not less than one hundred dollars (\$100) nor more than one thousand dollars (\$1,000), or imprisoned for not less than thirty (30) days nor more than one hundred eighty (180) days, or both.
  - (b) Any person who violates any of the provisions of KRS 342.165(2), 342.335, 342.460, 342.465, or 342.470 shall, for each offense, be fined not less than two hundred dollars (\$200) nor more than two thousand dollars (\$2,000), or imprisoned for not less than thirty (30) days nor more than one hundred and eighty (180) days, or both.
  - (c) Any corporation, partnership, sole proprietorship, or other form of business entity and any officer, general partner, agent, or representative of the foregoing who knowingly utilizes or participates in any employee leasing arrangement or mechanism as defined in KRS 342.615 for the purpose of depriving one (1) or more insurers of premium otherwise properly payable or for the purpose of depriving the Commonwealth of any tax or assessment due and owing and based upon said premium shall upon conviction thereof be subject to a fine of not less than five hundred dollars (\$500) nor more than five thousand dollars (\$5,000), or imprisonment for not more than one hundred eighty (180) days, or both, for each offense.
  - (d) Notwithstanding any other provisions of this chapter to the contrary, when any employer, insurance carrier, or individual self-insured fails to comply with this chapter for which a penalty is provided in subparagraphs (7), (8), and (9) above, such person, if the person is an owner in the case of a sole proprietorship, a partner in the case of a partnership, a principal in the case of a limited liability company, or a corporate officer in the case of a corporation, who knowingly authorized, ordered, or carried out the violation, failure, or refusal shall be personally and individually liable, both jointly and severally, for the penalties imposed in the above cited subparagraphs. Neither the dissolution nor withdrawal of the corporation, partnership, or other entity from the state, nor the cessation of holding status as a proprietor, partner, principal, or officer shall discharge the foregoing liability of any person.
- (10) Fines paid pursuant to **KRS 342.267 and** subsections (7) and (9) of this section shall be paid into the **self-insurance fund established in Section 1 of this Act**~~[special fund]~~.
- (11) In addition to the penalties provided in this section, the executive director and any administrative law judge, or court of jurisdiction may order restitution of a benefit secured through conduct proscribed by this chapter.

**Approved April 24, 2006.**

## CHAPTER 246

(HB 437)

AN ACT relating to local government.

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

SECTION 1. A NEW SECTION OF KRS CHAPTER 67 IS CREATED TO READ AS FOLLOWS:

***In order to promote efficient and economical management of the affairs of local government and prevent the duplication of services, the voters of any county, except a county containing a consolidated local government, an urban-county government, or a charter county government, may vote to unite the county government with one or more cities within the county to form a unified local government. The creation and implementation of a unified local government shall take place only after compliance with the procedures set forth in Sections 1 to 21 of this Act.***

## SECTION 2. A NEW SECTION OF KRS CHAPTER 67 IS CREATED TO READ AS FOLLOWS:

*As used in Sections 1 to 21 of this Act:*

- (1) *"Citizen member" means a person who is neither an elected nor an appointed official or employee of the county or a participating city.*
- (2) *"Participating city" means a city that has filed an ordinance with the county clerk and has been named in the notification sent by the county clerk under subsection (3) of Section 3 of this Act.*
- (3) *"Population" means the number of residents residing within the territorial limits of a city or county based upon the most recent official decennial census by the United States Bureau of Census.*

## SECTION 3. A NEW SECTION OF KRS CHAPTER 67 IS CREATED TO READ AS FOLLOWS:

*The unification process shall be initiated in the following manner:*

- (1) *The legislative body of one (1) or more cities within the county and the county fiscal court may enact ordinances proposing that a commission be formed to study the question of unifying the county government with one (1) or more cities within the county to form a unified local government. The executive authority of each city enacting an ordinance shall cause a copy of the ordinance to be filed with the county clerk no later than ten (10) days after enactment.*
- (2) *The county clerk shall be responsible for determining whether the required ordinances have been filed to initiate the unification process. The unification process shall be initiated when the county clerk determines that:*
  - (a) *An ordinance has been enacted by the county fiscal court under subsection (1) of this section; and*
  - (b) *An ordinance has been enacted and filed by one (1) or more cities within the county.*
- (3) *If the county clerk makes the determination required by subsection (2) of this section, the clerk shall notify the county judge/executive, the mayor of each city within the county, and the chief executive officer of every special district within the county that the unification process has been initiated by the county and the city or cities named in the notification.*
- (4) *Within sixty (60) days of notification by the county clerk that the unification process has been officially initiated, a unification review commission shall be appointed.*

## SECTION 4. A NEW SECTION OF KRS CHAPTER 67 IS CREATED TO READ AS FOLLOWS:

- (1) *The county judge/executive and the mayor of the participating city with the greatest population shall jointly determine the size of the unification review commission which shall be composed of not less than twenty (20) or more than forty (40) members.*
- (2) *The membership of the unification review commission shall be divided equally between the county and the participating cities. The mayor of each participating city shall, with the approval of the city legislative body, make a number of appointments based on the ratio that the percentage of the population residing in the mayor's city bears to the population of all participating cities. Each participating city shall have a minimum of one (1) representative on the unification review commission. The county judge/executive shall, with the approval of the fiscal court, appoint a number of members to the unification review commission equal to the number of city members.*
- (3) *The chairperson of the unification review commission shall be a citizen member elected by a majority vote of the membership of the unification review commission at its first meeting.*
- (4) *Any vacancy on the commission shall be filled in the same manner as original appointments are made.*

## SECTION 5. A NEW SECTION OF KRS CHAPTER 67 IS CREATED TO READ AS FOLLOWS:

*Unless otherwise agreed upon by the county and the participating cities, the unification review commission shall be funded by the fiscal court and each participating city in proportion to their relative population. For purposes of this section, the population of the county shall be calculated excluding the population of any participating city.*

## SECTION 6. A NEW SECTION OF KRS CHAPTER 67 IS CREATED TO READ AS FOLLOWS:

- (1) *The unification review commission shall study matters relating to the feasibility of forming a unified local government, and, if unification is proposed, develop a unification plan consistent with the provisions of the Kentucky Constitution and Sections 1 to 21 of this Act. A unification plan shall include:*
  - (a) *The process for establishing the unified local government;*
  - (b) *A description of the form, structure, functions, and powers of the proposed unified local government;*
  - (c) *A description of the officers of the proposed unified local government and their powers and duties;*
  - (d) *A procedure for the orderly and timely transition of specified services, functions, and responsibilities from each affected city and the county to the unified local government;*
  - (e) *A procedure for the orderly transition to the unified local government of the services, functions, and responsibilities of any special district that will be eliminated;*
  - (f) *A procedure for the orderly transition to the unified local government of the services, functions, and responsibilities of any board, commission, or authority that will be eliminated;*
  - (g) *The procedures by which the unification plan may be amended; and*
  - (h) *Such other provisions as the commission shall determine.*
- (2) *The unification review commission may propose a unification plan under which the county and one (1) or more participating cities unite to form a single unit of local government.*
- (3) *The unification plan shall be completed within two (2) years of the commission's appointment. If a majority of the commission members are unable to agree on a plan for unification within the two (2) year period, the unification review commission shall be dissolved by operation of law*

SECTION 7. A NEW SECTION OF KRS CHAPTER 67 IS CREATED TO READ AS FOLLOWS:

- (1) *The legislative authority of a unified local government shall be vested in a legislative council elected in the manner provided by the unification plan.*
- (2) *The executive authority of a unified local government shall be vested in a chief executive officer elected in the manner provided by the unification plan. The chief executive officer shall have the powers and duties of a county judge/executive under KRS 67.710 and a mayor under KRS 83A.130.*
- (3) *A chief administrative officer may be employed to serve on the staff of the chief executive officer. A chief administrative officer shall be appointed by the chief executive officer, subject to confirmation by a vote of three-fifths (3/5) of the legislative council, and possess education or professional experience, or both, in the area of public administration. A chief administrative officer may be removed by executive order of the chief executive officer or by a vote of three-fifths (3/5) of the entire legislative body.*
- (4) *The chief executive officer shall appoint all members of boards, commissions, authorities, or other entities formed by the unified local government after the effective date of the unification plan and shall fill all vacancies as they occur on boards, commissions, authorities, or other entities created by the county or a participating city prior to the effective date of the unification plan, which continue to exist after unification. All appointments by the chief executive officer shall be made subject to confirmation by a majority of the legislative council.*
- (5) *The salary of the chief executive officer of a unified local government shall be no less than the salary of a county judge/executive pursuant to KRS 64.535 based upon the population of the county in the year prior to election of the chief executive officer.*

SECTION 8. A NEW SECTION OF KRS CHAPTER 67 IS CREATED TO READ AS FOLLOWS:

*The unification review commission shall hold at least one (1) public hearing prior to finalizing its plan to combine county government with one (1) or more cities within the county into a unified local government. The commission may hold additional public hearings as determined by the commission. Notice setting forth the time, date, location, and purpose of the public hearing shall be published as required by KRS Chapter 424.*

SECTION 9. A NEW SECTION OF KRS CHAPTER 67 IS CREATED TO READ AS FOLLOWS:

*Following its final public hearing, the unification review commission shall vote on the proposed unification plan as presented, or as modified by the commission. A unification plan approved by a majority vote of the commission members shall be submitted to the registered voters in the county for a vote at the next regular election.*

## SECTION 10. A NEW SECTION OF KRS CHAPTER 67 IS CREATED TO READ AS FOLLOWS:

- (1) *The question whether the unification plan shall be adopted shall be filed with the county clerk not later than the second Tuesday in August preceding the day of the next regular election. The plan shall be advertised at least once not later than ninety (90) days before the regular election at which the voters will be asked to approve or disapprove the adoption of the unification plan.*
- (2) *The question to be submitted to the voters shall read as follows:*  

*"Are you in favor of unifying the city (or cities) of \_\_\_\_\_ and \_\_\_\_\_ County into a single government according to the unification plan adopted by the Unification Review Commission?"*
- (3) *The unification plan shall be adopted if a majority of those voting on the issue are in favor of forming a unified local government.*
- (4) *The votes shall be counted, returns made, and canvassed in accordance with the provisions of KRS Chapters 116 to 121 governing elections, and the results shall be certified by the county board of election commissioners to the county clerk. If a majority of those voting on the issue are in favor of forming a unified local government, the county board of election commissioners shall enter the fact of record and the unified local government shall be organized as provided in the unification plan.*
- (5) *An adopted unification plan shall take effect January 1 following the election of officers to fill elective offices created by the unification plan. Officers shall be elected in the regular election in the next even-numbered year following adoption of the unification plan.*
- (6) *If the question whether the unification plan shall be adopted is rejected by a majority of the electorate, the question is defeated and cannot be voted on again for five (5) years from the date of certification of the election results.*

## SECTION 11. A NEW SECTION OF KRS CHAPTER 67 IS CREATED TO READ AS FOLLOWS:

- (1) *If the unification plan of a unified local government provides for election of legislative council members by legislative district, the legislative council may defer redistricting of legislative districts, subsequent to each decennial census by the United States Bureau of Census, until after completion of the redistricting of General Assembly seats within the unified local government after that census.*
- (2) *The redistricting of unified local government legislative districts under this section shall be effective for the first regular unified local government primary election scheduled more than one hundred eighty (180) days after completion of the redistricting. But, in no event shall the redistricting become effective later than two (2) years after release of the census data upon which the redistricting is based.*

## SECTION 12. A NEW SECTION OF KRS CHAPTER 67 IS CREATED TO READ AS FOLLOWS:

- (1) *A unified local government may exercise the constitutional and statutory rights, powers, privileges, immunities, and responsibilities of counties and of cities of the highest class within the unified local government:*
  - (a) *In effect on the date the unified local government becomes effective;*
  - (b) *Which may subsequently be authorized for or imposed upon counties and cities of that class; and*
  - (c) *Which may be authorized for or imposed upon unified local governments.*
- (2) *A unified local government shall be accorded the same sovereign immunity granted counties, their agencies, officers, and employees.*
- (3) *All ordinances of a unified local government shall be enacted and enforced pursuant to KRS 83A.060 and 83A.065.*

## SECTION 13. A NEW SECTION OF KRS CHAPTER 67 IS CREATED TO READ AS FOLLOWS:

*Unless otherwise specifically set forth in the unification plan that is approved by the unification commission and submitted to the voters, ordinances, orders, resolutions, and other effects of law in force within a county and participating city at the time of unification that do not conflict with the unification plan remain in effect until superseded by specific action of the new governing body of the unified local government.*

- (1) *If a participating city ordinance conflicts with a county ordinance, the county ordinance shall prevail and shall become effective countywide;*
- (2) *If a participating city ordinance addresses a subject not addressed by a county ordinance, the city ordinance shall remain effective only within the territory of the participating city until changed by the unified local government;*
- (3) *If a participating city ordinance addresses a subject not addressed by a county ordinance, but conflicts with an ordinance of another participating city, the ordinances shall remain effective in each participating city until changed by the unified local government; and*
- (4) *If a county ordinance addresses a subject matter not addressed by a participating city ordinance, the county ordinance shall become effective countywide.*

SECTION 14. A NEW SECTION OF KRS CHAPTER 67 IS CREATED TO READ AS FOLLOWS:

*All contracts, bonds, franchises, and other obligations of a participating city and the county in existence on the effective date of a unified local government shall continue in force and effect as obligations of the unified local government and the unified local government shall succeed to all rights and entitlements thereunder. All conflicts in the provisions of the contracts, bonds, franchises, or other obligations shall be resolved in a manner that does not impair the rights of any of the parties.*

SECTION 15. A NEW SECTION OF KRS CHAPTER 67 IS CREATED TO READ AS FOLLOWS:

- (1) *Except as provided in subsection (2) of this section, all offices provided for in Sections 99 and 144 of the Constitution of Kentucky shall remain in existence upon the unification of a county and a participating city or cities pursuant to Sections 1 to 21 of this Act. However, all existing powers and duties of the offices shall be assigned to the unified local government.*
- (2) *Nothing in Sections 1 to 21 of this Act shall alter or affect the election or term of any county court clerk, county attorney, coroner, jailer, sheriff, surveyor, or assessor. Nor shall any provision of Sections 1 to 21 of this Act be construed to alter or affect the powers, duties, or responsibilities of these officers as prescribed by the Constitution and laws of the Commonwealth of Kentucky. Any funding responsibilities or oversight of any constitutional officers or their employees previously exercised by the county, which shall include the approval of the annual budget of the sheriff's and the county clerk's offices, shall be transferred to the unified local government.*

SECTION 16. A NEW SECTION OF KRS CHAPTER 67 IS CREATED TO READ AS FOLLOWS:

- (1) *Upon the effective date of an adopted unification plan, all regular employees of the county and participating city or cities shall become employees of the unified local government.*
- (2) *All rights, privileges, and protections attributed to a regular employee by a civil service system established by a county or participating city prior to the effective date of the unification plan shall continue in effect until changed by statute or ordinance.*
- (3) *Upon the establishment of a unified local government, all rights, privileges, and protections of beneficiaries of a retirement fund or pension fund established by a participating city or county shall continue in effect until all benefits due each beneficiary have been paid.*

SECTION 17. A NEW SECTION OF KRS CHAPTER 67 IS CREATED TO READ AS FOLLOWS:

*The territory of a unified local government may be divided into service districts. Each service district shall constitute a separate tax district within which the unified local government shall levy and collect taxes in accordance with the kind, type, level, and character of the services provided by the unified local government in each district. The legislative council of a unified local government may abolish or alter existing districts, or create new districts and may establish partial service districts into which one (1) or more services provided within a full service district may be expanded or extended, and may establish service districts into which all of the services provided within a full service district shall be expanded or extended, along with one (1) or more other services not provided within the full service district.*

SECTION 18. A NEW SECTION OF KRS CHAPTER 67 IS CREATED TO READ AS FOLLOWS:

*Unless eliminated under the unification plan, all taxing districts, fire protection districts, sanitation districts, water districts, and any special taxing or service districts of any kind existing upon the successful passage of the question set out in Section 10 of this Act shall continue in existence unless dissolved in the manner prescribed by*



*law and shall continue to exercise all the powers and functions permitted by the Constitution and the general laws of the Commonwealth of Kentucky. If a special taxing district in existence upon the successful passage of the question is eliminated under the unification plan or is later dissolved, the unified government may include any rate levied by the special district as part of its levied rate in the area served by the special district without having to comply with the provisions of KRS 132.027.*

SECTION 19. A NEW SECTION OF KRS CHAPTER 67 IS CREATED TO READ AS FOLLOWS:

- (1) Unless eliminated under the unification plan, all ordinances of a county and participating city creating boards, commissions, and authorities and interlocal agreements shall survive and be deemed reenacted by the new legislative council. All members of boards, commissions, and authorities may serve the balance of the terms to which they were appointed and until their successors are appointed and duly qualified according to law. The legislative council shall have the power, by ordinance, to take such action as it deems necessary to abolish, restructure, consolidate or otherwise alter any board, commission, or authority, if the action is consistent with the Kentucky Revised Statutes.*
- (2) All planning commissions established pursuant to KRS Chapter 100 in existence within a county upon the adoption of a unified local government shall continue to exercise all of the powers and functions permitted by the Constitution of Kentucky and the Kentucky Revised Statutes, until dissolved in the same manner prescribed by law.*

SECTION 20. A NEW SECTION OF KRS CHAPTER 67 IS CREATED TO READ AS FOLLOWS:

- (1) The tax structure, tax rates, and level of services in effect in the county and in each of the participating cities upon the adoption of a unified local government shall remain in effect after the adoption of the unified local government and shall remain the same until changed by the newly elected unified local government legislative council.*
- (2) In order to maintain the tax structure, tax rates, or level of services in the areas of the unified local government formerly comprising incorporated cities, the unified local government council may provide, in a manner described in this section, for taxes and services within the formerly incorporated cities that are different from the taxes and services which are applicable in the remainder of the unified local government. If a unified government is formed that contains a participating city with a restaurant tax imposed pursuant to KRS 91A.400, the restaurant tax may be retained by the unified government in the area of the participating city.*
- (3) Any difference in the ad valorem tax rate on the class of property which includes the surface of the land in the portion of the county formerly comprising the incorporated cities, and the surface of the land in the portion of the county other than that formerly comprising the incorporated cities, may be imposed directly by the unified local government legislative council. Any change in these ad valorem tax rates shall comply with KRS 68.245, 132.010, 132.017, and 132.027 and shall be used for services as provided by KRS 82.085.*
- (4) All delinquent taxes of a participating city in a unified local government shall be filed with the county clerk and shall be known as certificates of delinquency and shall be governed by the procedures set out in KRS Chapter 134, except that certificates of delinquency on former city tax bills do not have to be advertised as set out in KRS 134.440 and may be paid or purchased directly from the clerk under the provisions of KRS 134.480 without a sheriff's sale pursuant to KRS 134.450.*

SECTION 21. A NEW SECTION OF KRS CHAPTER 67 IS CREATED TO READ AS FOLLOWS:

- (1) Any nonparticipating city located within the territory of a unified local government following adoption of a unification plan, shall remain incorporated unless dissolved in accordance with KRS 81.094 and shall continue to exercise all powers and perform all functions permitted by the Constitution of Kentucky and the Kentucky Revised Statutes applicable to cities of the class to which it has been assigned.*
- (2) After the adoption of a unified local government, there shall be no further incorporation of cities within the county.*
- (3) After the adoption of a unified local government, any proposed annexation by a city in the county shall first receive the approval of the legislative council of the unified local government prior to the city proceeding under the provisions of KRS Chapter 81A. The city shall request the approval of the unified local government by ordinance. The unified local government shall respond by ordinance within sixty (60) days of receipt of the request. If an ordinance has not been enacted by the unified local government*

*legislative council within sixty (60) days, the request by a city to proceed with an annexation proposal shall be deemed to be approved by the unified local government.*

**Approved April 24, 2006.**

## **CHAPTER 247**

### **(SB 123)**

AN ACT relating to the transfer of money and other things of value and declaring an emergency.

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

SECTION 1. KRS CHAPTER 366A IS ESTABLISHED AND A NEW SECTION THEREOF IS CREATED TO READ AS FOLLOWS:

*This chapter may be cited as the Kentucky Money Transmitters Act of 2006.*

SECTION 2. A NEW SECTION OF KRS CHAPTER 366A IS CREATED TO READ AS FOLLOWS:

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

- (1) *“Affiliate” means any person who directly or indirectly through one or more intermediaries, controls, is controlled by, or is under common control with, another person;*
- (2) *“Agent” means a person authorized by written agreement and designated by the licensee to act on behalf of a licensee under the provisions of this chapter;*
- (3) *“Applicant” means a person filing an application or renewal application for a license under this chapter;*
- (4) *“Control” means:*
  - (a) *Ownership of, or the power to vote, directly or indirectly, twenty-five percent (25%) or more of a class of voting securities or voting interests of a licensee or applicant, or person in control of a licensee or applicant;*
  - (b) *The power to elect a majority of executive officers, managers, directors, trustees, or other persons exercising managerial authority of a licensee or applicant, or person in control of a licensee or applicant; or*
  - (c) *The power to exercise, directly or indirectly, a controlling influence over the management or policies of a licensee or applicant, or person in control of a licensee or applicant;*
- (5) *“Controlling person” means any person in control of a licensee;*
- (6) *“Director” means a member of a licensee's or applicant's board of directors if the applicant or licensee is a corporation, or manager if the applicant or licensee is a limited liability company, or a partner if the applicant or licensee is a partnership;*
- (7) *“Electronic instrument” means a card or other tangible object for the transmission or payment of money, including a stored value card or device, which contains a microprocessor chip, magnetic stripe, or other means for storage of information, that is prefunded and for which the value is decremented upon each use, but does not include a card or other tangible object that is redeemable by the issuer in the issuer's goods and services;*
- (8) *“Executive director” means the executive director of the Office of Financial Institutions;*
- (9) *“Executive officer” means the president, chairperson of the executive committee, responsible individual, chief financial officer and any other person who performs similar functions;*
- (10) *“Financial institution” means any person doing business under the laws of any state or commonwealth or the United States relating to banks, bank holding companies, savings banks, savings and loan associations, trust companies, or credit unions;*
- (11) *“Insolvent” means that appearing upon examination of any licensee or its agent that its liabilities exceeds its assets or it cannot meet its obligations in the usual and ordinary course of business for any reason;*

- (12) *"Key shareholder" means any person, or group of persons acting in concert, who is the owner of twenty percent (20%) or more of any voting class of an applicant's or licensee's stock;*
- (13) *"Licensee" means a person licensed under this chapter;*
- (14) *"Material litigation" means litigation that according to generally accepted accounting principles is significant to an applicant's or a licensee's financial health, and would be required to be disclosed in the applicant's or licensee's annual audited financial statements, report to shareholders, or similar records, including any adjudication against an applicant or licensee by a federal or state administrative or regulatory agency relating to a violation of the Bank Secrecy Act, 31 U.S.C. Sections 5311-5332 and 31 C.F.R. part 103, regardless of whether the applicant or licensee has admitted liability or fault;*
- (15) *"Monetary value" means a medium of exchange whether or not redeemable in money;*
- (16) *"Money" means a medium of exchange that is authorized or adopted by the United States or a foreign government or other recognized medium of exchange, including a monetary unit of account established by an intergovernmental organization or by agreement between two (2) governments;*
- (17) *"Money transmission" means engaging in the business of receiving money or monetary value to transmit, deliver, or instruct to be transmitted or delivered, money or monetary value to another location inside or outside the United States by any and all means, including but not limited to wire, facsimile, electronic transfer, or issuing stored value;*
- (18) *"Money transmitter" means a person that is engaged in money transmission;*
- (19) *"Net worth" means the excess of assets over liabilities as determined by generally accepted accounting principles;*
- (20) *"Office" means the Kentucky Office of Financial Institutions;*
- (21) *"Outstanding payment instrument" means any payment instrument issued by the licensee which has been sold or issued in the United States directly by the licensee or any payment instrument issued by the licensee which has been sold by an agent of the licensee in the United States, which has been reported to the licensee as having been sold, and which has not yet been paid by or for the issuer;*
- (22) (a) *"Payment instrument" means:*
  - 1. *A check, draft, money order, traveler's check or other written or electronic instrument or order for the transmission or payment of money, sold or issued to one or more persons, whether or not such instrument is negotiable; or*
  - 2. *The purchase or the deposit of funds for the purchase of a check, draft, money order, traveler's check or other written or electronic instrument;*(b) *"Payment instrument" does not include any credit card voucher, letter of credit, or instrument that is redeemable by the issuer in goods or services;*
- (23) *"Person" means any individual, corporation, business trust, estate, trust, partnership, limited liability company, association, organization, joint venture, government and any subdivision, agency or instrumentality thereof, or any other legal or commercial entity;*
- (24) *"Record" means information that is inscribed on a tangible medium, or that is stored in an electronic or other medium, and is retrievable in perceivable form;*
- (25) *"Remit" means either to make direct payment of the funds to the licensee or its representatives authorized to receive those funds, or to deposit the funds in a bank, credit union, or savings and loan association or other similar financial institution in an account specified by the licensee;*
- (26) *"Responsible individual" means an individual who is employed by a licensee and has principal managerial authority over the provision of money transmission by the licensee in this state;*
- (27) *"State" means a state or commonwealth of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession that is subject to the jurisdiction of the United States;*
- (28) *"Stored value" means monetary value that is evidenced by an electronic record; and*

- (29) *“Unsafe or unsound practice” means a practice or conduct by a person licensed to provide money transmission, or an agent of such a person, which creates the likelihood of material loss, insolvency, or dissipation of the licensee’s assets, or otherwise materially prejudices the financial condition of the licensee or the interests of its customers.*

SECTION 3. A NEW SECTION OF KRS CHAPTER 366A IS CREATED TO READ AS FOLLOWS:

- (1) *On or after October 1, 2006, no person shall engage in the business of money transmission in this state without a license, or without being an agent of a licensee, as provided in this chapter.*
- (2) *A person is deemed to be engaged in the business of money transmission under this chapter if the person advertises those services, provides those services with or without compensation, solicits to provide those services or holds itself out as providing those services to or from this state, even if the person has no physical presence in this state.*
- (3) *A licensee may conduct its business in this state at one or more locations, directly or indirectly owned, or through one or more agents, or both, pursuant to the single license issued to the licensee.*
- (4) *A license issued under this chapter shall not be transferred or assigned.*

SECTION 4. A NEW SECTION OF KRS CHAPTER 366A IS CREATED TO READ AS FOLLOWS:

*This chapter does not apply to:*

- (1) *The United States or any department, agency, or instrumentality thereof;*
- (2) *The United States Post Office or a contractor acting on behalf of the United States Post Office;*
- (3) *A state, or any agency, department or political subdivision of a state;*
- (4) *A financial institution or its subsidiaries, affiliates, and service corporations, or any office of an international banking corporation, branch of a foreign bank, or corporation organized pursuant to the Bank Service Corporation Act, 12 U.S.C. secs. 181 to 1867, or a corporation organized under the Edge Act, 12 U.S.C. secs. 611 to 633.*
- (5) *The provision of electronic transfer of government benefits for any federal, state, or county governmental agency as defined in Federal Reserve Board Regulation E, by a contractor for and on behalf of the United States or any department, agency or instrumentality thereof, or any state or any political subdivisions thereof.*

SECTION 5. A NEW SECTION OF KRS CHAPTER 366A IS CREATED TO READ AS FOLLOWS:

- (1) *Each application for a license under this chapter shall be made in writing and in a form and medium prescribed by regulation by the executive director. The application shall state or contain the following:*
  - (a) *The legal name of the applicant, business addresses, and residential addresses, if applicable, of the applicant, and any fictitious or trade name used by the applicant in conducting its business;*
  - (b) *The legal name, residential and business addresses, date of birth, social security number, and employment history for the five (5) year period preceding the filing of the application, of the applicant’s proposed responsible individual;*
  - (c) *A list and description of any criminal conviction, other than a traffic violation, of the applicant and proposed responsible individual, for the ten (10) year period preceding the filing of the application. The executive director may request a copy of any criminal conviction from the applicant, which shall be promptly provided by the applicant to the executive director within ten (10) working days of the request;*
  - (d) *A list and description of any material litigation of the applicant and proposed responsible individual, for the ten (10) year period preceding the filing of the application. The executive director may request a copy of any material litigation from the applicant, which shall be promptly provided by the applicant to the executive director within ten (10) working days of the request;*
  - (e) *A description of the activities conducted by the applicant and a history of operations, including, if applicable, a description of any money transmission that has been previously provided by the applicant in this state;*

- (f) *A list of other states or countries in which the applicant is licensed to engage in money transmission or other similar money services, and any license revocations, suspensions, restrictions, or other disciplinary action taken against the applicant in another state or country;*
  - (g) *A list of any license revocations, suspensions, restrictions, or other disciplinary action taken against any money transmission business involving the proposed responsible individual;*
  - (h) *A description of the source of money and credit to be used by the applicant to provide money transmissions;*
  - (i) *A sample form of contract for an agent;*
  - (j) *A sample form of payment instrument;*
  - (k) *Information concerning any bankruptcy, reorganization, or receivership proceedings involving or affecting the applicant or the proposed responsible individual;*
  - (l) *A list identifying the name, physical location or locations and telephone number at which the applicant and its proposed agents intend to conduct money transmission business in the state at the time of the filing of the license application;*
  - (m) *The name, address, and telephone number of the clearing bank or banks on which the applicant's payment instruments will be drawn or through which such payment instruments will be payable;*
  - (n) *A copy of the written procedures that will be provided by the applicant or licensee to its agent or agents;*
  - (o) *That neither the applicant, nor any executive officer, nor person who exercises control over the applicant, nor key shareholder, nor any proposed agent, nor the proposed responsible individual, is listed on the specially designated nationals and blocked persons list prepared by the United States Department of the Treasury or the United States Department of State under Presidential Executive Order No. 13224 as a potential threat to commit terrorist acts and to finance terrorist acts; and*
  - (p) *Any other information regarding the background, experience, character, financial responsibility, or general fitness of the applicant, the applicant's responsible individual, or agent that the executive director may require by rule or order.*
- (2) *If the applicant is a corporation, limited liability company, partnership, or other entity, then the applicant shall also provide:*
- (a) *A copy of the applicant's filed articles of incorporation;*
  - (b) *The name, address, and telephone number of the registered process agent of the applicant in this state;*
  - (c) *If applicable, then a certificate of good standing from the state or country in which the applicant was incorporated or formed;*
  - (d) *A description of the corporate structure of the applicant, including the identity of any parent or subsidiary of the applicant, and the disclosure of whether any parent or subsidiary is publicly traded on any stock exchange;*
  - (e) *The legal name, any fictitious or trade name, all business and residence addresses, date of birth, social security number, and employment history for the ten (10) year period preceding the filing of the application for each executive officer, board director, key shareholder, or person that has control of the applicant;*
  - (f) *Copies and description of material litigation for the ten (10) year period prior to the filing date of the application of every executive officer or key shareholder of the applicant;*
  - (g) *Copies and descriptions of criminal convictions, other than traffic violations, for the ten (10) year period prior to the filing date of the application of every executive officer or key shareholder of the applicant;*
  - (h) *A copy of the applicant's audited financial statements for the most recent fiscal year or, if the applicant is a wholly owned subsidiary of another corporation, the most recent audited consolidated*

*annual financial statement of the parent corporation or the applicant's most recent audited consolidated annual financial statements and, in each case, if available, for the two (2) year period preceding the filing of the application;*

- (i) *A copy of the applicant's unconsolidated financial statements for the current fiscal year, whether audited or not, and, if available, for the two (2) year period preceding the filing of the application;*
- (j) *If the applicant is publicly traded, then a copy of the most recent report filed with the United States Securities and Exchange Commission pursuant to 15 U.S.C. sec. 78m;*
- (k) *If the applicant is a wholly owned subsidiary of:*
  - 1. *A corporation publicly traded in the United States, then a copy of audited financial statements for the parent corporation for the most recent fiscal year or a copy of the parent corporation's most recent report filed with the United States Securities and Exchange Commission pursuant to 15 U.S.C. sec. 78m; or*
  - 2. *A corporation publicly traded outside of the United States, a copy of similar documentation for the most recent fiscal year filed with the regulator of the parent corporation's domicile outside the United States.*

- (3) *Every corporate applicant, at the time of filing of an application for a license under this chapter and at all times after a license is issued, shall be in good standing in the state of its incorporation.*
- (4) *Every applicant shall, at the time of the filing of an application for a license under this chapter and at all times after a license is issued, be registered or qualified to do business in this state.*
- (5) *The executive director is authorized, for good cause, to waive any requirement of this section with respect to any license application or to permit a license applicant to submit substituted information in its license application in lieu of the information required by this section.*

SECTION 6. A NEW SECTION OF KRS CHAPTER 366A IS CREATED TO READ AS FOLLOWS:

*Each licensee under this chapter shall at all times have a net worth of not less than five hundred thousand dollars (\$500,000), calculated in accordance with generally accepted accounting principles.*

SECTION 7. A NEW SECTION OF KRS CHAPTER 366A IS CREATED TO READ AS FOLLOWS:

- (1) *Each application shall be accompanied by a surety bond or other similar security acceptable to the executive director, in the amount of at least five hundred thousand dollars (\$500,000). The executive director may increase the amount of the surety bond, or other similar security, to a maximum of five million dollars (\$5,000,000), upon the basis of the financial condition of an applicant, as evidenced by net worth, transaction volume, or other relevant criteria, that the executive director may establish by order or rule.*
- (2) *The surety bond, or other similar security acceptable to the executive director, shall be in a form satisfactory to the executive director and shall hold and bind the principal and surety to the Commonwealth of Kentucky for the benefit of any claimants against the licensee to secure the faithful performance of the obligations of the licensee with respect to the receipt, handling, transmission, and payment of money in connection with the sale and issuance of payment instruments or money transmissions by the licensee and its agent. The aggregate liability of the surety bond or other similar security accepted shall not exceed the principal sum of the bond.*
- (3) *A claimant may maintain a civil action on the surety bond, or other similar security acceptable to the executive director, against a licensee, or the executive director may maintain an action on behalf of the claimant, in the Franklin Circuit Court, or in any other court of competent jurisdiction, either in one action or in successive actions.*
- (4) *A licensee shall at all times maintain a surety bond, or other similar security acceptable to the executive director, in the amount and type required under subsections (1) and (2) of this section. The executive director may, at any time, accept a substitute or replacement surety bond, or other acceptable similar security, from the licensee, provided that the requirements of subsections (1) and (2) are met.*
- (5) *The surety bond, or other similar security acceptable to the executive director, shall be continuous and remain in effect until canceled. The licensee shall provide the executive director with at least a thirty (30) day written notice of the intent to cancel the surety bond or other similar security accepted by the executive*

*director. The cancellation of the surety bond or other acceptable security shall not affect any liability incurred or accrued during the thirty (30) day notice of cancellation period.*

- (6) *A surety bond, or other security acceptable to the executive director, shall remain in place and cover claims for at least five (5) years after the date of any violation of this chapter by the licensee or its agent, or the date the licensee ceases providing money transmission services in this state, whichever date occurs last. The executive director may permit the licensee to reduce or eliminate the surety bond, or other similar security approved by the executive director, prior to the expiration of the five (5) years, to the extent that the amount of the licensee's payment instruments outstanding in this state are reduced.*

SECTION 8. A NEW SECTION OF KRS CHAPTER 366A IS CREATED TO READ AS FOLLOWS:

- (1) *Every licensee shall, at all times, maintain permissible investments that have a market value that is computed in accordance with generally accepted accounting principles. These investments shall not be less than the aggregate amount of all outstanding payment instruments.*
- (2) *Except to the extent otherwise limited in subsection (5) of this section, the following investments are permissible for a licensee:*
  - (a) *Cash, time deposits, savings deposits, demand deposits, a certificate of deposit, or senior debt obligation of an insured depository institution as defined in 12 U.S.C. sec. 1813 or as defined under 12 U.S.C. sec. 1781;*
  - (b) *Banker's acceptance or bill of exchange that is eligible for purchase upon endorsement by a member bank of the federal reserve system and is eligible for purchase by a federal reserve bank;*
  - (c) *An investment bearing a rating of one of the three (3) highest grades as defined by a nationally recognized organization that rates securities;*
  - (d) *An investment security that is an obligation of the United States or a department, agency, or instrumentality thereof; an investment in an obligation that is guaranteed fully as to principal and interest by the United States; or an investment in an obligation of a state or a governmental subdivision, agency, or instrumentality thereof;*
  - (e) *Receivables that are payable to a licensee from its agents, in the ordinary course of business, pursuant to contracts which are not past due or doubtful of collection, if the aggregate amount of receivables under this paragraph does not exceed twenty percent (20%) of the total permissible investments of a licensee and the licensee does not hold, at one time, receivables under this paragraph in any one person aggregating more than ten percent (10%) of the licensee's total permissible investments.*
- (3) *The following investments are permissible under this section, but only to the extent specified as follows:*
  - (a) *An interest-bearing bill, note, bond, or debenture of a person whose equity shares are traded on a national securities exchange or on a national over-the-counter market, if the aggregate of investments under this paragraph do not exceed twenty percent (20%) of the total permissible investments of a licensee and the licensee does not, at one time, hold investments under this paragraph in any one person aggregating more than ten percent (10%) of the licensee's total permissible investments;*
  - (b) *A share of a person traded on a national securities exchange or a national over-the-counter market or a share or certificate issued by an open-end management investment company that is registered with the United States Securities and Exchange Commission pursuant to 15 U.S.C. secs. 80a-1 to 80a-64, and whose portfolios are restricted by the management company's investment policy to shares of a person traded on a national securities exchange or a national over-the-counter market, if:*
    - 1. *The aggregate of investments under this paragraph does not exceed twenty percent (20%) of the total permissible investments of a licensee; and*
    - 2. *The licensee does not, at one time, hold investments under this paragraph in any one person aggregating more than ten percent (10%) of the licensee's total permissible investments; and*
  - (c) *A demand-borrowing agreement made to a corporation or a subsidiary of a corporation whose securities are traded on a national securities exchange, if:*

1. *The aggregate amount of principal and interest outstanding under demand-borrowing agreements under this paragraph does not exceed twenty percent (20%) of the total permissible investments of a licensee; and*
  2. *The licensee does not, at one time, hold principal and interest outstanding under demand-borrowing agreements under this paragraph with any one person aggregating more than ten percent (10%) of the licensee's total permissible investments.*
- (4) *The aggregate of investments under subsection (3) of this section shall not exceed fifty percent (50%) of the total permissible investments of a licensee.*
  - (5) *The executive director may limit the extent to which a type of investment within a class of permissible investments may be considered a permissible investment, except for money, time deposits, savings deposits, demand deposits, and certificates of deposit issued by a federally insured financial institution. The executive director may by rule or order allow other types of investments that the executive director determines to be substantially equivalent to other permissible investments in regards to safety and soundness.*
  - (6) *Permissible investments, even if commingled with other assets of the licensee, shall be deemed by operation of law to be held in trust for the benefit of the purchasers and holders of the licensee's outstanding payment instruments in the event of insolvency or bankruptcy of the licensee.*

SECTION 9. A NEW SECTION OF KRS CHAPTER 366A IS CREATED TO READ AS FOLLOWS:

*Each application shall be accompanied by a nonrefundable application fee in the amount of five hundred dollars (\$500) and a nonrefundable license fee of five hundred dollars (\$500) if application is made on or before March 31, or the next business day if March 31 falls on a weekend or holiday. If application is made after March 31, the license fee shall be two hundred fifty dollars (\$250). The license shall remain in force through September 30 of the same year the license is issued.*

SECTION 10. A NEW SECTION OF KRS CHAPTER 366A IS CREATED TO READ AS FOLLOWS:

- (1) *Upon the filing of a complete application, the executive director shall investigate the competence, experience, character, financial condition, and responsibility of the applicant. The executive director may conduct an on-site investigation of the applicant, the reasonable cost of which shall be paid by the applicant. The executive director shall review each application on a case-by-case basis. If the executive director finds that the applicant has the competence, experience, character, financial condition and responsibility, and has fulfilled the requirements of this chapter, then the executive director shall issue a license to the applicant authorizing the applicant to engage in the licensed activities in this state. If any of these requirements has not been met, then the executive director shall deny the application, in writing setting out the reason for the denial.*
- (2) *The executive director shall approve, or deny in writing, every completed application for a license within one hundred twenty (120) days from the date a complete application is submitted, which period may be extended for good cause by the executive director.*
- (3) *The executive director may deny a license application where the applicant does not meet the requirements of this chapter or for any of the grounds under Section 20 of this Act.*
- (4) *The executive director may probate, place conditions upon, or refuse to issue or renew any license issued under this chapter.*
- (5) *The executive director may in writing deny, or refuse to renew the designation of an agent by a licensee for any of the grounds found in Section 21 of this Act.*
- (6) *A person is deemed to have received a copy of a written denial issued by the executive director in this section within three (3) days of its mailing.*
- (7) *Any person who has had his license application or designation as an agent denied by the executive director may file a written application for an administrative hearing in accordance with KRS Chapter 13B. The written application shall be filed with the executive director within twenty (20) days of the date of the denial.*
- (8) *A written application for an appeal shall be made in good faith and shall briefly state the reason or reasons the person is aggrieved, together with the grounds to be relied upon as a basis for the relief to be sought at the hearing.*



- (9) *Any person who has had his license application, or designation as an agent, denied by the executive director may not file another application for a license, or designation as an agent, under this chapter for one (1) year after the date of the denial.*

SECTION 11. A NEW SECTION OF KRS CHAPTER 366A IS CREATED TO READ AS FOLLOWS:

- (1) *A licensee under this chapter shall pay an annual renewal fee of five hundred dollars (\$500) no later than September 20 of each year.*
- (2) *The renewal fee shall be accompanied by a written renewal report, in a form prescribed by the executive director, which shall include:*
- (a) *A copy of the licensee's most recent audited annual financial statement, or if the licensee is a wholly owned subsidiary of another corporation, the most recent audited consolidated annual financial statement of the parent corporation, or the licensee's most recent audited financial statement;*
  - (b) *For the most recent quarter for which data is available prior to the date of the filing of the renewal application, but in no event more than one hundred twenty (120) days prior to the renewal date, a list of the number of payment instruments sold by the licensee in the state, the dollar amount of those instruments, and the dollar amount of those instruments currently outstanding;*
  - (c) *Any material changes to any of the information submitted by the licensee on its original application which have not previously been reported to the executive director on any other report required to be filed under this chapter;*
  - (d) *A list of the licensee's permissible investments under this chapter and a certification that the licensee continues to maintain permissible investments according to the requirements set forth in section 8 of this Act; and*
  - (e) *A list of the locations, including names, physical addresses, and telephone numbers, in this state where the licensee or agent of the licensee engages in money transmission.*
- (3) *The failure of a licensee to pay the annual renewal fee or file the written renewal report, by the renewal date of September 20, shall result in the expiration of the licensee's license by operation of law by September 30 of the same year. The executive director may reinstate the license if the licensee becomes compliant with this chapter and pays a civil penalty equal to the amount of the annual renewal fee, as specified in this section, within thirty (30) days of the expiration of the license.*

SECTION 12. A NEW SECTION OF KRS CHAPTER 366A IS CREATED TO READ AS FOLLOWS:

*A licensee shall file a written report with the executive director within fifteen (15) business days of its knowledge of the occurrence of any one of the events listed below. In the written report, the licensee shall describe the event and its expected impact on the licensee's activities in the state:*

- (1) *Any material change in information provided in a licensee's application or renewal report;*
- (2) *The cancellation or other impairment of the licensee's bond or other similar security accepted by the executive director;*
- (3) *Insolvency or the filing for bankruptcy or reorganization under the United States Bankruptcy Code, 11 U.S.C. secs. 101 to 110, by the licensee, responsible individual, any agent, or any key officers or directors;*
- (4) *The filing of a petition by or against the licensee, or any agent of the licensee, for receivership, the commencement of any other judicial or administrative proceeding for its dissolution or reorganization, or the making of a general assignment for the benefit of its creditors;*
- (5) *The filing of any material litigation against the licensee by any state or federal governmental authority, or by any country in which the licensee engages in the business of money transmission or is licensed;*
- (6) *Any felony indictment of the licensee, responsible individual, agent, or any of its key officers or directors;*
- (7) *Any felony conviction of the licensee, responsible individual, agent, or any of its key officers or directors;*
- (8) *Any misdemeanor conviction of the licensee, responsible individual, agent, or any of its key officers or directors of any misdemeanor involving the business of money transmission; and*

- (9) *Any misdemeanor conviction of the licensee, responsible individual, agent, or any of its key officers or directors of any misdemeanor involving fraud, theft, or breach of trust.*

SECTION 13. A NEW SECTION OF KRS CHAPTER 366A IS CREATED TO READ AS FOLLOWS:

- (1) *A licensee shall give the executive director written notice of a proposed change of control within fifteen (15) days after learning of the proposed change of control and at least thirty (30) days prior to the proposed change of control.*
- (2) *A licensee shall file a written request for approval of the acquisition with the executive director. A licensee shall also submit, with the notice, a nonrefundable fee of one hundred dollars (\$100).*
- (3) *After review of a request for approval under subsection (1) of this section, the executive director may require the licensee to provide additional information concerning the proposed person in control.*
- (4) *The executive director shall approve a request for change of control under subsection (1) of this section if, after investigation, the executive director determines that the person or group of persons requesting approval has the competence, experience, character, financial condition, and responsibility to operate the licensee or person in control of the licensee in a lawful and proper manner and that the interest of the public will not be jeopardized by the change of control.*
- (5) *The following persons are exempt from the requirements of subsection (1) of the section, but the licensee shall notify the executive director, within fifteen (15) days after learning of a change of control:*
- (a) *A person that acts as a proxy for the sole purpose of voting at a designated meeting of the security holders or holders of voting interests of a licensee or person in control of a licensee;*
  - (b) *A person that acquires control of a licensee by devise or descent;*
  - (c) *A person that acquires control as a personal representative, custodian, guardian, conservator, or trustee, or as an officer appointed by a court of competent jurisdiction or by operation of law; and,*
  - (d) *A person that the executive director exempts by regulation or order if it is in the public interest to do so.*
- (6) *Subsection (1) of this section does not apply to public offerings of securities.*
- (7) *Before filing a request for approval to acquire control, a person may request in writing a determination from the executive director as to whether the person would be considered a person in control of a licensee upon consummation of a proposed transaction. If the executive director determines that the person would not be a person in control of a licensee, then the executive director may enter an order or respond in writing, to that effect, and the proposed person and transaction shall not be subject to the requirements of this section.*

SECTION 14. A NEW SECTION OF KRS CHAPTER 366A IS CREATED TO READ AS FOLLOWS:

- (1) *The executive director may conduct an examination or investigation of a licensee or any of its agents, as it relates to the business of money transmission.*
- (2) *The executive director may conduct an examination or investigation in conjunction with representatives of other agencies of this state or agencies of another state or of the federal government. Instead of an examination, the executive director may accept the examination report of an agency of this state or of another state or of the federal government or a report prepared by an independent licensed or certified public accountant. The reasonable expenses incurred by the office, other Kentucky agencies, agencies of another state, agencies of the federal government or an independent licensed or certified accountant in making such examination, investigation, or report shall be borne by the licensee.*
- (3) *A joint examination or an acceptance of an examination report does not preclude the executive director from conducting an examination as provided by law. A joint report or a report accepted under this subsection is an official report of the executive director for all purposes.*
- (4) *A licensee or agent is deemed to consent to the executive director's examination or investigation, whether or not prior notice is given to the licensee or agent, of the books, records, and business operations of the licensee or agent of the licensee.*
- (5) *A report of examination of a licensee under this section shall be considered confidential and privileged and not subject to disclosure under the Kentucky Open Records Act, KRS 61.870-61.884. However, a licensee*

*may disclose a Kentucky report of examination to a financial institution upon written request from the financial institution for the purpose of assisting the financial institution in its compliance with the Bank Secrecy Act, 31 U.S.C. secs. 5311 to 5332 and 31 C.F.R. part 103. The licensee shall provide written notice to the executive director of the disclosure of the Kentucky report of examination at the same time that disclosure is made to the financial institution.*

SECTION 15. A NEW SECTION OF KRS CHAPTER 366A IS CREATED TO READ AS FOLLOWS:

- (1) *Each licensee shall make, keep, and preserve the following books, accounts and other records for a period of five (5) years and these records shall be open to inspection by the executive director:*
  - (a) *A record or records of each payment instrument sold;*
  - (b) *A general ledger containing all assets, liability, capital, income and expense accounts, which general ledger shall be posted at least monthly;*
  - (c) *Bank statements and bank reconciliation records;*
  - (d) *Records of outstanding payment instruments;*
  - (e) *Records of each payment instrument paid within the five (5) year period;*
  - (f) *A list of the names, addresses, and telephone numbers of all of the licensee's agents;*
  - (g) *Copies of all currency transaction reports and suspicious activity reports filed in compliance with Section 16 of this Act; and,*
  - (h) *Any other record the executive director may reasonably require by order or regulation.*
- (2) *Records required to be maintained in this chapter may be kept in an electronic retrievable format or other similar form of medium.*
- (3) *Records may be maintained by a licensee or agent at a location other than within this state so long as they are made accessible to the executive director upon seven (7) business day's written notice.*

SECTION 16. A NEW SECTION OF KRS CHAPTER 366A IS CREATED TO READ AS FOLLOWS:

- (1) *Every licensee and its agent shall file with the executive director all reports by federal currency reporting, recordkeeping, and suspicious transaction reporting requirements as set forth in the Bank Secrecy Act, 31 U.S.C. secs. 5311 to 5332, 31 C.F.R. part 103, and other federal and state laws pertaining to money laundering, for every transaction in this state. Every licensee and its agent shall maintain copies of these reports in its records in compliance with Section 15 of this Act.*
- (2) *The timely filing of a complete and accurate report required under subsection (1) of this section with the appropriate federal agency is deemed compliance with the requirements of subsection (1) of this section, unless the executive director notifies the licensee that reports of the type required in subsection (1) of this section are not being regularly and comprehensively transmitted to the federal agency.*

SECTION 17. A NEW SECTION OF KRS CHAPTER 366A IS CREATED TO READ AS FOLLOWS:

- (1) *Documents, materials, reports, or other information in the possession or control of the executive director that is provided according to this chapter shall be confidential by law and privileged, and shall not be subject to the Kentucky Open Records Act, KRS 61.870-61.884. These documents, materials, reports, or other information shall not be subject to subpoena, and shall not be subject to discovery or admissible in evidence in any civil action, unless, after notice to the executive director and a hearing, a court of competent jurisdiction determines that the executive director would not be prejudiced. However, the executive director may use the documents, materials, reports, or other information in the furtherance of any regulatory or legal action brought as a part of the executive director's official duties.*
- (2) *Neither the executive director nor any person who received documents, materials, reports, or other information while acting under the authority of the executive director shall be permitted or required to testify in any civil action concerning any confidential documents, materials, reports, or information subject to subsection (1) of this section.*
- (3) *In order to assist in the performance of the executive director's duties, the executive director:*

- (a) *May share documents, materials, reports or other information, including the confidential and privileged documents, materials, reports, or information subject to subsections (1) and (2) of this section, with other state, federal, and international regulatory agencies, with the Money Transmitter Regulators Association, its affiliates or subsidiaries, and with local, state, federal, and international law enforcement authorities, if the recipient agrees to maintain the confidentiality and privileged status of the documents, materials, reports, or other information;*
  - (b) *May receive documents, materials, reports, or other information, including otherwise confidential and privileged documents, materials, reports, or information from the Money Transmitter Regulators Association, its affiliates or subsidiaries, and from regulatory and law enforcement officials of other foreign or domestic jurisdictions, and shall maintain as confidential and privileged any documents, materials, reports, or information received with notice or the understanding that they are confidential and privileged under the laws of the jurisdiction that is the source of the documents, materials, reports, or information;*
  - (c) *May enter into agreements governing the sharing and use of information, including the furtherance of any regulatory or legal action brought as part of the recipient's official duties;*
  - (d) *May disclose to the public a list of person licensed under this chapter or the aggregate financial data concerning those licensees; and,*
  - (e) *May disclose to the public any order issued under this chapter that is the result of an administrative or legal action against a licensee, agent of a licensee, responsible individual, key shareholder, executive officer, or director.*
- (4) *No waiver of any applicable privilege or claim of confidentiality in the documents, materials, reports, or information shall occur as a result of disclosure to the executive director under this subsection or as a result of sharing as authorized in subsection (3) of this section.*

SECTION 18. A NEW SECTION OF KRS CHAPTER 366A IS CREATED TO READ AS FOLLOWS:

*Licensees desiring to conduct licensed activities through agents shall authorize each agent to operate pursuant to an express written contract, which shall include the following provisions:*

- (1) *That the licensee designates the person as its agent with authority to engage in money transmission on behalf of the licensee as authorized under this chapter;*
- (2) *That the agent shall operate in full compliance with this chapter, and rules promulgated under this chapter, and any order issued by the executive director pursuant to this chapter;*
- (3) *That neither a licensee nor an agent of the licensee may authorize subagents;*
- (4) *That the agent shall timely remit all money legally due to the licensee in accordance with the terms of the written contract between the licensee and the agent;*
- (5) *That the licensee and agent are subject to regulation by the executive director; and,*
- (6) *That the licensee and agent shall comply with applicable federal and state law.*

SECTION 19. A NEW SECTION OF KRS CHAPTER 366A IS CREATED TO READ AS FOLLOWS:

- (1) *An agent shall not make any fraudulent statements or misrepresentations to a licensee or to the executive director.*
- (2) *All money transmissions, or sale, or issuance of payment instrument activities conducted by agents shall be strictly in accordance with the licensee's written procedures provided to the agent.*
- (3) *An agent shall timely remit all money legally due to the licensee in accordance with the terms of the contract between the licensee and the agent. The executive director shall have the discretion to set, by regulation or order, the maximum remittance time.*
- (4) *An agent shall act only as authorized under the contract with the licensee.*
- (5) *All funds, less fees, received by an agent of a licensee from the sale or delivery of a payment instrument issued by a licensee or received by an agent for transmission shall, from the time the funds are received by the agent until such time when the funds or an equivalent amount are remitted by the agent to the licensee, constitute trust funds owned by and belonging to the licensee. If an agent commingles any of these funds with any other funds or property owned or controlled by the agent, then all commingled proceeds and other*

*property shall be impressed with a trust in favor of the licensee in an amount equal to the amount of the proceeds due the licensee.*

- (6) *An agent shall report to the licensee the theft, forgery, or loss of payment instruments within twenty-four (24) hours from the time it knew of the theft, forgery, or loss.*

SECTION 20. A NEW SECTION OF KRS CHAPTER 366A IS CREATED TO READ AS FOLLOWS:

- (1) *The executive director may issue a written order to suspend or revoke a license issued under this chapter if the executive director finds that:*
- (a) *The licensee no longer meets the requirements to hold a license under this chapter;*
  - (b) *Any fact or condition exists that, if it had existed at the time the licensee applied for its license, would have been grounds for denying the application;*
  - (c) *The licensee's net worth, as determined in accordance with generally accepted accounting principles, falls below the required net worth as prescribed in Section 6 of this Act, and the licensee, after ten (10) days written notice from the executive director, fails to take such action as the executive director deems necessary to remedy such deficiency;*
  - (d) *The licensee violates any provision of this chapter, any administrative regulation promulgated thereunder, or order of the executive director issued under authority of this chapter, or any other state law or regulation related to the business of money transmission;*
  - (e) *The licensee is conducting its business in an unsafe or unsound manner;*
  - (f) *The licensee engages in an unfair and deceptive act or practice;*
  - (g) *The licensee engages in fraud, intentional misrepresentation, or gross negligence;*
  - (h) *The licensee is insolvent;*
  - (i) *The licensee has suspended payment of its obligations or has made an assignment for the benefit of its creditors;*
  - (j) *The licensee has applied for an adjudication of bankruptcy, reorganization, arrangement, or other relief under the United States Bankruptcy Code, 11 U.S.C. Sections 101-110;*
  - (k) *The licensee fails to cooperate in an examination, investigation, or subpoena issued by the executive director;*
  - (l) *The licensee fails to make any report required by this chapter;*
  - (m) *The licensee has been found to have violated any of the recordkeeping and reporting requirements of the United States government including 31 U.S.C. secs. 5311 to 5332 and 31 C.F.R. part 103;*
  - (n) *The competence, experience, character, financial condition or responsibility of the licensee indicates that it is not in the public interest to permit the licensee to continue to provide money transmission services;*
  - (o) *The licensee has been convicted of a felony;*
  - (p) *The licensee has been convicted of a misdemeanor related to the business of money transmission;*
  - (q) *The licensee has been convicted of a misdemeanor involving theft, fraud, or breach of trust;*
  - (r) *The licensee has failed to terminate or suspend its agent's authority to act on its behalf when the licensee knew, or has been given reasonable notice that its agent violated, or is about to violate, a material provision of this chapter, an administrative regulation promulgated thereunder, or an order of the executive director, or any grounds that are found in Section 21 of this Act; or*
  - (s) *The licensee, its responsible individual, or any agent, key shareholder, executive officer, director, or other person in control of the licensee are listed or become listed on the specially designated nationals and blocked persons list prepared by the United States Department of the Treasury or United States Department of State under Presidential Executive Order No. 13224 as a potential threat to commit terrorist acts or to finance terrorist acts.*

- (2) *A licensee who has had his license revoked or suspended by the executive director may file a written application for an administrative hearing in accordance with KRS Chapter 13B.*
- (3) *A person is deemed to have received a copy of the written order of revocation or suspension with three (3) days of its mailing.*
- (4) *A written application for an appeal shall be made with the executive director within twenty (20) days of the date of the order of suspension or revocation and shall be made in good faith and shall briefly state the reason or reasons the person is aggrieved, together with the grounds to be relied upon.*
- (5) *The executive director shall not issue a license again under this chapter to any person whose license has been revoked until three (3) years after the date of the revocation, and thereafter, not until the person again qualifies under the applicable provisions of this chapter. A person whose license has been revoked twice shall be deemed permanently revoked and shall not again be eligible for a license under this chapter.*
- (6) *In determining whether a licensee is engaging in an unsafe or unsound practice under subsection (1)(e) of this section, the executive director may consider the size and condition of the licensee's provision of money transmissions, the magnitude of the loss, the gravity of the violation of this chapter, the administrative regulation adopted, or order issued under this chapter, any action taken by another state or federal government against the licensee, or the previous conduct of the licensee.*

SECTION 21. A NEW SECTION OF KRS CHAPTER 366A IS CREATED TO READ AS FOLLOWS:

- (1) *The executive director may issue a written order suspending or revoking the designation of an agent, if the executive director finds that:*
  - (a) *The agent violates this chapter or a rule adopted or an order issued under this chapter;*
  - (b) *The agent does not cooperate with an examination, investigation, or subpoena issued by the executive director;*
  - (c) *The agent has engaged in fraud, intentional misrepresentation, or gross negligence;*
  - (d) *The agent has been convicted of a felony;*
  - (e) *The agent has been convicted of a misdemeanor related to the business of money transmission;*
  - (f) *The agent has been convicted of a misdemeanor involving theft, fraud, or breach of trust;*
  - (g) *The competence, experience, character, or general fitness of the agent or a person in control of the agent indicates that it is not in the public interest to permit the agent to be engaged in the business of money transmission;*
  - (h) *The agent is engaged in or is engaging in an unsafe or unsound practice;*
  - (i) *The agent is engaged in, or is engaging in, an unfair and deceptive act or practice as that act or practice relates to the business of money transmission;*
  - (j) *The agent is insolvent;*
  - (k) *The agent has applied for an adjudication of bankruptcy, reorganization, arrangement, or other relief under the United States Bankruptcy Code, 11 U.S.C. secs. 101 to 110; or*
  - (l) *The agent fails to timely remit all money legally due to its licensee as required by this chapter; or*
  - (m) *The agent, any executive officer or other persons in control of the agent, is listed or become listed on the specially designated nationals and blocked persons list prepared by the United States Department of the Treasury or United States Department of State under Presidential Executive Order No. 13224 as a potential threat to commit terrorist acts or to finance terrorist acts.*
- (2) *In determining whether an agent is engaging in an unsafe or unsound practice under subsection (1)(h) of this section, the executive director may consider the size and condition of the agent's provision of money transmissions, the magnitude of the loss, the gravity of the violation of this chapter, the administrative regulation adopted, or order issued under this chapter, any action taken by another state or federal government against the agent, or the previous conduct of the agent.*
- (3) *Any person who has his designation as an agent revoked or suspended by the executive director may file a written application for an administrative hearing in accordance with KRS Chapter 13B.*

- (4) *An agent is deemed to have received a copy of the written order of revocation or suspension within three (3) days of its mailing.*
- (5) *A written application for an appeal shall be made with the executive director within twenty (20) days of the date of the order of suspension or revocation in good faith and shall briefly state the reason or reasons the agent is aggrieved, together with the grounds to be relied upon.*
- (6) *The executive director shall not designate a person as an agent again under this chapter where the designation of an agent has been revoked, until after three (3) years after the date of revocation, and thereafter, not until the person again qualifies under the applicable provisions of this chapter. Any person whose designation as an agent has been revoked twice by the executive director shall be deemed permanently revoked and shall not again be eligible for designation as an agent under this chapter.*

SECTION 22. A NEW SECTION OF KRS CHAPTER 366A IS CREATED TO READ AS FOLLOWS:

- (1) *If the executive director has reason to believe or determines that a violation of this chapter, regulation adopted, or an order issued under this chapter, by any person, licensee, or agent has occurred or will occur, then he may issue an order to show cause why an order to cease and desist should not be issued requiring the person, licensee, or agent to cease and desist from the violation.*
- (2) *The executive director may enter an order to cease and desist if the person, licensee, or agent, fails to show cause for the violation of the chapter, regulation, or order, within ten (10) days of the date of the receipt of the order of show cause.*
- (3) *The executive director may petition the Franklin Circuit Court, or any court of competent jurisdiction, for an issuance of a temporary or permanent injunction, or any other appropriate judicial order, against any person, licensee, or agent that violates this chapter, regulation adopted, or order issued.*
- (4) *An order issued under this section becomes effective when signed by the executive director. The order shall be delivered by certified mail to the last known address of the person, licensee, or agent. The order shall be deemed received by the person, licensee, or agent within three (3) days of its mailing with the United States Postal Service.*
- (5) *The executive director may issue an order against a licensee to cease and desist from providing money transmission through an agent that is subject of a separate order from the executive director.*
- (6) *An order to cease and desist remains effective and enforceable pending the completion of an administrative proceeding.*

SECTION 23. A NEW SECTION OF KRS CHAPTER 366A IS CREATED TO READ AS FOLLOWS:

- (1) *If the executive director has reason to believe or determines that a violation of this chapter or of a regulation adopted, or an order issued under this chapter, by a licensee or agent will cause immediate or irreparable harm to the public health, safety or welfare, then the executive director may enter an emergency order suspending, limiting, or restricting the licensee's license or the designation of an agent, without prior notice or hearing.*
- (2) *One (1) or more of the following circumstances shall be considered grounds for an emergency order suspending, limiting, or restricting a license or designation of an agent under this section:*
  - (a) *The licensee's or agent's indictment or conviction of a felony for a crime involving theft, fraud or breach of trust;*
  - (b) *The licensee's or agent's indictment or conviction under the USA PATRIOT Act of 2001, Pub.L.No. 107-56;*
  - (c) *The suspension or revocation of any other money transmitter license or equivalent license held by the licensee, or designation held by the agent in another state or country;*
  - (d) *The licensee, its responsible individual, or any agent, key shareholder, executive officer, director, or other person in control of the licensee are listed or become listed on the specially designated nationals and blocked persons list prepared by the United States Department of the Treasury or United States Department of State under Presidential Executive Order No. 13224 as a potential threat to commit terrorist acts or to finance terrorist acts; or*

- (e) *Insolvency, or the filing of an application of bankruptcy, reorganization, arrangement, or other relief under bankruptcy, or an adjudication under the United States Bankruptcy Code, 11 U.S.C. secs. 101 to 110 by the licensee or agent.*
- (3) *An emergency order issued under this section becomes effective when signed by the executive director. The emergency order shall be delivered by certified mail to the last known address of the licensee or agent. The order shall be deemed received by the licensee or agent within three (3) days of its mailing with the United States Postal Service.*
- (4) *A licensee or agent aggrieved by an emergency order issued by the executive director under this section may file with the executive director a written appeal for an emergency hearing. The application for a hearing shall be filed with the executive director within twenty (20) days of the date of the emergency order.*
- (5) *Upon receipt of a written appeal by any licensee or agent aggrieved by an emergency order issued under this section, the executive director shall conduct an emergency hearing as required under KRS 13B.125, within ten (10) working days from the date of receipt of the appeal, unless the parties agree otherwise. The hearing officer shall render a written decision affirming, modifying or reversing the emergency order within five (5) working days of the completion of the hearing. The emergency order shall be affirmed if there is substantial evidence of a violation of law that constitutes an immediate danger to the public health, safety, or welfare.*

SECTION 24. A NEW SECTION OF KRS CHAPTER 366A IS CREATED TO READ AS FOLLOWS:

*The executive director may levy a civil penalty against a person that violates any provision of or administrative regulation promulgated under this chapter or order issued by the executive director under this chapter. The civil penalty shall be not less than one thousand dollars (\$1,000) nor more than five thousand dollars (\$5,000) per day for each day the violation is outstanding, plus the state's costs and expenses for the examination, investigation, and prosecution of this matter, including reasonable attorney's fees and court costs.*

SECTION 25. A NEW SECTION OF KRS CHAPTER 366A IS CREATED TO READ AS FOLLOWS:

*The executive director may enter into a consent order with another person at any time, in order to resolve a matter arising under this chapter. A consent order shall be signed by the person to whom it is issued or by the person's authorized representative and shall indicate agreement with the terms contained in the order. A consent order may provide that it does not constitute an admission by a person that this chapter, or an administrative regulation promulgated under this chapter, or an order issued under this chapter has been violated. Any consent order that the executive director enters into in order to resolve a matter arising under this chapter shall be deemed an administrative action and a public record.*

SECTION 26. A NEW SECTION OF KRS CHAPTER 366A IS CREATED TO READ AS FOLLOWS:

*The executive director may stay, suspend or postpone the effective date of an order issued under this chapter, pending the administrative proceeding and the issuance of a final order resulting from the proceeding, upon written request by the affected person, licensee, or agent.*

SECTION 27. A NEW SECTION OF KRS CHAPTER 366A IS CREATED TO READ AS FOLLOWS:

- (1) *Any person aggrieved by the entry of an order by the executive director under this chapter may file written application for an administrative hearing.*
- (2) *The written application for a hearing under this chapter shall be made in good faith and shall state the reasons or grounds the person is so aggrieved and the remedy sought at the hearing.*
- (3) *Any application for a hearing under this chapter shall be filed with the executive director within twenty (20) days of the date of the order.*
- (4) *If the executive director finds that the application for a hearing is made in good faith, and that the applicant would be aggrieved as claimed if his grounds are established, then a hearing shall be held in accordance with KRS Chapter 13B.*
- (5) *An appeal from the executive director shall be taken only from a final order.*
- (6) *The appeal from a final order issued by the executive director shall be granted as a matter of right to the Franklin Circuit Court.*

SECTION 28. A NEW SECTION OF KRS CHAPTER 366A IS CREATED TO READ AS FOLLOWS:



- (1) *Any person aggrieved by the conduct of a licensee or agent under this chapter in connection with the licensee's or agent's regulated activities may file a written complaint with the executive director who may investigate the complaint.*
- (2) *In the course of the investigation initiated by a complaint or by the executive director, the executive director may:*
  - (a) *Subpoena witnesses;*
  - (b) *Administer oaths;*
  - (c) *Examine any individual under oath; and*
  - (d) *Compel the production of records, books, papers, contracts, or other documents relevant to the investigation.*
- (3) *If any person fails to testify or to comply with a subpoena from the executive director under this section, then the executive director may petition the Franklin Circuit Court or any court of competent jurisdiction for enforcement.*
- (4) *The license of any licensee or the designation of an agent under this chapter who fails to comply with a subpoena of the executive director may be suspended pending compliance with the subpoena.*
- (5) *The executive director may investigate all complaints filed by any person.*

SECTION 29. A NEW SECTION OF KRS CHAPTER 366A IS CREATED TO READ AS FOLLOWS:

- (1) *A person that intentionally or knowingly makes a false statement, misrepresentation, or false certification in a record filed or required to be maintained under this chapter or that intentionally or knowingly makes a false entry or omits a material entry in such a record is guilty of a Class D felony.*
- (2) *A person that intentionally or knowingly engages in any activity for which a license is required under this chapter without being licensed under this chapter is guilty of a Class C felony.*

SECTION 30. A NEW SECTION OF KRS CHAPTER 366A IS CREATED TO READ AS FOLLOWS:

*All administrative proceedings under this chapter shall be conducted in accordance with KRS Chapter 13B.*

SECTION 31. A NEW SECTION OF KRS CHAPTER 366A IS CREATED TO READ AS FOLLOWS:

- (1) *The office shall exercise all administrative functions of the state in relation to the regulation, supervision, and licensing of money transmitters.*
- (2) *The executive director may promulgate, amend, and repeal any administrative regulations, forms, and orders as are necessary to interpret and enforce the provisions of this chapter.*
- (3) *The executive director may request any additional information as he deems necessary to interpret and carry out any of the provisions of this chapter from any applicant, licensee, agent, responsible individual, controlling person, executive officer, or key shareholder.*

SECTION 32. A NEW SECTION OF KRS CHAPTER 366A IS CREATED TO READ AS FOLLOWS:

*In addition to the requirements contained in this chapter, every licensee and agent shall comply with all applicable federal and state laws.*

SECTION 33. A NEW SECTION OF KRS CHAPTER 366A IS CREATED TO READ AS FOLLOWS:

*A license issued under the provisions of KRS Chapter 366 that is in effect immediately prior to the effective date of this Act shall remain in force as a license under this chapter until midnight on September 30, 2006, and the licensee shall be governed by the provisions of this chapter with the exception that such licensees shall be given until midnight on September 30, 2006, to be in compliance with this chapter. Such licensees must file an application for a renewal license pursuant to this chapter within three (3) months after the effective date of this Act. Upon compliance with the provisions of this chapter, applicants shall be issued a money transmitter license effective October 1, 2006 through September 30, 2007.*

SECTION 34. A NEW SECTION OF KRS CHAPTER 366A IS CREATED TO READ AS FOLLOWS:

***It is the intent of the General Assembly to establish a state system of licensure and regulation to ensure the safe and sound operation of money transmission to ensure that this business is not used for criminal purposes, to promote confidence in the state's financial system, and to protect the public interest.***

Section 35. KRS 378.070 is amended to read as follows:

- (1) Any transfer declared by KRS 378.060 to inure to the benefit of creditors generally shall be subject to the control of courts of equity, upon the petition of any person interested filed within ***ninety (90) days***~~six (6) months~~ after the mortgage or transfer is legally lodged for record or the delivery of the property transferred.
- (2) Any person interested may unite in the petition, but it is not necessary that any person other than the debtor and the transferee be made defendants. The action and proceedings as to the mode of proving claims, and otherwise, shall be conducted as are actions and proceedings for the settlement of the estates of deceased persons, insofar as they are applicable.
- (3) ***The ninety (90) day limitation period specified in subsection (1) of this section shall be extended to one (1) year if the transaction is between the debtor and an insider. As used in this subsection, the term "insider" shall carry the same meaning as set out in 11 U.S.C. sec. 101.***

Section 36. Effective October 1, 2006, the following KRS sections are repealed:

- 366.010 Definitions.
- 366.020 License required for business of selling checks.
- 366.023 Examination of licensees -- Fees.
- 366.030 Exemption of certain businesses.
- 366.040 Qualifications of licensee.
- 366.050 Application for license.
- 366.060 Investigation fees -- Bond to be filed with application.
- 366.070 Investigation of applicant.
- 366.080 Bond to be maintained by licensee -- New or supplemental bond.
- 366.090 Annual license fee.
- 366.100 Business, where conducted -- Banks may sell checks through agents.
- 366.110 Liability of licensee on sale of checks.
- 366.120 Checks to bear name of licensee.
- 366.140 Hearing on denial or revocation of license.
- 366.150 Citation of law.
- 366.990 Penalties.

Section 37. Whereas a federal judge has determined that the Kentucky Sales of Checks Act, KRS Chapter 366, does not encompass the electronic transmission of money and hence has determined that certain criminal defendants could not be prosecuted under certain provisions of the USA PATRIOT Act of 2001, Pub.L.No. 107-56, for illegally engaging in the business of money transmission without a license and, whereas the electronic transmission of money increasingly involves entrusting large sums of money with unregulated persons, an emergency is declared to exist, and the Kentucky Money Transmitters Act of 2006 shall take effect upon its passage and approval by the Governor or upon its otherwise becoming a law.

Section 38. The Reviser of Statutes shall renumber KRS Chapters 287, 288, 290, 291, 294, 366, 366A and 368 as subtitles to a single KRS Chapter entitled the "Kentucky Financial Services Code" and shall adjust reference numbers throughout the Kentucky Revised Statutes to conform.

Section 39. The Reviser of Statutes shall renumber KRS 287.011, 287.012, 287.013, 287.020, and 287.025 as part of a separate subtitle of the code created by Section 38 of this Act and shall adjust reference numbers throughout the Kentucky Revised Statutes to conform.

**Approved April 24, 2006.**

## CHAPTER 248

(HB 651)

AN ACT relating to athletic trainers.

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

Section 1. KRS 311.900 is amended to read as follows:

*As used in KRS 311.900 to 311.928:*

- (1) *"Athlete" means an individual, referee, coach, or athletic staff member who participates in sports, games, or recreational activities requiring physical strength, agility, flexibility, range of motion, speed, or stamina, and who is associated with a sport, game, or recreational activity that is conducted in association with an educational institution or professional, amateur, or recreational sports club or organization;*
- (2) *"Athletic injury" means:*
  - (a) *An injury or condition, excluding medical conditions such as internal infections, internal injuries, fractures, and spinal cord injuries except in an acute situation sustained by an athlete that affects the individual's participation or performance in sports, games, or recreation; or*
  - (b) *An injury or condition that is within the scope of practice of an athletic trainer identified by a physician licensed under KRS Chapter 311, a physical therapist licensed under KRS Chapter 327, an occupational therapist licensed under KRS Chapter 319A, or a chiropractor licensed under KRS Chapter 312 that is likely to benefit from athletic training services that have been approved by a physician supervising the athletic trainer;*
- (3) *"Athletic trainer" means a person with specific qualifications, as set forth in KRS 311.900 to 311.928 who is certified to practice athletic training and who, upon the supervision of a physician licensed under KRS Chapter 311, carries out the practice of preventing, recognizing, evaluating, managing, disposing, treating, reconditioning, or rehabilitating athletic injuries. In carrying out these functions, the certified athletic trainer may use physical modalities, such as heat, light, sound, cold, or electricity, or mechanical devices. A certified athletic trainer shall practice only in those areas in which he or she is competent by reason of his or her training or experience;*
- ~~(4) 311.916, who, upon the advice and consent of a team physician, carries out the practice of prevention or physical rehabilitation, or both, of injuries incurred by participating athletes at an educational institution, professional athletic organization, or other bona fide athletic organization. In carrying out these functions the athletic trainer is authorized to use whatever physical modalities as are deemed necessary by a team physician; and~~
- ~~(2) "Council" means the Kentucky Athletic Trainers Advisory Council;~~
- (5) *"Board" means the Kentucky Board of Medical Licensure;*
- (6) *"Supervising physician" means a physician licensed by the board; and*
- (7) *"Supervision" means advising, consenting to, and directing the activities of an athletic trainer through written or oral orders by a physician licensed to practice under KRS Chapter 311. Each team of physicians and athletic trainers shall ensure that the referral of athletic injuries is appropriate to the athletic trainer's level of training and experience[on Athletic Trainers].*

SECTION 2. A NEW SECTION OF KRS 311.900 TO 311.928 IS CREATED TO READ AS FOLLOWS:

- (1) *The board shall promulgate administrative regulations in accordance with KRS Chapter 13A relating to the certification and regulation of athletic trainers. The regulations shall include but shall not be limited to the establishment of fees and continuing education requirements. The board shall require, as a part of any continuing educational requirement, that persons certified as athletic trainers complete an educational course on the transmission, control, treatment, and prevention of the human immunodeficiency virus and acquired immunodeficiency syndrome. The course on the human immunodeficiency virus shall be approved by the Cabinet for Health and Family Services and shall be given in accordance with KRS 214.610.*

- (2) *There is hereby created the Kentucky Athletic Trainers Advisory Council, comprised of nine (9) members, appointed by the Governor. The council shall review and make recommendations to the board regarding all matters relating to athletic trainers that come before the board, including but not limited to:*
- (a) *Applications for athletic training certifications;*
  - (b) *Certification renewal requirements;*
  - (c) *Approval of supervising physicians;*
  - (d) *Disciplinary investigations or action, when specifically requested by one (1) of the board's panels established under KRS 311.591; and*
  - (e) *Promulgation of administrative regulations.*
- (3) *Except for initial appointments, members of the council shall be appointed by the board for four (4) year terms and shall consist of:*
- (a) *Five (5) practicing certified athletic trainers who shall each be selected by the board from a list of three (3) certified athletic trainers submitted by the Kentucky Athletic Trainers Society, Inc. for each vacancy;*
  - (b) *Two (2) supervising physicians;*
  - (c) *One (1) member of the board; and*
  - (d) *One (1) citizen at large.*
- (4) *The chair of the council shall be elected by a majority vote of the council members and shall preside over meetings. The meetings shall be held quarterly. Additional meetings may be held on the call of the chair or upon the written request of four (4) council members.*
- (5) *Initial appointments shall be for staggered terms. Three (3) members shall serve a four (4) year term, two (2) members shall serve a three (3) year term, two (2) members shall serve a two (2) year term, and two (2) members shall serve a one (1) year term.*
- (6) *Members of the council shall not be compensated for their service, but shall receive reimbursement for expenditures relating to attendance at committee meetings, consistent with state policies for the reimbursement of travel expenses for state employees.*
- (7) *A council member may be removed by the board for good cause or if he or she misses two (2) consecutive council meetings without good cause.*
- (8) *Upon the death, resignation, or removal of any member, the vacancy for the unexpired term shall be filled by the board in the same manner as the original appointment.*
- (9) *The quorum required for any meeting of the council shall be five (5) members. No action by the council or its members shall have any effect, unless a quorum of the council is present at the meeting where the action is taken.*
- (10) *The board shall not be required to implement or adopt the recommendations of the council.*

SECTION 3. A NEW SECTION OF KRS 311.900 TO 311.928 IS CREATED TO READ AS FOLLOWS:

*A Certified Athletic Trainer:*

- (1) *Shall not use spinal or pelvic manipulations or spinal or pelvic chiropractic adjustments;*
- (2) *May dispense, but shall not prescribe, over-the-counter or prescription medications only to an adult athlete and with the supervision of a physician licensed under KRS Chapter 311, and shall maintain accurate records identifying the medication, dose, amount, directions, condition for which the medication is being used, identity of the supervising physician, lot number, and expiration date;*
- (3) *Shall not dispense over-the-counter or prescription medications to a minor athlete;*
- (4) *Shall not perform invasive procedures;*
- (5) *Shall conform to the standard of care required of an ordinary competent and careful certified athletic trainer in exercising reasonable care for the health and safety of the athlete;*

- (6) *Shall not work in an industrial setting, except in the capacity of screening injuries and referring patients to an occupational therapist licensed under KRS Chapter 319A, a physical therapist licensed under KRS Chapter 327, a chiropractor licensed under KRS Chapter 312, or a physician licensed under KRS Chapter 311;*
- (7) *Shall not seek reimbursement from the federal government for physical therapy services performed by an athletic trainer;*
- (8) *Shall not seek reimbursement from the federal government for occupational therapy services performed by an athletic trainer;*
- (9) *Shall not seek reimbursement from the federal government for chiropractic services performed by an athletic trainer;*
- (10) *Shall not prescribe medications, including controlled substances; and*
- (11) *Shall not independently bill any patient or other payer for services rendered by the athletic trainer.*

SECTION 4. A NEW SECTION OF KRS 311.900 TO 311.928 IS CREATED TO READ AS FOLLOWS:

- (1) *To be certified by the board as an athletic trainer, an applicant shall:*
  - (a) *Submit a completed application form with the required fee on a form prescribed by the board;*
  - (b) *Be of good character and reputation; and*
  - (c)
    - 1. *Be certified and in good standing as an athletic trainer by the National Athletic Trainers Association Board of Certification, Inc., or its successor; or*
    - 2. *Be authorized to practice as an athletic trainer in another state and be in good standing in that state, if that state has standards equivalent to those of this Commonwealth.*
- (2) *Any person who is issued initial certification as an athletic trainer shall be registered for three (3) years, or for the completion of the current three (3) year cycle. The person shall then apply to the board for triennial renewal and shall submit all information requested by the board and pay a renewal fee as prescribed by the board.*
- (3) *No person shall hold himself or herself out as an athletic trainer or perform any of the activities of an athletic trainer as prescribed in KRS 311.900 to 311.928, without first obtaining a certificate under KRS 311.900 to 311.928.*
- (4) *Nothing in this section shall be construed to limit:*
  - (a) *The activities, services, and use of title on the part of a person in the employ of the federal government, to the extent the person is operating within the specific parameters of that employment; or*
  - (b) *The activities or services of a student athletic trainer or someone in a similar educational position, if the service is not for compensation and is carried out under the supervision of a physician and a certified athletic trainer certified under KRS 311.900 to 311.928.*
- (5) *Upon petition to the board, certified athletic trainers may be granted inactive status for a period of time not to exceed three (3) years. Certified athletic trainers shall not practice athletic training while under inactive status. Inactive athletic trainers may apply for an active certificate after paying a fee as prescribed in administrative regulations promulgated by the board.*
- (6) *Persons who are certified by the board and are in good standing as athletic trainers on the effective date of this Act shall be automatically certified under KRS 311.900 to 311.928 without meeting the requirements of subsection (1) of this section.*

SECTION 5. A NEW SECTION OF KRS 311.900 TO 311.928 IS CREATED TO READ AS FOLLOWS:

- (1) *If the executive director of the board, based upon verified information contained in the application, determines that an applicant is eligible for certification as an athletic trainer under this section, the executive director may issue to the applicant, on behalf of the board, a temporary certificate. The temporary certificate shall be nonrenewable and shall entitle the holder to practice as an athletic trainer for a*

*maximum of six (6) months from the date of issuance, unless the temporary certificate is canceled by the executive director. The executive director may cancel the temporary certificate:*

- (a) At any time, without a hearing, for reasons deemed sufficient after appropriate consultation with the president of the board;*
  - (b) Immediately, upon direction by the board; or*
  - (c) Upon the board's denial of the holder's application for a regular certificate.*
- (2) The executive director shall present to the board the application for certification made by the holder of the temporary certificate. If the board issues a regular certificate to the holder of a temporary certificate, the fee paid in connection with the temporary certificate shall be applied to the regular certificate fee.*
- (3) If the executive director cancels a temporary certificate, he or she shall promptly notify, by United States certified mail, the holder of the temporary certificate at the last known address on file with the board. The temporary certificate shall be terminated and of no further force or effect three (3) days after the date the notice was sent by certified mail.*

SECTION 6. A NEW SECTION OF KRS 311.900 TO 311.928 IS CREATED TO READ AS FOLLOWS:

- (1) The board may revoke, suspend, deny, decline to renew, limit, or restrict the certification of an athletic trainer or may impose fines of not less than one hundred dollars (\$100) and not more than five thousand dollars (\$5,000) per violation including for the costs of any proceedings; reprimand; or place an athletic trainer on probation for no more than five (5) years upon proof that the athletic trainer:*
- (a) Knowingly made or presented, or caused to be made or presented, any false, fraudulent, or forged statement, writing, certificate, diploma, or other document relating to an application for certification or renewal thereof;*
  - (b) Practiced or aided or abetted in the practice of fraud, forgery, deception, collusion, or conspiracy relating to an examination for certification;*
  - (c) Has been convicted by any court of a misdemeanor offense involving moral turpitude or convicted of an act that is or would be a felony under the laws of the Commonwealth of Kentucky or of the United States;*
  - (d) Has become addicted to or is an abuser of alcohol, drugs, or any illegal substances;*
  - (e) Developed a physical or mental disability or other condition that presents a danger in continuing to provide athletic training services to patients, the public, or other health care personnel;*
  - (f) Knowingly made, caused to be made, or aided or abetted in the making of a false statement in any document executed in connection with the practice of athletic training;*
  - (g) Performed any act or service as an athletic trainer without proper supervision by a licensed physician;*
  - (h) Exceeded the scope of medical services or procedures described by the supervising physician in the application required under Section 3 of this Act;*
  - (i) Aided, assisted, or abetted another in the unlawful practice of medicine, osteopathy, chiropractics, or any healing art, including the unlawful practice of athletic training;*
  - (j) Willfully violated a confidential communication;*
  - (k) Performed the services of an athletic trainer in an unprofessional, incompetent, or grossly or chronically negligent manner;*
  - (l) Has been removed, suspended, expelled, or placed on probation by any health care facility for unprofessional conduct, incompetence, negligence, or violation of any provision of KRS 311.900 to 311.928;*
  - (m) Violated any applicable provision of an administrative regulation relating to athletic training practice;*
  - (n) Violated any term of probation or other disciplinary order issued by the board or an agreed order defined in KRS 311.550;*

- (o) *Failed to complete the required number of hours of approved continuing education; or*
  - (p) *Willfully violated any provision of KRS 311.900 to 311.928 or acted outside of the certified athletic trainer's scope of practice.*
- (2) *All disciplinary proceedings against an athletic trainer shall be conducted in accordance with the provisions of KRS 311.591, 311.592, 311.593, and 311.599; KRS Chapter 13B; and any related administrative regulations promulgated under KRS Chapter 311, except that the provisions which apply to physicians shall apply to athletic trainers.*
  - (3) *Notwithstanding any of the requirements for certification established by KRS 311.900 to 311.928, the board, after providing the applicant with reasonable notice of its intended action and a reasonable opportunity to be heard, may deny certification to an applicant without a prior evidentiary hearing upon a finding that the applicant has violated any provisions of KRS 311.900 to 311.928 or is otherwise unfit to practice. Orders denying certification may be appealed pursuant to KRS 311.593.*
  - (4) *The board may impose restrictions on the scope of practice of an athletic trainer after providing the applicant with reasonable notice of its intended action and a reasonable opportunity to be heard. The Athletic Trainer Advisory Council may make recommendations on such restrictions.*
  - (5) *The provisions of this chapter shall not be construed as preventing or restricting the practices, services, or activities of a person licensed in accordance with the provisions of another law of the Commonwealth from engaging in the profession or occupation for which he or she is licensed.*

SECTION 7. A NEW SECTION OF KRS 311.900 TO 311.928 IS CREATED TO READ AS FOLLOWS:

- (1) *At any time when an inquiry panel established under KRS 311.591 has probable cause to believe that an athletic trainer has violated the terms of an agreed order as defined in KRS 311.550 or a disciplinary order, or that an athletic trainer's practice constitutes a danger to the health, welfare, or safety of his or her patients or the general public, the inquiry panel may issue an emergency order in accordance with KRS 13B.125 suspending, limiting, or restricting the athletic trainer's certification.*
- (2) *For the purposes of a hearing conducted under KRS 13B.125 on an emergency order issued under this section, the findings of fact in the emergency order shall constitute a rebuttable presumption of a violation of law that constitutes immediate danger to the health, welfare, or safety of patients or the general public. For the purposes of this hearing only, hearsay shall be admissible and may serve as a basis of the board's findings.*
- (3) *An emergency order as described in subsection (1) of this section shall not be issued unless grounds exist for the issuance of a complaint. The inquiry panel shall issue a complaint prior to the date of the emergency hearing or the emergency order shall become void.*
- (4) *An order of temporary suspension, restriction, or limitation shall not be maintained after a final order as defined in KRS 311.550 is served on the charged athletic trainer pursuant to the proceeding on the complaint. An appeal of an emergency order shall not prejudice the board from proceeding with the complaint.*

Section 8. KRS 311.928 is amended to read as follows:

No provision of KRS 311.900 to ~~311.928~~~~[311.926]~~ shall be construed so as to limit or prevent any person duly licensed or certified under the laws of this state from practicing the profession for which he was licensed or certified.

Section 9. KRS 311.990 is amended to read as follows:

- (1) Any person who violates KRS 311.250 shall be guilty of a violation.
- (2) Any college or professor thereof violating the provisions of KRS 311.300 to 311.350 shall be civilly liable on his bond for a sum not less than one hundred dollars (\$100) nor more than one thousand dollars (\$1,000) for each violation, which may be recovered by an action in the name of the Commonwealth.
- (3) Any person who presents to the county clerk for the purpose of registration any license which has been fraudulently obtained, or obtains any license under KRS 311.380 to 311.510 by false or fraudulent statement or representation, or practices podiatry under a false or assumed name or falsely impersonates another practitioner or former practitioner of a like or different name, or aids and abets any person in the practice of podiatry within the state without conforming to the requirements of KRS 311.380 to 311.510, or otherwise violates or neglects

to comply with any of the provisions of KRS 311.380 to 311.510, shall be guilty of a Class A misdemeanor. Each case of practicing podiatry in violation of the provisions of KRS 311.380 to 311.510 shall be considered a separate offense.

- (4) Each first violation of KRS 311.560 is a Class A misdemeanor. Each subsequent violation of KRS 311.560 shall constitute a Class D felony.
- (5) Each violation of KRS 311.590 shall constitute a Class D felony. Conviction under this subsection of a holder of a license or permit shall result automatically in permanent revocation of such license or permit.
- (6) Conviction of willfully resisting, preventing, impeding, obstructing, threatening, or interfering with the board or any of its members, or of any officer, agent, inspector, or investigator of the board or the Cabinet for Health and Family Services, in the administration of any of the provisions of KRS 311.550 to 311.620 shall be a Class A misdemeanor.
- (7) Each violation of subsection (1) of KRS 311.375 shall, for the first offense, be a Class B misdemeanor, and, for each subsequent offense shall be a Class A misdemeanor.
- (8) Each violation of subsection (2) of KRS 311.375 shall, for the first offense, be a violation, and, for each subsequent offense, be a Class B misdemeanor.
- (9) Each day of violation of either subsection of KRS 311.375 shall constitute a separate offense.
- (10)
  - (a) Any person who intentionally or knowingly performs an abortion contrary to the requirements of KRS 311.723(1) shall be guilty of a Class D felony; and
  - (b) Any person who intentionally, knowingly, or recklessly violates the requirements of KRS 311.723(2) shall be guilty of a Class A misdemeanor.
- (11)
  - (a)
    1. Any physician who performs a partial-birth abortion in violation of KRS 311.765 shall be guilty of a Class D felony. However, a physician shall not be guilty of the criminal offense if the partial-birth abortion was necessary to save the life of the mother whose life was endangered by a physical disorder, illness, or injury.
    2. A physician may seek a hearing before the State Board of Medical Licensure on whether the physician's conduct was necessary to save the life of the mother whose life was endangered by a physical disorder, illness, or injury. The board's findings, decided by majority vote of a quorum, shall be admissible at the trial of the physician. The board shall promulgate administrative regulations to carry out the provisions of this subparagraph.
    3. Upon a motion of the physician, the court shall delay the beginning of the trial for not more than thirty (30) days to permit the hearing, referred to in subparagraph 2. of this paragraph, to occur.
  - (b) Any person other than a physician who performs a partial-birth abortion shall not be prosecuted under this subsection but shall be prosecuted under provisions of law which prohibit any person other than a physician from performing any abortion.
  - (c) No penalty shall be assessed against the woman upon whom the partial-birth abortion is performed or attempted to be performed.
- (12) Any person who intentionally performs an abortion with knowledge that, or with reckless disregard as to whether, the person upon whom the abortion is to be performed is an unemancipated minor, and who intentionally or knowingly fails to conform to any requirement of KRS 311.732 is guilty of a Class A misdemeanor.
- (13) Any person who negligently releases information or documents which are confidential under KRS 311.732 is guilty of a Class B misdemeanor.
- (14) Any person who performs an abortion upon a married woman either with knowledge or in reckless disregard of whether KRS 311.735 applies to her and who intentionally, knowingly, or recklessly fails to conform to the requirements of KRS 311.735 shall be guilty of a Class D felony.
- (15) Any person convicted of violating KRS 311.750 shall be guilty of a Class B felony.
- (16) Any person who violates KRS 311.760(2) shall be guilty of a Class D felony.
- (17) Any person who violates KRS 311.770 or 311.780 shall be guilty of a Class D felony.



- (18) A person convicted of violating KRS 311.780 shall be guilty of a Class C felony.
- (19) Any person who violates KRS 311.810 shall be guilty of a Class A misdemeanor.
- (20) Any professional medical association or society, licensed physician, or hospital or hospital medical staff who shall have violated the provisions of KRS 311.606 shall be guilty of a Class B misdemeanor.
- (21) Any administrator, officer, or employee of a publicly owned hospital or publicly owned health care facility who performs or permits the performance of abortions in violation of KRS 311.800(1) shall be guilty of a Class A misdemeanor.
- (22) Any person who violates *subsection (3) of Section 4 of this Act* ~~KRS 311.914~~ shall be guilty of a violation.
- (23) Any person who violates the provisions of KRS 311.820 shall be guilty of a Class A misdemeanor.
- (24) (a) Any person who fails to test organs, skin, or other human tissue which is to be transplanted, or violates the confidentiality provisions required by KRS 311.281, shall be guilty of a Class A misdemeanor;
- (b) Any person who has human immunodeficiency virus infection, who knows he is infected with human immunodeficiency virus, and who has been informed that he may communicate the infection by donating organs, skin, or other human tissue who donates organs, skin, or other human tissue shall be guilty of a Class D felony.
- (25) Any person who sells or makes a charge for any transplantable organ shall be guilty of a Class D felony.
- (26) Any person who offers remuneration for any transplantable organ for use in transplantation into himself shall be fined not less than five thousand dollars (\$5,000) nor more than fifty thousand dollars (\$50,000).
- (27) Any person brokering the sale or transfer of any transplantable organ shall be guilty of a Class C felony.
- (28) Any person charging a fee associated with the transplantation of a transplantable organ in excess of the direct and indirect costs of procuring, distributing, or transplanting the transplantable organ shall be fined not less than fifty thousand dollars (\$50,000) nor more than five hundred thousand dollars (\$500,000).
- (29) Any hospital performing transplantable organ transplants which knowingly fails to report the possible sale, purchase, or brokering of a transplantable organ shall be fined not less than ten thousand dollars (\$10,000) or more than fifty thousand dollars (\$50,000).

Section 10. The following KRS sections are repealed:

- 311.902 Advisory Council on Athletic Trainers -- Appointment -- Removal -- Vacancies.
- 311.904 Organization -- Meetings -- Quorum.
- 311.906 Council to serve without compensation -- Reimbursement for expenses.
- 311.908 Certification by Board of Medical Licensure.
- 311.910 Records -- Roster of certified athletic trainers.
- 311.912 Fees.
- 311.914 Acting as athletic trainer without certification prohibited.
- 311.916 Applicant qualifications -- Nonresident applicants -- Reciprocal licensing.
- 311.918 Application -- Certificate -- Temporary certificate.
- 311.920 Grounds for refusal to issue certificate, suspension or revocation.
- 311.922 Hearing on denial of application.
- 311.924 Appeal to District Court.
- 311.926 Certificates to persons actively engaged as athletic trainer on June 17, 1978.

**Approved April 24, 2006.**

**CHAPTER 249****(HB 17)**

AN ACT relating to acupuncture.

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

SECTION 1. A NEW SECTION OF KRS CHAPTER 311 IS CREATED TO READ AS FOLLOWS:

*In order to protect the life, health, and safety of the public, any person practicing or offering to practice as an acupuncturist shall be certified as provided in Sections 1 to 16 of this Act. After the effective date of this Act, it shall be unlawful for any person not certified under the provisions of Sections 1 to 16 of this Act to practice acupuncture in this state, or to use any title, sign, card, or device to indicate that he or she is an acupuncturist. The provisions of Sections 1 to 16 of this Act are not intended to limit, preclude, or otherwise interfere with the practice of other health care providers, working in any setting and certified or licensed by appropriate agencies or committees of the Commonwealth of Kentucky, whose practices and training may include elements of the same nature as the practice of a certified acupuncturist.*

SECTION 2. A NEW SECTION OF KRS CHAPTER 311 IS CREATED TO READ AS FOLLOWS:

*In Sections 1 to 16 of this Act, the following words and phrases shall have the meanings given to them, unless the context clearly indicates otherwise:*

- (1) *"Acupuncturist" means an individual certified to practice acupuncture by the board;*
- (2) *"Board" means the State Board of Medical Licensure;*
- (3) *"Council" means the Acupuncture Advisory Council under the State Board of Medical Licensure;*
- (4) *"Certification" means certification by the board to practice acupuncture; and*
- (5) *"Practice of acupuncture" means the insertion of acupuncture needles, with or without accompanying electrical or thermal stimulation, at certain acupuncture points or meridians on the surface of the human body for purposes of changing the flow of energy in the body and may include acupressure, cupping, moxibustion, or dermal friction. The practice of acupuncture shall not include laser acupuncture, osteopathic manipulative treatment, chiropractic adjustments, physical therapy, or surgery.*

SECTION 3. A NEW SECTION OF KRS CHAPTER 311 IS CREATED TO READ AS FOLLOWS:

- (1) *The board shall promulgate administrative regulations in accordance with KRS Chapter 13A relating to the certification and regulation, including temporary certification, of acupuncturists. Regulation of acupuncture includes continuing education requirements and fee schedules.*
- (2) *The board shall establish an eight (8) member Acupuncture Advisory Committee that shall review and make recommendations to the board regarding matters relating to acupuncturists that come before the board, including but not limited to:*
  - (a) *Applications for acupuncturist certification;*
  - (b) *Certification renewal requirements;*
  - (c) *Fees;*
  - (d) *Applicable standards of practice for acupuncture practitioners;*
  - (e) *Continuing education requirements;*
  - (f) *Rotating appointment of committee members;*
  - (g) *Disciplinary actions, at the request of a panel of the board; and*
  - (h) *Promulgation and revision of administrative regulations.*
- (3) *Members of the Acupuncturist Advisory Committee shall be appointed by the board for four (4) year terms, on a rotating basis to provide for continuity, and shall consist of:*
  - (a) *One (1) member of the board;*

- (b) *Two (2) physicians licensed by the board whose practices include the use of acupuncture;*
- (c) *One (1) member of the public who is not associated with or financially interested in the practice of acupuncture;*
- (d) *Four (4) acupuncture practitioners certified by the board.*
- (4) *The chairperson and secretary of the committee shall be elected by a majority vote of the committee members annually. The president shall be responsible for presiding over meetings that shall be held on a regular basis, but no less than two (2) times each calendar year. Additional meetings may be held each calendar year at the call of the chairperson or by the written request of at least three (3) committee members. The secretary shall keep a record of the minutes of the committee's meetings. Five (5) members of the committee shall constitute a quorum to conduct business.*
- (5) *Members shall receive reimbursement for expenditures relating to attendance at committee meetings consistent with state policies for reimbursement of travel expenses for state employees.*
- (6) *The board may remove any member on the member's request or for poor attendance at committee meetings, neglect of duties, or malfeasance in office.*

SECTION 4. A NEW SECTION OF KRS CHAPTER 311 IS CREATED TO READ AS FOLLOWS:

- (1) *To be certified by the board as an acupuncturist, an applicant shall:*
  - (a) *Submit an application approved by the board, with all sections completed with the required fee;*
  - (b) *Be of good character and reputation;*
  - (c) *Have achieved a passing score on the acupuncture examination administered by the National Commission for Certification of Acupuncture and Oriental Medicine; and*
  - (d) *Have graduated from a course of training of at least one thousand eight hundred (1,800) hours, including three hundred (300) clinical hours, that is approved by the Accreditation Commission for Acupuncture and Oriental Medicine. Prior to July 1, 2007, a person who is a Kentucky resident who does not meet the requirement of paragraph (d) of this subsection may be certified by the board if he or she meets all the requirements of paragraphs (a) and (b) of this subsection and passes the examination required under paragraph (c) of this subsection. On and after July 1, 2007, all provisions of this subsection, including graduation from an approved course of training as specified in paragraph (d) of this subsection, must be met by all applicants before initial certification as an acupuncturist may be granted.*
- (2) *An acupuncturist who is legally authorized to practice acupuncture in another state and who is presently in good standing in that other state may be certified by endorsement from the state of his or her credentialing if that state has standards substantially equivalent to those of this Commonwealth. Applicants who submit their application for certification within the six (6) months immediately following the effective date of this statute shall be certified by the board as an acupuncturist if the applicant meets the requirements of subsection (1)(a) to (c) of this section and has been legally authorized to practice acupuncture in another state for at least two (2) years prior to submission of the application.*
- (3) *The board may request any reasonable information from the applicant and from collateral sources that is necessary for the board to make an informed decision. The applicant will execute any necessary waiver or release so that the board may obtain necessary information from collateral sources. An application will be considered completed when the applicant has fully answered all sections of the approved application and the board has received all necessary additional information from the applicant and collateral sources.*
- (4) *An acupuncturist's certificate shall be renewed every two (2) years upon fulfillment of the following requirements:*
  - (a) *The applicant has submitted a renewal application approved by the board within the time specified, with all sections completed, with the required fee;*
  - (b) *The applicant is of good character and reputation; and*
  - (c) *The applicant has provided evidence of completion of the required continuing education during the previous period of certification, including evidence of completion of a continuing education course*

*on the human immunodeficiency virus and acquired immunodeficiency syndrome in the previous ten (10) years that meets the requirements of KRS 214.610.*

- (5) *The board shall notify each applicant in writing of the action it takes on an application within one hundred twenty (120) days following the board's receipt of a completed application.*
- (6) *Notwithstanding any of the requirements for certification established in this section, and after providing the applicant with reasonable notice of its intended action and after providing a reasonable opportunity to be heard, the board may deny certification to an applicant without a prior evidentiary hearing upon a finding that the applicant has violated any provision of this section or is otherwise unfit to practice. If the board denies an application, it shall notify the applicant of the grounds on which the denial is based. Orders denying a certificate may be appealed pursuant to KRS 311.593.*

SECTION 5. A NEW SECTION OF KRS CHAPTER 311 IS CREATED TO READ AS FOLLOWS:

- (1) *Whenever, in the opinion of the executive director, based upon verified information contained in the application, an applicant for a certificate to practice as an acupuncturist is eligible under the applicable provisions of Sections 1 to 16 of this Act, the executive director may issue to the applicant, on behalf of the board, a temporary certificate which shall entitle the holder to practice as an acupuncturist for a maximum of six (6) months from the date of issuance unless the temporary certificate is canceled by the executive director, the executive director may cancel the temporary certificate at any time, without a hearing, for reasons deemed sufficient, with appropriate consultation with the president, and the executive director shall cancel the temporary certificate immediately upon direction by the board or upon the board's denial of the application for a certificate. The temporary certificate shall not be renewable.*
- (2) *The executive director shall present to the board the application for certification made by the holder of the temporary certificate. If the board issues a regular certificate to the holder of a temporary certificate, the fee paid in connection with the temporary certificate shall be applied to the regular certificate fee.*
- (3) *If the executive director cancels a temporary certificate, he or she shall promptly notify by United States certified mail, the holder of the temporary certificate at the last known address on file with the board. The temporary certificate shall be terminated and of no further force or effect three (3) days after the date the notice was sent by certified mail.*

SECTION 6. A NEW SECTION OF KRS CHAPTER 311 IS CREATED TO READ AS FOLLOWS:

- (1) *An acupuncture practitioner shall use the designation "certified acupuncturist" or "C.Ac." following his or her name in all advertisements, professional literature, and billings used in connection with his or her practice.*
- (2) *The certification issued by the board shall be conspicuously displayed in the certified acupuncture practitioner's place of business.*
- (3) *A person who is not certified under Sections 1 to 16 of this Act shall not use any terms, words, abbreviations, letters, or insignia that indicate or imply that he or she is engaged in the practice of acupuncture.*
- (4) *Any person who violates this section shall be guilty of a Class A misdemeanor.*

SECTION 7. A NEW SECTION OF KRS CHAPTER 311 IS CREATED TO READ AS FOLLOWS:

*The provisions of Sections 1 to 16 of this Act shall not apply to:*

- (1) *Persons licensed, certified, or registered under any other provision of the Kentucky Revised Statutes and does not prohibit them from rendering services consistent with the laws regulating their professional practices and the ethics of their professions;*
- (2) *Student interns or trainees pursuing a program of studies in an institution approved by the board for teaching the practice of acupuncture if the person is designated an acupuncture intern or student in training and his or her activities are performed under supervision and constitute a part of the supervised program of study;*
- (3) *Activities of visiting acupuncturists, who are legally qualified to perform acupuncture in another state, in performing their duties as teachers at a board-approved institution or board-approved workshop or tutorial. As used in this subsection, "duties" means classroom instruction and demonstration of relevant techniques. It does not include the provision of any services to a patient in exchange for a fee; or*

- (4) *Activities, services, and use of title on the part of a person as part of their employment by the federal government.*

SECTION 8. A NEW SECTION OF KRS CHAPTER 311 IS CREATED TO READ AS FOLLOWS:

*An acupuncturist shall obtain informed consent from each patient in a manner consistent with the acceptable and prevailing standards of practice within this Commonwealth and, at a minimum, the acupuncturist shall disclose to the patient the following written information prior to or during the patient's initial visit:*

- (1) *The acupuncturist's qualifications, including his or her education, certification information, and the definition and scope of the practice of acupuncture in the Commonwealth; and*
- (2) *Possible outcomes of the treatment to be given, including any pain, bruising, infection, needle sickness, or other side effects that may occur.*

SECTION 9. A NEW SECTION OF KRS CHAPTER 311 IS CREATED TO READ AS FOLLOWS:

- (1) *An acupuncturist shall comply with all applicable state and municipal reporting requirements imposed on health care professionals regarding public health;*
- (2) *An acupuncturist shall maintain a record for each patient treated, in a manner consistent with the acceptable and prevailing standards of practice within the Commonwealth. At a minimum, the record for each patient shall include:*
  - (a) *A signed copy of the information disclosed by the acupuncturist to the patient under Section 8 of this Act;*
  - (b) *Evidence that the acupuncturist has conducted or overseen an interview concerning the patient's medical history and current physical condition;*
  - (c) *Evidence of the acupuncturist having conducted a traditional acupuncture examination;*
  - (d) *A record of the treatment, including the acupuncture points treated; and*
  - (e) *The evaluation and instructions given.*

SECTION 10. A NEW SECTION OF KRS CHAPTER 311 IS CREATED TO READ AS FOLLOWS:

- (1) *Every certified acupuncturist shall develop a written plan for consultation, emergency transfer, and referral to appropriate health care facilities or to other health care practitioners operating within the scope of their authorized practices, which meets the requirements contained in administrative regulations promulgated by the board. The written plan shall be filed with the board and maintained at the acupuncturist's practice location and updated as appropriate to meet current regulatory requirements.*
- (2) *If, in the course of conducting an interview regarding the patient's medical history, the patient discloses that he or she suffers from one (1) of the potentially serious disorders or conditions listed in subsection (3) of this section, the acupuncturist shall verify that the patient is currently under the care of a physician and consult with the treating physician before providing acupuncture treatment. If the patient refuses to provide a medical history or disclose information regarding any of the conditions listed below, acupuncture treatment shall not be provided.*
- (3) *For purposes of this section, "potentially serious disorder or condition" means:*
  - (a) *Hypertension and cardiac conditions;*
  - (b) *Acute, severe abdominal pain;*
  - (c) *Undiagnosed neurological changes;*
  - (d) *Unexplained weight loss or gain in excess of fifteen percent (15%) of the patient's body weight in less than a three (3) month period;*
  - (e) *Suspected fracture or dislocation;*
  - (f) *Suspected systemic infections;*
  - (g) *Serious hemorrhagic disorder;*
  - (h) *Acute respiratory distress without a previous history;*

- (i) *Pregnancy;*
- (j) *Diabetes; or*
- (k) *Cancer.*

SECTION 11. A NEW SECTION OF KRS CHAPTER 311 IS CREATED TO READ AS FOLLOWS:

- (1) *Any person certified as an acupuncturist shall renew his or her certificate every two (2) years. He or she shall pay to the board a renewal fee established by the board in administrative regulations. The fee shall be paid on or before June 1 of the year in which the certificate expires. A certificate that is not renewed within sixty (60) days after June 1 shall expire for failure to renew in a timely manner.*
- (2) *The board shall notify the certified acupuncturist of the renewal date at the acupuncturist's last known address. The notice shall include an application and notice of renewal fees. The certified acupuncturist's failure to receive the renewal notice shall not be considered an excuse to waive a late-payment fee.*
- (3) *A sixty (60) day grace period shall be allowed after June 1 of each year during which the acupuncturist may continue to practice. The acupuncturist may renew his or her certification upon payment of the renewal fee and a late renewal fee as established by the board in administrative regulation.*
- (4) *Any certification not renewed by the end of the grace period shall terminate and the acupuncturist shall no longer be eligible to practice acupuncture in the Commonwealth. An individual with a terminated certification may have his or her certification reinstated upon payment of the renewal fee and a reinstatement fee as established by the board in administrative regulations. A person who applies for reinstatement shall not be required to take an examination as a condition of reinstatement if the person's reinstatement application is made within five (5) years of the date of termination.*
- (5) *A suspended certificate shall expire and terminate if not renewed. Renewal of a suspended certificate shall not entitle the certified practitioner to practice until the suspension has ended or the right to practice has been restored by the board.*
- (6) *A revoked certificate shall terminate and may not be renewed. If a revoked certificate is reinstated, the certified practitioner shall pay the renewal fee and the reinstatement fee under subsections (1) and (4) of this section.*
- (7) *If a person fails to reinstate his or her certificate within five (5) years of its termination, the certificate shall not be renewed, restored, reissued, or reinstated. The person shall obtain a new certificate under the conditions established in Section 4 of this Act.*

SECTION 12. A NEW SECTION OF KRS CHAPTER 311 IS CREATED TO READ AS FOLLOWS:

*The board shall by administrative regulation prescribe continuing education requirements, not to exceed thirty (30) hours biennially, as a condition for renewal of a certificate. All education programs that contribute to the advancement, extension, or enhancement of professional skills and knowledge related to the practice of acupuncture, whether conducted by a nonprofit or profit-making entity, are eligible for approval. The continuing professional education requirements must be in acupuncture or oriental medicine subjects, including but not limited to anatomy, biological sciences, adjunctive therapies, sanitation and sterilization, emergency protocols, and diseases. The board shall have the authority to set a fee for each continuing education provider. The certified practitioner shall retain in his or her records the certificates of completion of continuing professional education requirements to prove compliance with this section. All national and state acupuncture and oriental medicine organizations and acupuncture and oriental medicine schools are approved to provide continuing professional education in accordance with this section.*

SECTION 13. A NEW SECTION OF KRS CHAPTER 311 IS CREATED TO READ AS FOLLOWS:

- (1) *A person certified under Sections 4 and 5 of this Act may apply for inactive status upon submitting an application and paying an inactive-status fee.*
- (2) *An inactive certificate may be reactivated upon application to the board. If a certificate has been inactive for more than five (5) consecutive years, the certified practitioner shall apply for a new certificate and shall meet all the requirements in existence for a certification under Sections 4 and 5 of this Act. That application for certification shall require:*
  - (a) *Evidence of the certificate holder's payment of an inactive-status fee; and*
  - (b) *Payment of the initial certification fee.*

## SECTION 14. A NEW SECTION OF KRS CHAPTER 311 IS CREATED TO READ AS FOLLOWS:

- (1) *The board may revoke a certificate; suspend a certificate for a period not to exceed five (5) years; deny an application for a certificate; decline to renew a certificate; indefinitely restrict or limit a certificate; issue a fine of up to two thousand dollars (\$2,000) per violation and/or the costs of the proceedings; place a certificate on probation for a period not to exceed five (5) years; reprimand the acupuncturist; or impose any combination of such sanctions, upon proof that the acupuncturist has:*
  - (a) *Knowingly made or presented or caused to be made or presented any false, fraudulent, or forged statements, writing, certificate, diploma, or other document relating to an application for certification;*
  - (b) *Practiced, aided, or abetted in the practice of fraud, forgery, deception, collusion, or conspiracy relating to an examination for certification;*
  - (c) *Entered a guilty or nolo contendere plea, or been convicted, by any court within or without the Commonwealth of Kentucky, of committing an act which is or would be a felony under the laws of the Commonwealth of Kentucky, or of the United States;*
  - (d) *Entered a guilty or nolo contendere plea, or been convicted, by any court within or without the Commonwealth of Kentucky, of any misdemeanor offense which has dishonesty as a fundamental and necessary element, including but not limited to crimes involving theft, embezzlement, false swearing, perjury, fraud, or misrepresentation;*
  - (e) *Become addicted to or is an abuser of alcohol, drugs, or any illegal substance;*
  - (f) *Developed a physical or mental disability or other condition that presents a danger in continuing to practice acupuncture to patients, the public, or other health care personnel;*
  - (g) *Knowingly made or caused to be made or aided or abetted in the making of a false statement in any document executed in connection with the practice of acupuncture;*
  - (h) *Aided assisted or abetted the unlawful practice of medicine or acupuncture;*
  - (i) *Willfully violated a confidential communication;*
  - (j) *Performed the services of an acupuncturist in an unprofessional, incompetent, or grossly or chronically negligent manner;*
  - (k) *Been removed, suspended, expelled, or placed on probation by any health care facility or professional society for unprofessional conduct, incompetence, negligence, or violation of any provision of this section;*
  - (l) *Violated any applicable provision of a statute or administrative regulation relating to acupuncture practice;*
  - (m) *Violated any term of a final order or agreed order issued by the board; or*
  - (n) *Failed to complete the required number of hours of approved continuing education.*
- (2) *All disciplinary proceedings against an acupuncturist shall be conducted in accordance with the provisions of KRS 311.591, 311.592, 311.593, 311.599 and KRS Chapter 13B and related administrative regulations promulgated under KRS Chapter 311.*
- (3)
  - (a) *The board may issue a written admonishment to the certified acupuncturist, when in the judgment of the board:*
    1. *An alleged violation is not of a serious nature; and*
    2. *The evidence presented to the board after the investigation, including an appropriate opportunity for the certified acupuncturist to respond, provides a clear indication that the alleged violation did in fact occur.*
  - (b) *A copy of the admonishment shall be placed in the permanent file of the certified acupuncturist.*
  - (c) *The certified acupuncturist shall have the right to file a response to the admonishment within thirty (30) days of its receipt and to have the response placed in the permanent certification file.*

- (d) *The certified acupuncturist may alternatively, within thirty (30) days of the admonishment's receipt, file a request for a hearing with the board.*
- (e) *Upon receipt of a request for a hearing the board shall set aside the written admonishment and set the matter for a hearing under the provisions of KRS Chapter 13B.*
- (4) *At any time during the investigative or hearing processes, the board may enter into an agreed order or accept an assurance of voluntary compliance with the certified acupuncturist which effectively deals with the complaint.*
- (5) *The board may, upon the agreement of the aggrieved party, use mediation to handle disciplinary matters. The board may appoint any member or members of the board, any staff member, or any other person or combination thereof to serve in the mediation process.*
- (6) *The board may reconsider, modify, or reverse its disciplinary actions.*

SECTION 15. A NEW SECTION OF KRS CHAPTER 311 IS CREATED TO READ AS FOLLOWS:

- (1) *The board, before suspending, revoking, imposing probationary or supervisory conditions upon a certified acupuncturist, imposing an administrative fine, issuing a written reprimand, or any combination of these actions regarding any certified acupuncturist under the provisions of Sections 1 to 16 of this Act, shall set the matter for a hearing under the provisions of KRS Chapter 13B.*
- (2) *After denying an application under the provisions of Sections 1 to 16 of this Act or issuing a written admonishment, the board at the request of the aggrieved party shall grant a hearing under the provisions of KRS Chapter 13B.*
- (3) *Except for final orders denying an initial application or renewal for certification or final orders issued pursuant to KRS 13B.125(3), all final orders of the board affecting an acupuncturist's certificate shall become effective thirty (30) days after notice is given to the certificate holder unless otherwise agreed; however, the board's panels may provide that a final order be effective immediately when, in the panel's opinion, based upon sufficient reasonable cause, the health, welfare, and safety of patients or the general public would be endangered by delay.*
- (4) *Any acupuncturist who is aggrieved by a final order of the board denying an initial or renewal application for certification or rendering disciplinary action against a certificate holder may seek judicial review of the order by filing a petition with the Circuit Court of the county in which the board's offices are located in accordance with KRS Chapter 13B. Decisions of the board's panels relating to petitions for reinstatement of revoked certificates are not final orders for purposes of this statute, and are not subject to judicial review.*
- (5) *The court shall not award injunctive relief against the board without providing the board with the reasonable opportunity to be heard.*
- (6) *An acupuncturist whose certificate has been revoked may, after five (5) years from the effective date of the revocation order, petition the board to reissue the certificate to again practice acupuncture in the Commonwealth of Kentucky.*
- (7) *The board shall not be required to issue a new certificate, and a decision of the board not to reissue a certificate shall not be subject to judicial review. A certificate shall not be reissued following a petition under subsection (6) of this section unless the former certificate holder satisfies the board that he or she is presently of good moral character and qualified both physically and mentally to resume the practice of medicine without undue risk or danger to patients or the public.*
- (8) *In the event the board reissues a revoked certificate under the circumstances as described in this section, the reissued certificate shall be under probation for a period of not less than two (2) years nor more than five (5) years, with conditions fixed by the board, including a condition that any violation of the remaining conditions of probation shall result in automatic revocation of the certificate.*

SECTION 16. A NEW SECTION OF KRS CHAPTER 311 IS CREATED TO READ AS FOLLOWS:

- (1) *At any time when an inquiry panel established under KRS 311.591 has probable cause to believe that an acupuncturist has violated the terms of an agreed order as defined in KRS 311.550(19), or violated the terms of a disciplinary order, or that an acupuncturist's practice constitutes a danger to the health, welfare, or safety of patients or the general public, the inquiry panel may issue an emergency order in accordance with KRS 13B.125 suspending, limiting or restricting the acupuncturist's certificate.*



- (2) *For the purposes of a hearing conducted under KRS 311.592 on an emergency order issued under this section, the findings of fact in the emergency order shall constitute a rebuttable presumption of substantial evidence of a violation of law that constitutes immediate danger to the health, welfare, or safety of patients or the general public. For the purposes of this hearing only, hearsay shall be admissible and may serve as a basis of the board's findings.*
- (3) *An emergency order as described in subsection (1) of this section shall not be issued unless grounds exist for the issuance of a complaint. The inquiry panel shall issue a complaint prior to the date of the emergency hearing or the emergency order shall become void.*
- (4) *An emergency order suspending, limiting or restricting a certificate shall not be maintained after a final order as defined in KRS 311.550(20) is served on the charged acupuncturist pursuant to the proceeding on the complaint. An appeal of an emergency order shall not prejudice the board from proceeding with the complaint.*

**Approved April 24, 2006.**

## CHAPTER 250

### (HB 382)

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

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

## PART I

### OPERATING BUDGET

**(1) Funds Appropriations:** There is appropriated out of the General Fund, Restricted Funds accounts, and Federal Funds accounts for the fiscal year beginning July 1, 2006, and ending June 30, 2007, and for the fiscal year beginning July 1, 2007, and ending June 30, 2008, the following sums to be used for the purposes of the Judicial Branch of the government of the Commonwealth of Kentucky, including the Supreme Court, Court of Appeals, Circuit Court, Family Court, District Court, the Administrative Office of the Courts, Judicial Retirement, Local Facilities Fund, Local Facilities Use Allowance Contingency Fund, and for services performed by the circuit clerks' offices, including both Circuit and District Court support.

#### 1. Court of Justice

##### a. Court operations and administration

	2006-07	2007-08
General Fund	180,542,400	193,575,400
Restricted Funds	21,780,600	22,085,100
Federal Funds	1,769,900	1,431,500
<b>TOTAL</b>	<b>204,092,900</b>	<b>217,092,000</b>

**(1) Salary Adjustments:** Funds are included to provide a salary adjustment in fiscal years 2006-2007 and 2007-2008 for non elected court personnel. Included are funds to provide for a salary adjustment in fiscal years 2006-2007 and 2007-2008 for the justices and judges. Also included are funds for the salaries of the circuit clerks in fiscal years 2006-2007 and 2007-2008.

Notwithstanding KS 18A.355(1), in fiscal year 2006-2007 and in fiscal year 2007-2008 a salary adjustment amounting to an annualized value on the base salary or wages of each eligible full-time and part-time employee on their anniversary date is provided. The amount of the salary adjustment is determined by each eligible employee's annual base salary or wages on their anniversary date, and the following table reflects the annualized values of the salary adjustment for fiscal year 2006-2007 and fiscal year 2007-2008.

Annual Base Salary or Wages	2006-07	2007-08
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\$0 to \$30,000.00	\$1,350	\$1,350
\$30,000.01 to \$50,000.00	\$1,200	\$1,200
\$50,000.01 to \$60,000.00	\$1,000	\$1,000
\$60,000.01 to \$80,000.00	\$600	\$600
\$80,000.01 and above	\$400	\$400

Commencing with an eligible employee's anniversary date, the salary adjustment shall be added to the eligible employee's base salary or wages and shall be disbursed by payroll period in a one-twenty-fourth installment for the duration of the employment. The Chief Justice of the Supreme Court shall determine the pro rata amount of the salary adjustment to be provided to part-time employees. The salary adjustment shall be a part of the salary or wage base of the employee.

(2) **Circuit Court Judgeships:** Included in the above General Fund appropriation is funding in fiscal year 2006-2007 and fiscal year 2007-2008 to support eight Circuit Court judgeships authorized by the 2005 General Assembly and additional Circuit Court judgeships in the Fourth Judicial Circuit, the Ninth Judicial Circuit, the Fourteenth Judicial Circuit, the Thirty-ninth Judicial Circuit, the Forty-ninth Judicial Circuit, the Fifty-fourth Judicial Circuit, and the Fifty-seventh Judicial Circuit.

(3) **District Court Judgeships:** Included in the above General Fund appropriation is funding in fiscal year 2006-2007 and fiscal year 2007-2008 for additional District Court judgeships in the Eighth Judicial District and the Twenty-fifth Judicial District.

(4) **Drug Court Sites:** Included in the above General Fund appropriation is \$1,300,000 in fiscal year 2006-2007 and \$1,725,000 in fiscal year 2007-2008 to replace Federal Funds for existing Drug Court sites whose funding expires during the 2006-2008 fiscal biennium. The above General Fund appropriation includes \$980,000 in fiscal year 2007-2008 to expand eight existing Drug Court sites. Also included in the above General Fund appropriation is \$4,770,000 in fiscal year 2007-2008 for 20 new Drug Court sites.

(5) **Deputy Clerk Salary Improvement:** Included in the above General Fund appropriation is \$1,213,900 in fiscal year 2006-2007 and \$1,274,500 in fiscal year 2007-2008 to support a deputy clerk salary enhancement initiative in the circuit clerks' offices. These amounts include an increase in the minimum entry level and a minimum across-the-board increase for those deputy clerks whose salaries are less than \$40,000.

(6) **Maximum Salary of Trial Commissioners:** Notwithstanding KS 24A.100(3), funds are included in the above General Fund appropriation to continue the statutory maximum salary of trial commissioners as provided for in the Judicial Branch Budget Recommendation.

**b. Local Facilities Fund**

	2006-07	2007-08
General Fund	60,798,700	82,545,900

(1) **Local Court Facility Compensation:** Included in the above appropriation is money to compensate local units of government for providing court space and for costs incurred in the development of local court facilities as defined in KS Chapter 26A and provided in Part II of this Act, and to perform all other acts required or authorized by KS Chapter 26A.

(2) **Funds Carry Forward:** Notwithstanding KS 45.229, any unexpended balance remaining at the close of fiscal year 2005-2006 shall not lapse and shall continue into fiscal year 2006-2007, and any unexpended balance remaining at the close of fiscal year 2006-2007 shall not lapse and shall be continued into fiscal year 2007-2008.

(3) **Fayette County Courthouses:** Included in the above General Fund appropriation is \$300,000 in fiscal year 2006-2007 for improvements to ~~to~~ (Veto #1) client interview areas in the Fayette County Courthouses.

(4) **Fayette County Courthouses Use Allowance:** The use allowance for the Fayette County Courthouses is contingent upon Short Street in Lexington, Kentucky, remaining open to traffic.

**c. Local Facilities Use Allowance Contingency Fund**

	2006-07	2007-08
General Fund	-0-	-0-

(1) **Funds Carry Forward:** Notwithstanding KS 45.229, any unexpended balance remaining at the close of fiscal year 2005-2006 shall not lapse and shall continue into fiscal year 2006-2007, and any unexpended balance remaining at the close of fiscal year 2006-2007 shall not lapse and shall be continued into fiscal year 2007-2008 to provide for cost overruns in authorized court facilities projects not to exceed 15 percent of the use allowance in accordance with KS Chapter 26A.

**TOTAL - COURT OF JUSTICE**

	<b>2006-07</b>	<b>2007-08</b>
General Fund	241,341,100	276,121,300
Restricted Funds	21,780,600	22,085,100
Federal Funds	1,769,900	1,431,500
<b>TOTAL</b>	<b>264,891,600</b>	<b>299,637,900</b>

**2. Judicial Retirement System**

	<b>2006-07</b>	<b>2007-08</b>
General Fund	3,247,500	3,255,200

(1) **Judicial Retirement Benefits:** General Fund amounts are included to provide actuarial assessed judicial retirement benefits, pursuant to KS 21.345 to 21.580.

**TOTAL - OPERATING BUDGET**

	<b>2006-07</b>	<b>2007-08</b>
General Fund	244,588,600	279,376,500
Restricted Funds	21,780,600	22,085,100
Federal Funds	1,769,900	1,431,500
<b>TOTAL</b>	<b>268,139,100</b>	<b>302,893,100</b>

**PART II**

**CAPITAL PROJECTS BUDGET**

**1. Lease Authorizations**

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

**2. Local Facilities Projects - Authorized:** Nothing in this Act shall reduce the funding of court facility projects authorized by the General Assembly.

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

**TOTAL - JUDICIAL BRANCH BUDGET**

	<b>2006-07</b>	<b>2007-08</b>
General Fund	244,588,600	279,376,500
Restricted Funds	21,780,600	22,085,100
Federal Funds	1,769,900	1,431,500
<b>TOTAL</b>	<b>268,139,100</b>	<b>302,893,100</b>

### PART III

#### GENERAL PROVISIONS

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

~~**2. Permissible Obligations Against General Fund Appropriations:** The Court of Justice shall not incur any obligation for any program against the General Fund appropriations contained in this Act unless that program may be reasonably determined to have been contemplated by the proposed judicial budget, as modified and enacted, and supported by the statutory budget memorandum and other pertinent records.} (Veto #2)~~

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

**4. Duplicate Appropriations:** Any appropriation item and sum in this Act and in an appropriation provision in another Act of the 2006 General Assembly which constitutes a duplicate appropriation shall be governed by KS 48.312.

**5. Priority of Individual Appropriations:** KS 48.313 shall control when a total or subtotal figure in this Act conflicts with the sum of the appropriations of which it consists.

**6. Carry Forward of Restricted and Federal Funds:** Notwithstanding KS 45.229, any unexpended balance remaining in the Court's Restricted Funds accounts or Federal Funds accounts at the close of the fiscal years ending June 30, 2006, and June 30, 2007, shall not lapse and shall continue into the next fiscal year.

**7. Final Budget Document:** The Chief Justice shall cause the Director of the Administrative Office of the Courts to prepare a final budget document reflecting the 2006-2008 biennial budget of the Court of Justice. A copy shall be provided to the Legislative Research Commission and an informational copy shall be furnished to the Finance and Administration Cabinet within 60 days of the adjournment of the 2006 Regular Session of the General Assembly.

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

**9. Appropriations Revisions:** Proposed revisions to Restricted Funds and Federal Funds appropriations in this Act shall be made and reported pursuant to KS 48.630(10). The Director of the Administrative Office of the Courts shall notify on a timely basis the Legislative Research Commission of the most current estimates of anticipated receipts for the affected fiscal year and an accompanying statement which explains such variations from the anticipated amount.

**10. Judicial Retirement:** To achieve consistency with the Kentucky Court of Justice Personnel Policy Section 6.03(2), with respect to non elected employees, the compensation payable to any Justice or Judge, ~~after January 1, 2007~~, (Veto #3) receiving retirement benefits from the Judicial Retirement Plan on account of prior judicial service shall be fixed at an amount whereby his or her total salary and retirement benefits shall not exceed the salary fixed for the judicial office held.

**11. General Fund Expenditure Reductions through Efficiencies:** The Chief Justice shall reduce General Fund expenditures appropriated in this Act by \$2,500,000 in fiscal year 2006-2007 and by \$2,500,000 in fiscal year 2007-2008 by reducing waste, fraud, and abuse, and by creating additional savings through increased efficiencies.

### PART IV

#### BUDGET REDUCTION OR SURPLUS EXPENDITURE PLAN

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

### PART V

#### JUDICIAL DISTRICTS AND CIRCUITS

Notwithstanding KRS 48.310, the following statutes are amended to read as follows and shall have permanent effect, subject to future actions by the General Assembly:

Section 1. KRS 23A.040~~[, effective July 15, 2006.]~~ (Veto #4) is amended to read as follows:

The following judicial circuits are entitled to two (2) judges and shall have two (2) numbered divisions of the Circuit Court:

- (1) ***Fourth Judicial Circuit.***
- (2) Fifth Judicial Circuit.
- ~~(3)(2)~~ Sixth Judicial Circuit.
- ~~(4)(3)~~ Tenth Judicial Circuit.
- ~~(5)(4)~~ Eleventh Judicial Circuit.
- ~~(6)(5)~~ Twelfth Judicial Circuit.
- ~~(7)(6)~~ Thirteenth Judicial Circuit.
- ~~{(7) — Fourteenth Judicial Circuit.}~~
- (8) Eighteenth Judicial Circuit.
- (9) Twentieth Judicial Circuit.
- (10) Twenty-first Judicial Circuit.
- (11) Twenty-fourth Judicial Circuit.
- (12) Thirty-second Judicial Circuit.
- (13) Thirty-fourth Judicial Circuit.
- (14) Thirty-seventh Judicial Circuit.
- (15) Thirty-eighth Judicial Circuit.
- (16) ***Thirty-ninth Judicial Circuit.***
- (17) Forty-first Judicial Circuit.
- ~~(18)(17)~~ Forty-second Judicial Circuit.
- ~~(19)(18)~~ Forty-third Judicial Circuit.
- ~~(20)(19)~~ Forty-sixth Judicial Circuit.
- (21) ***Forty-ninth Judicial Circuit.***
- ~~(22)(20)~~ Fiftieth Judicial Circuit.
- ~~(23)(21)~~ Fifty-first Judicial Circuit.
- ~~(24)(22)~~ Fifty-third Judicial Circuit.
- ~~{(23) — Fifty-fourth Judicial Circuit.}~~
- ~~(25)(24)~~ Fifty-fifth Judicial Circuit.
- (26) ***Fifty-seventh Judicial Circuit.***

Section 2. KRS 23A.045~~[, effective July 15, 2006.]~~ (Veto #4) is amended to read as follows:

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

- (1) Second Judicial Circuit.
- (2) Third Judicial Circuit.
- (3) ***Fourteenth***~~[Ninth]~~ Judicial Circuit.

- (4) Seventeenth Judicial Circuit.
- (5) Twenty-seventh Judicial Circuit.
- (6) Twenty-eighth Judicial Circuit.
- (7) Thirty-first Judicial Circuit.
- (8) Thirty-fifth Judicial Circuit.
- (9) Forty-eighth Judicial Circuit.
- (10) *Fifty-fourth Judicial Circuit.***

Section 3. KRS 23A.050, ~~effective July 15,~~ (Veto #4) is amended to read as follows:

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

- (1) Eighth Judicial Circuit.
- (2) ***Ninth Judicial Circuit.***
- (3) Sixteenth Judicial Circuit.
- ~~(4)(3)~~ Twenty-fifth Judicial Circuit.

Section 4. KRS 24A.050, effective January 1, 2007, is amended to read as follows:

The following judicial districts are entitled to two (2) District Judges and shall have two (2) numbered divisions of the District Court:

- (1) Second Judicial District.
- (2) Third Judicial District.
- (3) Fourth Judicial District.
- ~~(4)(Eighth Judicial District.~~
- ~~(5)~~ Ninth Judicial District.
- ~~(5)(6)~~ Eleventh Judicial District.
- ~~(6)(7)~~ Twelfth Judicial District.
- ~~(7)(8)~~ Thirteenth Judicial District.
- ~~(8)(9)~~ Fourteenth Judicial District.
- ~~(9)(10)~~ Fifteenth Judicial District.
- ~~(10)(11)~~ Seventeenth Judicial District.
- ~~(11)(12)~~ Twenty-first Judicial District.
- ~~(12)(13)~~ Twenty-fourth Judicial District.
- ~~(13)(14) Twenty-fifth Judicial District.~~
- ~~(15)~~ Twenty-seventh Judicial District.
- ~~(14)(16)~~ Twenty-eighth Judicial District.
- ~~(15)(17)~~ Thirty-first Judicial District.
- ~~(16)(18)~~ Thirty-second Judicial District.
- ~~(17)(19)~~ Thirty-fourth Judicial District.
- ~~(18)(20)~~ Thirty-fifth Judicial District.
- ~~(19)(21)~~ Thirty-eighth Judicial District.
- ~~(20)(22)~~ Fortieth Judicial District.

- ~~(21)~~~~(23)~~ Forty-first Judicial District.
- ~~(22)~~~~(24)~~ Forty-sixth Judicial District.
- ~~(23)~~~~(25)~~ Forty-eighth Judicial District.
- ~~(24)~~~~(26)~~ Fifty-first Judicial District.
- ~~(25)~~~~(27)~~ Fifty-third Judicial District.
- ~~(26)~~~~(28)~~ Fifty-fourth Judicial District.
- ~~(27)~~~~(29)~~ Fifty-fifth Judicial District.
- ~~(28)~~~~(30)~~ Fifty-sixth Judicial District.

Section 5. KRS 24A.060, effective January 1, 2007, is amended to read as follows:

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

- (1) Sixth Judicial District.***
- (2) Eighth Judicial District.***
- (3) Twenty-fifth Judicial District.*** ~~[The Sixth Judicial District is entitled to three (3) District Judges and shall have three (3) numbered divisions of the District Court].~~

Section 6. The new judgeships created by Sections 1 to 5 of this Part shall become effective January 1, 2007~~;~~ and an election to fill each new judgeship shall be placed on the ballot for the general election held in November, 2006. Notwithstanding KRS 118A.060(2), a candidate for a judgeship created by Sections 1 to 5 of this Part may file a petition for nomination during the time period beginning on the effective date of this Act and ending at 4 p.m. local time at the place of filing on August 8, 2006. KRS Chapter 118A notwithstanding, all candidates for a judgeship created by Sections 1 to 5 of this Part who file a valid petition for nomination shall be placed on the ballot. *(Veto #4)*

**Legislative Research Commission Note (7/12/2006).** In this bill, material that was vetoed by the Governor is bracketed, struck through, and followed by the number of the veto in parentheses.

**Vetoed in part, April 24, 2006. Provisions that were not vetoed became law April 25, 2006, without Governor's signature.**

## CHAPTER 251

### (HB 557)

AN ACT relating to governmental operations, making an appropriation therefor, and declaring an emergency.

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

Section 1. KRS 13B.020 is amended to read as follows:

- (1) The provisions of this chapter shall apply to all administrative hearings conducted by an agency, with the exception of those specifically exempted under this section. The provisions of this chapter shall supersede any other provisions of the Kentucky Revised Statutes and administrative regulations, unless exempted under this section, to the extent these other provisions are duplicative or in conflict. This chapter creates only procedural rights and shall not be construed to confer upon any person a right to hearing not expressly provided by law.
- (2) The provisions of this chapter shall not apply to:
  - (a) Investigations, hearings to determine probable cause, or any other type of information gathering or fact finding activities;
  - (b) Public hearings required in KRS Chapter 13A for the promulgation of administrative regulations;

- (c) Any other public hearing conducted by an administrative agency which is nonadjudicatory in nature and the primary purpose of which is to seek public input on public policy making;
  - (d) Military adjudicatory proceedings conducted in accordance with KRS Chapter 35;
  - (e) Administrative hearings conducted by the legislative and judicial branches of state government;
  - (f) Administrative hearings conducted by any city, county, urban-county, charter county, or special district contained in KRS Chapters 65 to 109, or any other unit of local government operating strictly in a local jurisdictional capacity;
  - (g) Informal hearings which are part of a multilevel hearing process that affords an administrative hearing at some point in the hearing process if the procedures for informal hearings are approved and promulgated in accordance with subsections (4) and (5) of this section;
  - (h) Limited exemptions granted for specific hearing provisions and denoted by reference in the text of the applicable statutes or administrative regulations;
  - (i) Administrative hearings exempted pursuant to subsection (3) of this section;
  - (j) Administrative hearings exempted, in whole or in part, pursuant to subsections (4) and (5) of this section; and
  - (k) Any administrative hearing which was commenced but not completed prior to July 15, 1996.
- (3) The following administrative hearings are exempt from application of this chapter in compliance with 1994 Ky. Acts ch. 382, sec. 19:
- (a) Finance and Administration Cabinet
    - 1. Higher Education Assistance Authority
      - a. Wage garnishment hearings conducted under authority of 20 U.S.C. sec. 1095a and 34 C.F.R. sec. 682.410
      - b. Offset hearings conducted under authority of 31 U.S.C. sec. 3720A and sec. 3716, and 34 C.F.R. sec. 30.33
    - 2. ***Department of Revenue***
      - a. ***Any licensing and bond revocation hearings conducted under the authority of KRS 138.210 to 138.448 and 234.310 to 234.440***
      - b. ***Any license revocation hearings under KRS 131.630 and 138.130 to 138.205***
  - (b) Cabinet for Health and Family Services
    - 1. Office of Certificate of Need
      - a. Certificate-of-need hearings and licensure conducted under authority of KRS Chapter 216B
      - b. Licensure revocation hearings conducted under authority of KRS Chapter 216B
    - 2. Department for Community Based Services
      - a. Supervised placement revocation hearings conducted under authority of KRS Chapter 630
    - 3. Department for Disability Determination Services
      - a. Disability determination hearings conducted under authority of 20 C.F.R. sec. 404
  - (c) Justice Cabinet
    - 1. Department of State Police
      - a. State Police Trial Board disciplinary hearings conducted under authority of KRS Chapter 16
    - 2. Department of Corrections
      - a. Parole Board hearings conducted under authority of KRS Chapter 439



- b. Prison adjustment committee hearings conducted under authority of KRS Chapter 197
    - c. Prison grievance committee hearings conducted under authority of KRS Chapters 196 and 197
  - 3. Department of Juvenile Justice
    - a. Supervised placement revocation hearings conducted under KRS Chapter 635
- (d) Environmental and Public Protection Cabinet
  - 1. Department for Natural Resources
    - a. Surface mining hearings conducted under authority of KRS Chapter 350
  - 2. Department for Environmental Protection
    - a. Wild River hearings conducted under authority of KRS Chapter 146
    - b. Water resources hearings conducted under authority of KRS Chapter 151
    - c. Water plant operator and water well driller hearings conducted under authority of KRS Chapter 223
    - d. Environmental protection hearings conducted under authority of KRS Chapter 224
    - e. Petroleum Storage Tank Environmental Assurance Fund hearings under authority of KRS Chapter 224
  - 3. Office of Workers' Claims
    - a. Workers' compensation hearings conducted under authority of KRS Chapter 342
  - 4. Kentucky Occupational Safety and Health Review Commission
    - a. Occupational safety and health hearings conducted under authority of KRS Chapter 338
  - 5. Department of Public Protection
    - a. Board of Claims
      - i. Liability hearings conducted under authority of KRS Chapter 44
    - b. Public Service Commission
      - i. Utility hearings conducted under authority of KRS Chapters 74, 278, and 279
- (e) Cabinet for Workforce Development
  - 1. Department for Employment Services
    - a. Unemployment Insurance hearings conducted under authority of KRS Chapter 341
- (f) Secretary of State
  - 1. Registry of Election Finance
    - a. Campaign finance hearings conducted under authority of KRS Chapter 121
- (g) State universities and colleges
  - 1. Student suspension and expulsion hearings conducted under authority of KRS Chapter 164
  - 2. University presidents and faculty removal hearings conducted under authority of KRS Chapter 164
  - 3. Campus residency hearings conducted under authority of KRS Chapter 164
  - 4. Family Education Rights to Privacy Act hearings conducted under authority of 20 U.S.C. sec. 1232 and 34 C.F.R. sec. 99
  - 5. Federal Health Care Quality Improvement Act of 1986 hearings conducted under authority of 42 U.S.C. sec. 11101 to 11115 and KRS Chapter 311.

- (4) Any administrative hearing, or portion thereof, may be certified as exempt by the Attorney General based on the following criteria:
- (a) The provisions of this chapter conflict with any provision of federal law or regulation with which the agency must comply, or with any federal law or regulation with which the agency must comply to permit the agency or persons within the Commonwealth to receive federal tax benefits or federal funds or other benefits;
  - (b) Conformity with the requirement of this chapter from which exemption is sought would be so unreasonable or so impractical as to deny due process because of undue delay in the conduct of administrative hearings; or
  - (c) The hearing procedures represent informal proceedings which are the preliminary stages or the review stages of a multilevel hearing process, if the provisions of this chapter or the provisions of a substantially equivalent hearing procedure exempted under subsection (3) of this section are applied at some level within the multilevel process.
- (5) The Attorney General shall not exempt an agency from any requirement of this chapter until the agency establishes alternative procedures by administrative regulation which, insofar as practical, shall be consistent with the intent and purpose of this chapter. When regulations for alternative procedures are submitted to the Administrative Regulation Review Subcommittee, they shall be accompanied by the request for exemption and the approval of exemption from the Attorney General. The decision of the Attorney General, whether affirmative or negative, shall be subject to judicial review in the Franklin Circuit Court within thirty (30) days of the date of issuance. The court shall not overturn a decision of the Attorney General unless the decision was arbitrary or capricious or contrary to law.
- (6) Except to the extent precluded by another provision of law, a person may waive any procedural right conferred upon that person by this chapter.

Section 2. 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.

- (1) The department shall develop and implement a Kentucky tax education and information program directed at new taxpayers, taxpayer and industry groups, and department 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 shall publish brief statements in simple and nontechnical language which explain procedures, remedies, and the rights and obligations of taxpayers and the department. 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 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. The taxpayer shall be informed of this right prior to conduct of any conference or hearing.
- (4) The department 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. The department may make similar audio recordings~~only~~ if prior written notice is given to the taxpayer **or if the taxpayer records the conference or hearing**. The taxpayer shall be entitled to a copy of this department 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 is due to the taxpayer's reasonable reliance on written advice from the department, the taxpayer shall be relieved of any penalty or interest with respect thereto, provided the taxpayer requested the advice in writing from the department and the specific facts and circumstances of the activity or transaction were fully described in the taxpayer's request, the department 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 earlier written advice no longer valid.

- (7) Taxpayers shall have the right to receive a copy of any audit of the department by the Auditor of Public Accounts relating to the department's compliance with the provisions of KRS 131.041 to 131.081.
- (8) The department 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 of the amounts owed. The department 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 shall give written notice to the taxpayer at least thirty (30) days prior to modifying or terminating an installment payment agreement unless the department has reason to believe that collection of the amounts owed will be jeopardized in whole or in part by delay.
- (10) The department 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 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 in writing and provides a copy of the extension at the time and in the manner which the department may require.
- (12) The department 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, provided the erroneous lien or levy was caused by department error and, prior to issuance of the erroneous lien or levy, the taxpayer timely responded to all contacts by the department and provided information or documentation sufficient to establish his or her position. When the department 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 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 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. 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 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 to any person or be intentionally and without authorization inspected by any present or former commissioner or employee of the Department of Revenue, member of a county board of assessment appeals, property valuation administrator or employee, or any other person.

Section 3. 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:
  - (a) The value assigned by the seller of a motor vehicle to a motor vehicle **registered to the purchaser and** 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; **or**
  - (b) ***In the absence of a notarized affidavit, the value of the vehicle being offered in trade as established by the department through the use of the reference manual;***
- (11) "Used motor vehicle" means a motor vehicle which has been previously registered in any state or country;
- (12) (a) "Retail price" ~~of motor vehicles shall be determined as follows:~~  
~~(a) —~~for:
  1. New **motor vehicles**; ~~for~~
  2. Dealer demonstrator **vehicles**; ~~for~~
  3. Previous model year motor vehicles; and
  4. 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; ~~for~~ "retail price"

*means* ~~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.

(b) If a notarized affidavit ~~signed by both the buyer and seller~~ is not available ~~to establish total consideration given~~, "retail price" *means* ~~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~~

(c) ~~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;

(13) ~~(b)~~ *"Retail price"* for historic motor vehicles ~~,"retail price"~~ shall be one hundred dollars (\$100);

(14) ~~(c)~~ *"Retail price"* for used motor vehicles being registered by a new resident for the first time in Kentucky whose values appear in the ~~automotive~~ reference manual *means* ~~prescribed by the Department of Revenue, "retail price" shall be~~ the ~~average~~ trade-in value given in the reference manual;

(15) ~~(d)~~ *"Retail price"* 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);

(16) ~~(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 for any vehicle given in trade;}~~

(a) ~~(f)~~ *"Retail price"* for:

1. Used motor vehicles, *except those vehicles for which the retail price is established in subsection (13), (14), or (15) of this section;* ~~previously registered in Kentucky that are sold in Kentucky,~~ and
2. 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.

(b) The trade-in allowance shall *also* be disclosed in the notarized affidavit ~~signed by the buyer and the seller attesting to the total consideration given~~.

(c) 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~~ through the use of the ~~automotive~~ reference manual ~~prescribed by the Department of Revenue~~;

(17) ~~(e)~~ 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~~;

(18) ~~(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 (12) of this section computed as of the date on which the vehicle is transferred; ~~and~~

(19) ~~(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;

- (20) *"Department" means the Department of Revenue;*
- (21) *"Notarized affidavit" means a dated affidavit signed by the buyer and the seller on which the signature of the buyer and the signature of the seller are individually notarized; and*
- (22) *"Reference manual" means the automotive reference manual prescribed by the department.*

Section 4. 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 titled or registered:
  - (a) When the fee for titling or registering a motor vehicle the first time it is offered for titling or registration in this state is collected; or
  - (b) Upon the transfer of title or registration of any motor vehicle previously titled or registered in this state.
- (3) The tax imposed by subsection (1) of this section and collected under subsection (2) of this section shall not be collected if the owner provides to the county clerk a signed affidavit of nonhighway use, on a form provided by the department, attesting that the vehicle will not be used on the highways of the Commonwealth. If this type of affidavit is provided, the clerk shall, in accordance with the provisions of KRS Chapter 139, immediately collect the applicable sales and use tax due on the vehicle.
- (4)
  - (a) The tax collected by the county clerk under this section shall be reported and remitted to the department ~~of Revenue~~ on forms *prescribed and* provided by the department ~~and on those forms as the department may prescribe~~. The department 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 and subsection (3) of this section. 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.
  - (b) The sales and use tax collected by the county clerk under subsection (3) of this section shall be reported and remitted to the department on forms which the department shall prescribe and provide at no cost. The county clerk shall, for his or her services in collecting the tax, be entitled to retain an amount equal to three percent (3%) of the tax collected and accounted for.
  - (c) Motor vehicle dealers licensed pursuant to KRS Chapter 190 shall not owe or be responsible for the collection of sales and use tax due under subsection (3) of this section.
- (5) A county clerk or other officer shall not title, register or issue any license tags to the owner of any motor vehicle subject to the tax imposed by subsection (1) of this section or the tax imposed by KRS Chapter 139, when the vehicle is being offered for titling or registration for the first time, or transfer the title of any motor vehicle previously registered in this state, unless the owner or his agent pays the tax levied under subsection (1) of this section or the tax imposed by KRS Chapter 139, if applicable, in addition to any title, registration, or license fees.
- (6)
  - (a) When a person offers a motor vehicle:
    1. For titling on or after March 20, 2005; or
    2. 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.
  - (b) When a resident of this state offers a motor vehicle for registration for the first time in this state:
    1. Upon which the Kentucky sales and use tax was paid by the resident offering the motor vehicle for registration at the time of titling under subsection (3) of this section; and
    2. For which the resident provides proof that the tax was paid;

a nonrefundable credit shall be given against the tax imposed by subsection (1) of this section for the sales and use tax paid.

- (7) (a) A county clerk or other officer shall not title, 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 titling or 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.
- (b) If a notarized affidavit is not available, the clerk shall follow the procedures under KRS 138.450(12)(b)(a) for new vehicles, and KRS 138.450(14)(12)(c), (d), or (15)(e) for used vehicles.
- (c) 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]~~ may prescribe by administrative regulation promulgated under KRS Chapter 13A to the copy of the certificate of registration and application for title mailed to the department.
- (8) Notwithstanding the provisions of KRS 138.450, the tax shall not be less than six dollars (\$6) upon titling or first registration of a motor vehicle in this state, except where the vehicle is exempt from tax under KRS 138.470 or 154.45-090.
- (9) 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]~~ 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.
- (10) 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]~~ as a result of the first titling or registration. A person shall not be entitled to a refund unless the person has filed with the department~~[of Revenue]~~ a report from the manufacturer identifying the vehicle that was replaced and stating the date of replacement.
- (11) Notwithstanding the time limitations of subsections (9) and (10) 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]~~ as a result of the titling or registration. A person shall not be entitled to a refund unless the person files with the department~~[of Revenue]~~ a report from the dealer or manufacturer identifying the vehicle that was replaced.

Section 5. 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 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 and shall maintain records, as required by the Department of Revenue, 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 monthly on forms prescribed by and in accordance with administrative regulations promulgated by the department.

- (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 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) *or* (16).

Section 6. KRS 138.464 is amended to read as follows:

- (1) The county clerk shall report each Monday to the department~~of Revenue~~ all moneys collected during the previous week, together with a duplicate of all receipts issued by him during the same period.
- (2) 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~~ 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~~ or his designee.
- (3) Failure to forward duplicates of all receipts issued during the reporting period or failure to file the weekly report of moneys collected ***within seven (7) working days after the report is due*** 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.
- (4) 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.
- (5) The penalties provided in this section shall not apply if the failure of the clerk is due to reasonable cause.
- (6) The department 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.
- (7) 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 7. A NEW SECTION OF KRS CHAPTER 139 IS CREATED TO READ AS FOLLOWS:

- (1) ***Notwithstanding KRS 139.340, a commercial printer or mailer engaged in business in this state shall not be required to collect use tax on sales of printing or direct mail advertising materials that are both printed out of state and delivered out of state to the United States Postal Service for mass mailing to third-party Kentucky residents who are not purchasers of the advertising materials if the commercial printers or mailers:***
  - (a) ***Maintain records relating to those sales to assist the department in the collection of use tax; and***
  - (b) ***File reports as provided by KRS 139.730 if requested by the department.***
- (2) ***If the commercial printer or mailer complies with the provisions of subsection (1) of this section, the purchaser of the printing or direct mail advertising materials shall have the sole responsibility for reporting and paying the use tax imposed by KRS 139.310.***

Section 8. 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 of the Department of Revenue.]~~ 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 9. 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 ~~138.490~~~~[138.500]~~ or administrative regulations promulgated thereunder by the department~~[of Revenue]~~. The tax shall be paid by the licensed dealer to the department. 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.

Section 10. KRS 138.226 is amended to read as follows:

- (1) The department shall administer the taxes provided under KRS 138.210 to ~~138.490~~~~[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 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 11. 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 ~~138.490~~~~[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]~~ within the time prescribed by KRS 138.210 to ~~138.490~~~~[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, 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 12. KRS 138.344 is amended to read as follows:

- (1) Except as otherwise provided in KRS 138.220 to ~~138.490~~~~[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 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, 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 may require to reasonably protect the revenues of the Commonwealth.

Section 13. KRS 141.010 is amended to read as follows:

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

- (1) "Commissioner" means the commissioner of the Department of Revenue;
- (2) "Department" means the Department of Revenue;
- (3) "Internal Revenue Code" means the Internal Revenue Code in effect on December 31, 2004, exclusive of any amendments made subsequent to that date, other than amendments that extend provisions in effect on December 31, 2004, that would otherwise terminate, and as modified by KRS 141.0101, except that for property placed in service after September 10, 2001, only the depreciation and expense deductions allowed under Sections 168 and 179 of the Internal Revenue Code in effect on December 31, 2001, exclusive of any

amendments made subsequent to that date, shall be allowed, and including the provisions of the Military Family Tax Relief Act of 2003, Pub. L. No. 108-121, effective on the dates specified in that Act;

- (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) "Modified gross income" means adjusted gross income as defined in Section 62 of the Internal Revenue Code of 1986, including any subsequent amendments in effect on December 31 of the taxable year, and adjusted as follows:
  - (a) Include interest income derived from obligations of sister states and political subdivisions thereof; and
  - (b) Include lump-sum pension distributions taxed under the special transition rules of Pub. L. No. 104-188, sec. 1401(c)(2);
- (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. For taxable years ending prior to December 31, 2005, exclude the applicable amount of total distributions from pension plans, annuity contracts, profit-sharing plans, retirement plans, or employee savings plans.

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.
- 2. For taxable years beginning after December 31, 2005, exclude up to forty-one thousand one hundred ten dollars (\$41,110) of total distributions from pension plans, annuity contracts, profit-sharing plans, retirement plans, or employee savings plans.
- 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 portion of 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;
  - (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; and
  - (s) Exclude state Phase II payments received by a producer of tobacco or a tobacco quota owner;
- (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 or foreign taxes measured by gross or net income, including state and local general sales taxes allowed in lieu of state and local income taxes under the provisions of Section 164(b)(5) of the Internal Revenue Code;
  - (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;
  - (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;
  - (m) Exclude the distributive share income or loss received from a corporation subject to the tax imposed by KRS 141.040 ; and
  - (n) Exclude state Phase II payments received by a producer of tobacco or a tobacco quota owner;
- (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);
  - (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; and
  - (g) Any deduction prohibited by KRS 141.205;
- (14) (a) "Taxable net income," in the case of corporations that are taxable in this state, means "net income" as defined in subsection (13) of this section;
- (b) "Taxable net income," in the case of corporations that are taxable in this state and taxable in another state, means "net income" as defined in subsection (13) of this section and as allocated and apportioned under KRS 141.120. A corporation is taxable in another state if, in any state other than Kentucky, the corporation is required to file a return for or pay a net income tax, franchise tax measured by net income, franchise tax for the privilege of doing business, or corporate stock tax;
  - (c) "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

- (d) "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 commissioner, "taxable year" means the period for which the 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:
    - (a) "Corporations" as defined in Section 7701(a)(3) of the Internal Revenue Code;
    - (b) S corporations as defined in Section 1361(a) of the Internal Revenue Code;
    - (c) A foreign limited liability company as defined in KRS 275.015(6);
    - (d) A limited liability company as defined in KRS 275.015(8);
    - (e) A professional limited liability company as defined in KRS 275.015(19);
    - (f) A foreign limited partnership as defined in KRS 362.401(4);
    - (g) A limited partnership as defined in KRS 362.401(7);
    - (h) A registered limited liability partnership as defined in KRS 362.155(7);
    - (i) A real estate investment trust as defined in Section 856 of the Internal Revenue Code;
    - (j) A regulated investment company as defined in Section 851 of the Internal Revenue Code;
    - (k) A real estate mortgage investment conduit as defined in Section 860D of the Internal Revenue Code;
    - (l) A financial asset securitization investment trust as defined in Section 860L of the Internal Revenue Code; and
    - (m) Other similar entities created with limited liability for their partners, members, or shareholders.
- "Corporation" shall not include any publicly traded partnership as defined by Section 7704(b) of the Internal Revenue Code that is treated as a partnership for federal tax purposes under Section 7704(c) of the Internal Revenue Code or its publicly traded partnership affiliates. "Publicly traded partnership affiliates" shall include any limited liability company or limited partnership for which at least eighty percent (80%) of the limited liability company member interests or limited partner interests are owned directly or indirectly by the publicly traded partnership;
- (25) "Doing business in this state" includes but is not limited to:

- (a) Being organized under the laws of this state;
- (b) Having a commercial domicile in this state;
- (c) Owning or leasing property in this state;
- (d) Having one (1) or more individuals performing services in this state;
- (e) Maintaining an interest in a general partnership doing business in this state;
- (f) Deriving income from or attributable to sources within this state, including deriving income directly or indirectly from a trust doing business in this state, *or deriving income directly or indirectly from a single member limited liability company that is doing business in this state and is disregarded as an entity separate from its single member for federal income tax purposes*; or
- (g) Directing activities at Kentucky customers for the purpose of selling them goods or services.

Nothing in this subsection shall be interpreted in a manner that goes beyond the limitations imposed and protections provided by the United States Constitution or Pub. L. No. 86-272;

- (26) "Cost of goods sold" means the cost of goods sold calculated using the same method specified by the Internal Revenue Service for the purpose of computing federal income tax. In determining cost of goods sold:
  - (a) Labor costs shall be limited to direct labor costs as defined in subsection (28) of this section; and
  - (b) Bulk delivery costs as defined in subsection (29) of this section may be included;
- (27) "Kentucky gross profits" means Kentucky gross receipts reduced by returns and allowances attributable to Kentucky gross receipts, less the cost of goods sold attributable to Kentucky gross receipts;
- (28) "Direct labor" means labor that is incorporated into the product sold or is an integral part of the manufacturing process; and
- (29) "Bulk delivery costs" means the cost of delivering the product to the consumer if the product is delivered in bulk and requires specialized equipment that generally precludes commercial shipping and is taxable under KRS 138.220.

Section 14. On page 41, line 18 of 2006 Regular Session HB 380/EN, delete "Drama Productions" and insert in lieu thereof "State Park Outdoor Theater".

Section 15. On page 58, line 20 of 2006 Regular Session HB 380/EN, delete "\$2,680,910,200" and insert in lieu thereof "\$2,681,182,900", and delete "\$2,930,340,800" and insert in lieu thereof "\$2,930,595,600".

Section 16. On page 61, line 27 of 2006 Regular Session HB 380/EN, delete "\$2,302,500" and insert in lieu thereof "\$2,575,200" and delete "\$2,076,400" and insert in lieu thereof "\$2,331,200".

Section 17. On page 62, lines 2 and 3 of 2006 Regular Session HB 380/EN, delete "in fiscal year during or prior to fiscal year 2003-2004" and insert in lieu thereof "prior to January 1, 2006".

Section 18. On page 161 of 2006 Regular Session HB 380/EN after line 2, insert the following:

**"Parks Development Pool:** Included in the above Parks Development Pool are the following capital projects in an amount not to exceed the following:

Big Bone Lick State Park	2,500,000
<del>Cumberland Falls Resort Park Campground</del>	<del>5,000,000</del>
<del>Cumberland Falls Resort Park Golf Course</del>	<del>9,700,000</del>
<del>Dale Hollow Resort Park Pool/Villas/Condos/Cabins</del>	<del>7,900,000</del>
<del>E. P. "Tom" Sawyer State Park Convention Center</del>	<del>1,000,000</del>
<del>Fort Boonesborough State Park Land Acquisition</del>	<del>1,500,000</del>
<del>General Burnside State Park Golf and Lodge Infrastructure</del>	<del>7,250,000</del>
<del>Grayson Lake State Park Villas/Condos/Cabins/Pavilion</del>	<del>6,000,000</del>
<del>Green River Lake State Park Infrastructure/ Development Costs</del>	<del>4,000,000</del>



<del>Greenbo Lake Resort Park Cottages</del>	<del>1,000,000</del>
<del>Herrington Lake State Park Land Acquisition and Development</del>	<del>2,500,000</del>
<del>John James Audubon State Park Campground and Entrance</del>	<del>2,500,000</del>
<del>Kineaid Lake State Park Infrastructure</del>	<del>1,200,000</del>
<del>Lake Cumberland Resort Park Conference Center</del>	<del>6,000,000</del>
<del>Nolin Lake State Park Cottages</del>	<del>1,000,000</del>
<del>Yatesville Lake State Park Villas/Condos/Cabins/Pavilion</del>	<del>6,000,000".</del>

~~Section 19. On page 240 of 2006 Regular Session HB 380/EN, delete lines 9 through 13 and insert in lieu thereof the following:~~

~~"001. Hancock County Fiscal Court -~~

~~Community Development~~

~~Restricted Funds 235,000 0 ",~~

~~and on line 14, delete "003." and insert in lieu thereof "002." and on line 17, delete "004." and insert in lieu thereof "003." (Veto #1)~~

Section 20. On page 313, lines 10 and 11 of 2006 Regular Session HB 380/EN, delete "Amphitheater/Park/Bridge Construction and Other Parks" and insert in lieu thereof "City of Manchester - Capital Construction for City Parks - Amphitheater/Water Slides/Other Tourism and Recreational Initiatives".

Section 21. On page 313, line 25 of 2006 Regular Session HB 380/EN, after "Development," insert "Tourism Initiatives,".

Section 22. On page 329, line 10 of 2006 Regular Session HB 380/EN, delete "820,000" and insert in lieu thereof "410,000".

Section 23. On page 329 of 2006 Regular Session HB 380/EN, after line 21, insert the following:

"006. Meniffee County Fiscal Court -

Myers Fork Water Line Extension

Bond Funds 410,000 -0-".

Section 24. On page 336, line 4 of 2006 Regular Session HB 380/EN, delete "Caveland Environmental Authority" and insert in lieu thereof "Glasgow Water Company".

Section 25. On page 336, line 8 of 2006 Regular Session HB 380/EN, delete "Caveland Environmental Authority" and insert in lieu thereof "Glasgow Water Company".

Section 26. On page 336, line 16 of 2006 Regular Session HB 380/EN, delete "Caveland Environmental Authority" and insert in lieu thereof "Glasgow Water Company".

Section 27. On page 350, line 20 of 2006 Regular Session HB 380/EN by deleting "650,000" and inserting in lieu thereof "550,000".

Section 28. On page 350 of 2006 Regular Session HB 380/EN, by deleting all of line 23 after "003." and all of line 24 and inserting in lieu thereof "City of Leitchfield-Fountain View Subdivision- Waste Water Project", and on line 25 by deleting "750,000" and inserting in lieu thereof "650,000".

Section 29. On page 351, line 10 of 2006 Regular Session HB 380/EN, by deleting "137,300" and inserting in lieu thereof "337,300".

Section 30. On page 369, line 10 of 2006 Regular Session HB 380/EN, delete "County" and insert in lieu thereof "Valley Waste".

Section 31. On page 375, line 10 of 2006 Regular Session HB 380/EN, delete "-SX21229004- Jim Town".

Section 32. On page 382 of 2006 Regular Session HB 380/EN, delete lines 16 through 20 and insert in lieu thereof the following:

"001. Murray/Calloway Community Economic

Development Project - Site Acquisition

Bond Funds 250,000 -0-".

Section 33. On page 393 of 2006 Regular Session HB 380/EN, delete line 16 and insert in lieu thereof the following:

"001. Hickman County - Community Development

Project Purchase of Trucking Facility

Including Office Area, Distribution Center,

and Acreage. This building will become a

Spec. Building"

Section 34. On page 394, line 8 of 2006 Regular Session HB 380/EN, delete "250,000" and insert "200,000".

Section 35. On page 394, line 9 of 2006 Regular Session HB 380/EN, delete "City of" and insert "Louisville Metro Government -".

Section 36. On page 394, line 12 of 2006 Regular Session HB 380/EN, delete "City of" and insert "Louisville Metro Government -".

Section 37. On page 394, line 17 of 2006 Regular Session HB 380/EN, delete "250,000" and insert in lieu thereof "200,000".

Section 38. On page 394, line 22 of 2006 Regular Session HB 380/EN, delete "250,000" and insert in lieu thereof "200,000".

Section 39. On page 394, line 25 of 2006 Regular Session HB 380/EN, delete "250,000" and insert in lieu thereof "200,000".

Section 40. On page 395, line 5 of 2006 Regular Session HB 380/EN, delete "city of" and insert in lieu thereof "Louisville Metro Government -".

Section 41. On page 397 of 2006 Regular Session HB 380/EN, after line 4, by inserting the following:

"029. City of St. Matthews - Infrastructure/Park

Improvements

Bond Funds 200,000 -0-".

Section 42. On page 408 line 3 of 2006 Regular Session HB 380/EN, delete "150,000" and insert in lieu thereof "130,000".

Section 43. On page 408 of 2006 Regular Session HB 380/EN after line 11 by inserting the following:

**"Spencer County**

001. Spencer County Board of Education-

Taylorsville Elementary School

Playground Equipment

General Fund -0- 20,000".

Section 44. On page 410, line 23 of 2006 Regular Session HB 380/EN, delete "Washington County Fiscal Court" and insert in lieu thereof "City of Springfield".

Section 45. On page 410, lines 12 and 13 of 2006 Regular Session HB 380/EN, delete "Warren County Community" and insert in lieu thereof "City of Woodburn".

Section 46. On page 454, line 2 of 2006 Regular Session HB 380/EN, after "*receipts*" insert "*from doing business in this state*".

Section 47. On page 454, line 4 of 2006 Regular Session HB 380/EN, after "**141.120(8)(c)**", insert", *and "gross receipts from all sources within and without this state" means the denominator of the sales factor under the provisions of KRS 141.120(8)(c)*".

Section 48. On page 623, lines 21 and 22, 2006 Regular Session HB 380/EN delete "*product*" and insert in lieu thereof "*material*" and delete "*and likely to be offered to, or purchased by, consumers of roll-your-own tobacco*" and insert in lieu thereof "*by consumers to wrap or roll tobacco into the form of a cigarette*".

Section 49. On page 625, line 5 of 2006 Regular Session HB 380/EN, before "*greater*" insert "*of*" and after "*greater*" insert "*or less*".

Section 50. On page 625, lines 6 and 7 of 2006 Regular Session HB 380/EN, delete "*one and twenty-eight one-hundredths cents (\$0.0128)*" and insert in lieu thereof "*seventy-eight ten thousandths of one cent (\$0.0078)*".

Section 51. On page 625 of 2006 Regular Session HB 380/EN, after line 9 insert the following:

*"(d) The tax shall be paid only once, regardless of the number of times the cigarette paper may be sold in this state."*

Section 52. On page 25, lines 24 and 25 of 2006 Regular Session HB 380/EN, delete "Included in the above General Fund appropriation are funds to" and insert in lieu thereof "The Auditor of Public Accounts may".

Section 53. On page 45 of 2006 Regular Session HB 380/EN, after line 9, insert the following:

**"(6) Madison County Battlefield Park and Museum:** Included in the above General Fund appropriation is \$40,000 in fiscal year 2006-2007 and \$40,000 in fiscal year 2007-2008 to support the operations of the Madison County Battlefield Park and Museum."

~~[Section 54. On page 77 of 2006 Regular Session HB 380/EN after line 23 insert the following:~~

~~"(1) Included in the above General Fund appropriation is \$1,200,000 in fiscal year 2006-2007 which shall be used to replace revenue previously raised through assessments."~~

~~Section 55. On page 77 line 24 of 2006 Regular Session HB 380/EN delete the "(1)" and insert in lieu thereof "(2)", and on line 25, delete "a fee or" and insert in lieu thereof "any" and after "assessment" insert "or new fee" and on line 26, place a "." after "tracks" and delete the remainder of the sentence, and on line 27 delete the "(2)" and insert in lieu thereof "(3)". (Veto #2)~~

Section 56. On page 124, line 21 of 2006 Regular Session HB 380/EN, delete the "." and on line 24 delete "institution" and insert in lieu thereof "institutions" and on line 25, delete "grant" and insert in lieu thereof "grants" ~~and on line 25, delete "these funds" and insert in lieu thereof "the \$800,000"~~. (Veto #3)

~~[Section 57. On page 173, lines 18 and 19 of 2006 Regular Session HB 380/EN delete all language after the word "purchase" and insert in lieu thereof ", build, renovate or make improvements for residential housing of children who are in or have completed the treatment program." (Veto #1)~~

Section 58. On page 197, line 7 of 2006 Regular Session HB 380/EN, delete "1,250,000" and insert in lieu thereof "6,500,000".

Section 59. On page 207 of 2006 Regular Session HB 380/EN, after line 1, insert the following:

281. Lease-Purchase Pollution Controls

Restricted Funds	-0-	10,000,000	-0-
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282. Construct Gatton Building Complex - Phase I

Other Funds	-0-	38,837,000	-0-
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283. Lease-Purchase Hospital Dining Facilities & Equipment

Restricted Funds	-0-	1,500,000	-0-
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284. Lease-Purchase Student Center Bookstore Facility

Restricted Funds	-0-	4,000,000	-0-
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285. Renovate Blazer Hall Cafeteria

Restricted Funds	-0-	4,500,000	-0-
286. Replace & Relocate WUKY PBS Antenna & Transmitter			
Restricted Funds	-0-	385,956	-0-
Federal Funds	-0-	317,084	-0-
Other Funds	-0-	160,000	-0-
TOTAL	-0-	863,040	-0-.

~~[Section 60. On pages 249 and 250 of 2006 Regular Session HB 380/EN, delete lines 25 through 27 on page 249 and line 1 on page 250.~~

~~Section 61. On page 250 line 14 of 2006 Regular Session HB 380/EN, delete "City of Madisonville" and insert in lieu thereof "Dawson Springs".~~

~~Section 62. On page 277 of 2006 Regular Session HB 380/EN, after line 26, insert the following:~~

~~"018. Magoffin County Fiscal Court—~~

~~—— North Magoffin Fire Department~~

~~—— Mini pumper truck ————— 94,000 ————— 6,000~~

~~019. Magoffin County Fiscal Court~~

~~—— Improvements — Pool and Canopy~~

~~—— Construction ————— 0 ————— 30,600".~~

~~Section 63. On page 292, line 26 of 2006 Regular Session HB 380/EN, delete "Joshua's Dream".~~

~~Section 64. On page 295, line 1 of 2006 Regular Session HB 380/EN, delete "Lower Lost Creek" and insert in lieu thereof "South Perry".~~

~~Section 65. On page 302, line 23 of 2006 Regular Session HB 380/EN, delete "Hazard" and insert in lieu thereof "Big Sandy" and insert "Pikeville Campus" before "Kentucky."~~

~~Section 66. On page 303, line 24 of 2006 Regular Session HB 380/EN, delete "Rockcastle County Fiscal Court — Broadhead" and insert in lieu thereof "City of Brodhead — Brodhead".~~

~~Section 67. On page 304, line 3 of 2006 Regular Session HB 380/EN, delete "Rockcastle County Fiscal Court" and insert in lieu thereof "City of Livingston."~~

~~Section 68. On page 304, line 6 of 2006 Regular Session HB 380/EN, delete "Rockcastle County Fiscal Court" and insert in lieu thereof "City of Mt. Vernon." } (Veto #1)~~

Section 69. On page 313, line 8 of 2006 Regular Session HB 380/EN, delete "1,200,000" and insert in lieu thereof "1,000,000" and after line 8, insert the following:

"002. Hopkinsville Water Company - Sewer

Development for Forest Park

Bond Funds 200,000 -0-.

Section 70. On page 331, line 25 of 2006 Regular Session HB 380/EN, delete "Rockcastle County Fiscal Court" and insert in lieu thereof "City of Mt. Vernon".

Section 71. On page 343, line 20 of 2006 Regular Session HB 380/EN, delete "800,000" and insert in lieu thereof "500,000", and after line 20, insert the following:

"002. Carrollton Utilities - SX21041101 - Ghent

WWPT Elimination and Force Main

Bonds Funds 300,000 -0-.

Section 72. On page 349 line 15 of 2006 Regular Session HB 380/EN, delete "WX21083034" and insert in lieu thereof "WX21083040".

Section 73. On page 355 line 7 of 2006 Regular Session HB 380/EN, delete "City of Wilmore" and insert in lieu thereof "Jessamine-South Elkhorn Water District".

Section 74. On page 355 line 15 of 2006 Regular Session HB 380/EN, delete "Jessamine County Fiscal Court" and insert in lieu thereof "Jessamine-South Elkhorn Water District" and delete "Project" and insert in lieu thereof "Service connection from Wilmore to Jessamine County EMS building".

Section 75. On page 355 line 17 of 2006 Regular Session HB 380/EN, delete "Jessamine County Fiscal Court" and insert in lieu thereof "Jessamine-South Elkhorn Water District".

Section 76. On page 358, lines 1 and 2 of 2006 Regular Session HB 380/EN, delete all of line 1 after "003." and delete all of line 2 and insert in lieu thereof "McKinney Water District - Water extension - connect Hustonville at Moreland".

Section 77. On page 358, lines 7 and 8 of 2006 Regular Session HB 380/EN, delete all of line 7 after "005." and delete all of line 8 and insert in lieu thereof "Eubank Water District - Water Extension in Lincoln County".

Section 78. On page 358 of 2006 Regular Session HB 380/EN, delete line 18.

Section 79. On page 368 line 16 of 2006 Regular Session HB 380/EN, delete "150,000" and insert in lieu thereof "360,000".

Section 80. On page 368 of 2006 Regular Session HB 380/EN, delete lines 20 through 22, and on line 23 delete "004." and insert ".003" in lieu thereof.

Section 81. On page 375 lines 10 and 13 of 2006 Regular Session HB 380/EN, delete "City of Springfield" in both places and in lieu thereof insert "Springfield Water and Sewer Commission".

Section 82. On page 382, line 9 of 2006 Regular Session HB 380/EN, delete "Building" and insert in lieu thereof "lighting and landscaping".

Section 83. On page 391, line 4 of 2006 Regular Session HB 380/EN, insert "Fancy Farm" before "Sidewalk", and on line 5, delete "and Soccer Park Development."

Section 84. On page 391, line 6 of 2006 Regular Session HB 380/EN, delete "300,000" and insert in lieu thereof "150,000" and after line 6, insert the following:

"005. Graves County Fiscal Court - Fairgrounds

Soccer Park Development

General Fund	150,000	-0-
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and on line 7, delete "005." and insert in lieu thereof "006.".

Section 85. On page 391, line 25 of 2006 Regular Session HB 380/EN, delete "City of".

Section 86. On page 401, line 14 of 2006 Regular Session HB 380/EN, delete "City of" and insert in lieu thereof "Mason County Fiscal Court - ".

Section 87. On page 402, line 1 of 2006 Regular Session HB 380/EN, delete "Underground Railroad Museum" and insert in lieu thereof "Elijah Green Memorial".

Section 88. On page 411, line 25 of 2006 Regular Session HB 380/EN, after "Cleanup" insert "and Footbridge Design and Construction".

~~Section 89. On page 412 after line 8 of 2006 Regular Session HB 380/EN, insert "Fiscal Year 2005 2006 Funding", and delete line 9 and insert in lieu thereof the following:~~

~~"General Fund \_\_\_\_\_ 500,000 \_\_\_\_\_ 0 \_\_\_\_\_ 0 \_\_\_\_\_" (Veto #4)~~

Section 90. On page 412 of 2006 Regular Session HB 380/EN, delete line 12 and insert in lieu thereof "Expenses Associated with the 225th Anniversary Celebration of Jack Jouett's Historic Ride, Land Acquisition, Renovation, Design, Construction and Operating Expenses".

Section 91. The \$25,000,000 Budget Reserve Trust Fund amount on page 422, line 13 of 2006 Regular Session HB 380/EN shall be adjusted ~~by the Legislative Research Commission~~ (Veto #5) to take into account legislation enacted subsequent to the passage of 2006 Regular Session HB 380/EN.

Section 92. On page 555 of 2006 Regular Session HB 380/EN, after line 22, insert the following:

b. An amount up to \$800,000 shall be allowed as a necessary government expense for use allowance, operating allowance, or furnishings if the Pendleton County Courthouse is completed during the biennium.

Section 93. The Reviser of Statutes shall have the authority to make appropriate changes or addenda to the Conference Budget Report for 2006 Regular Session House Bill 380/FCCR, which is made a part of 2006 Regular Session House Joint Resolution 93 by Section 5 of that Act, to reflect any funds transfers, alterations, or amendments to the provisions of 2006 Regular Session House Bill 380 in this Act.

Section 94. The following KRS section is repealed:

138.500 Payment of excise tax under protest -- Actions to recover tax paid - Refund.

Section 95. Whereas Sections 14 to 93 of this Act amend 2006 Regular Session HB 380/EN, which takes effect upon passage and approval by the Governor or upon otherwise becoming law, an emergency is declared to exist, and Sections 14 to 93 of this Act take effect upon passage and approval by the Governor or upon otherwise becoming law.

**Legislative Research Commission Note (7/12/2006).** In this bill, material that was vetoed by the Governor is bracketed, struck through, and followed by the number of the veto in parentheses.

**Vetoed in part, April 24, 2006. Provisions that were not vetoed became law April 25, 2006, without Governor's signature.**

## CHAPTER 252

### (HB 380)

AN ACT relating to appropriations and revenue measures providing financing and conditions for the operations, maintenance, support, and functioning of the government of the Commonwealth of Kentucky and its various officers, cabinets, departments, boards, commissions, institutions, subdivisions, agencies, and other state-supported activities.

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

## PART I

### OPERATING BUDGET

(1) **Funds Appropriations:** There is appropriated out of the General Fund, Road Fund, Restricted Funds accounts, or Federal Funds accounts for the fiscal year beginning July 1, 2005, and ending June 30, 2006, for the fiscal year beginning July 1, 2006, and ending June 30, 2007, and for the fiscal year beginning July 1, 2007, and ending June 30, 2008, the following discrete sums, or so much thereof as may be necessary. Appropriated funds are included pursuant to KRS 48.700 and 48.710. Each appropriation is made by source of respective fund or funds accounts. Appropriations for the following officers, cabinets, departments, boards, commissions, institutions, subdivisions, agencies, and budget units of the state government, and any and all other activities of the government of the Commonwealth, are subject to the provisions of Chapters 12, 42, 45, and 48 of the Kentucky Revised Statutes and compliance with the conditions and procedures set forth in this Act.

(2) **Tobacco Settlement Funds:** Appropriations identified as General Fund (Tobacco) in Part I, Operating Budget, of this Act are representative of the amounts provided in Part X, Phase I Tobacco Settlement, of this Act and are not to be appropriated in duplication.

## A. GENERAL GOVERNMENT

### Budget Units

#### 1. OFFICE OF THE GOVERNOR

	2006-07	2007-08
General Fund	9,734,400	9,816,100

Restricted Funds	388,200	388,200
<b>TOTAL</b>	<b>10,122,600</b>	<b>10,204,300</b>

**(1) Housing Allowance for the Lieutenant Governor:** Included in the above General Fund appropriation for the Office of the Governor and Lieutenant Governor's Office, is \$2,500 monthly as a housing allowance.

**(2) Governor's Scholars Program:** Included in the above General Fund appropriation is \$2,180,100 in fiscal year 2006-2007 and \$2,297,800 in fiscal year 2007-2008 for the Governor's Scholars Program.

~~**(3) Employees of Governor's Scholars Program, Inc.:** For the purposes of salary and fringe benefits, employees of Governor's Scholars Program, Inc. shall be considered state employees.~~ (Veto #1)

## **2. OFFICE OF STATE BUDGET DIRECTOR**

	<b>2006-07</b>	<b>2007-08</b>
General Fund	4,433,400	4,433,400
Restricted Funds	80,600	136,800
<b>TOTAL</b>	<b>4,514,000</b>	<b>4,570,200</b>

## **3. STATE PLANNING FUND**

	<b>2006-07</b>	<b>2007-08</b>
General Fund	250,000	250,000

## **4. HOMELAND SECURITY**

	<b>2006-07</b>	<b>2007-08</b>
General Fund	350,000	350,000
Restricted Funds	440,000	440,000
Federal Funds	40,000,000	40,000,000
Road Fund	350,000	350,000
<b>TOTAL</b>	<b>41,140,000</b>	<b>41,140,000</b>

**(1) Reviewing of Applications:** The Kentucky Office of Homeland Security shall consult with Local Area Development Districts and local government entities while reviewing applications to determine qualified grant recipients.

**(2) Statewide Annual Report:** The Kentucky Office of Homeland Security shall prepare an annual report that identifies the state homeland security priorities based on National Homeland Security Priorities and shall include:

a. An assessment of the Commonwealth's preparedness to respond to acts of war or terrorism, including nuclear, biological, chemical, electromagnetic pulse, agricultural, ecological, or cyber terrorism;

b. Identify the priority of needs, areas of improvement, and the overall progress made with regard to the Commonwealth's preparedness; and

c. Provide a record of all federal homeland security funding, including grants of all federal homeland security funding distributed in Kentucky since the last annual written report, as well as any other relevant homeland security funding information gathered by the Kentucky Office of Homeland Security. The record shall identify, at a minimum, the specific federal source, the amount, the specific recipient, the intended use of the funding, the actual use of the funding, and any unspent amount.

The report shall be approved by the Homeland Security Interagency Working Group. The Homeland Security Interagency Working Group shall include the chair of the Senate Committee on Veterans, Military Affairs, and Public Protection, the chair of the House Committee on Seniors, Military Affairs, and Public Safety, a state agency representative, and a private agency representative.

The annual report shall be submitted to the Legislative Research Commission by October 25 of each year for a public hearing to be conducted by a joint meeting of the Senate Committee on Veterans, Military Affairs, and Public

Protection and the House Committee on Seniors, Military Affairs, and Public Safety for the purpose of receiving comments on the statewide report and critique of the criteria established for determining the award of homeland security funds. The Executive Director of the Kentucky Office of Homeland Security shall report all findings of fact or any other reports or recommendations presented at the public hearing to the Homeland Security Working Group.

(3) **Grant Recipient Report:** The Kentucky Office of Homeland Security shall ~~within 15 days of the final award of grants,~~ (Veto #2) report the list of recipients to the Legislative Research Commission.

(4) **Application Background Data:** The Kentucky Office of Homeland Security shall, upon request of the Commission, make available to the Commission all grant applications submitted to the office, score sheets, and procedures for funding.

## 5. DEPARTMENT OF VETERANS' AFFAIRS

	2006-07	2007-08
General Fund	15,436,200	16,669,700
Restricted Funds	24,713,700	24,905,700
TOTAL	40,149,900	41,575,400

(1) **Weekend and Holiday Premium Pay Incentive:** The Kentucky Veterans' Centers are authorized to continue the weekend and holiday premium pay incentive component of the Personnel Pilot Program for the 2006-2008 fiscal biennium.

(2) **Congressional Medal of Honor Recipients - Travel and Per Diem:** The Commissioner of the Department of Veterans' Affairs may approve travel and per diem expenses incurred when Kentucky residents who have been awarded the Congressional Medal of Honor attend veterans, military, or memorial events in the Commonwealth of Kentucky.

(3) **Military Burial Honor Guard Program:** Included in the above General Fund appropriation is an additional \$35,000 in each fiscal year to support the Military Burial Honor Guard Program/Veterans' Service Organizational Burial Honor Guard Trust Fund for providing proper support and decorum for veterans' funeral honors. These funds shall not lapse nor be utilized for other than the intended purposes.

Pursuant to KRS 36.390, the Department of Military Affairs shall coordinate with the Department of Veterans' Affairs and the Board of Embalmers and Funeral Directors on the implementation of the Military Burial Honor Guard Program. The Board of Embalmers and Funeral Directors shall mail program notification letters to all licensed embalmers and funeral directors with information related to the program description and contacts for the Military Burial Honor Guard Program. These letters shall be mailed with the annual renewal notifications prior to July 1 each year. New applicants will receive their notification of the program at the time of licensing. The Board of Embalmers and Funeral Directors shall establish a section on the Board's Web site pertaining to the Military Burial Honor Guard Program. The Department of Military Affairs and the Department of Veterans' Affairs shall report to the Interim Joint Committee on Seniors, Veterans, Military Affairs, and Public Protection prior to January 1, 2007, on the implementation of the Military Burial Honor Guard Program. The report shall include recommendations on organizational related matters, training and continuing education needs, equipment requirements for organizations performing or coordinating the honors ceremonies, and the expenditure of funds.

(4) **Debt Service:** Included in the above General Fund appropriation is \$84,000 in fiscal year 2006-2007 and \$168,000 in fiscal year 2007-2008 for debt service to support new bonds for the Western Kentucky Veterans' Center as set forth in Part II, Capital Projects Budget, of this Act.

## 6. GOVERNOR'S OFFICE OF AGRICULTURAL POLICY

	2006-07	2007-08
General Fund (Tobacco)	17,469,800	20,065,100
General Fund	3,000,000	-0-
Restricted Funds	545,800	570,000
TOTAL	21,015,600	20,635,100



(1) **Kentucky Agricultural Finance Corporation:** Notwithstanding KRS 247.978(2), the total amount of principal which a qualified applicant may owe the Kentucky Agricultural Finance Corporation at any one time shall not exceed \$5,000,000.

(2) **Tobacco Settlement Funds - Allocations:** Notwithstanding KRS 248.711(2), and from the allocation provided therein, counties that are allocated in excess of \$20,000 annually may provide up to four percent of the individual county allocation, not to exceed \$15,000 annually, to the county council in that county for administrative costs.

(3) **Partial Phase II Litigation Proceeds:** Notwithstanding KRS 45.229, General Fund dollars of \$27,000,000 representing Partial Phase II Litigation proceeds that were appropriated in fiscal year 2005-2006 pursuant to 2005 House Bill 267 (2005 Ky. Acts ch. 173, Part X, Phase I Tobacco Settlement, B.3.a.(4)), shall not lapse in fiscal years 2005-2006, 2006-2007, and 2007-2008. To the extent possible, all General Fund dollars shall be expended from the account prior to the expenditure of Tobacco Fund dollars.

(4) **Restoration of Funds:** Notwithstanding KRS 45.229, General Fund dollars of \$3,000,000 representing the restoration of funds, shall not lapse in fiscal year 2006-2007 and fiscal year 2007-2008. Included in the above General Fund appropriation in fiscal year 2006-2007 is an additional \$3,000,000 for the restoration of funds resulting from the Master Settlement Agreement appropriation adjustment resulting from the reduced Consensus Forecasting Group estimates in fiscal year 2005-2006.

## 7. KENTUCKY INFRASTRUCTURE AUTHORITY

	2006-07	2007-08
General Fund	2,343,500	25,744,100
Restricted Funds	1,483,300	1,752,600
Federal Funds	50,172,600	50,172,600
TOTAL	53,999,400	77,669,300

(1) **Federally Assisted Wastewater Revolving Loan Fund Program:** Included in the above General Fund appropriation is \$188,000 in fiscal year 2007-2008 for debt service to support \$4,000,000 in bonds to match \$20,000,000 in Federal Funds for the Federally Assisted Wastewater Revolving Loan Fund Program (Fund A).

(2) **Safe Drinking Water State Revolving Loan Fund Program:** Included in the above General Fund appropriation is \$188,000 in fiscal year 2007-2008 for debt service to support \$4,000,000 in bonds to match \$22,000,000 in Federal Funds for the Safe Drinking Water State Revolving Loan Fund Program (Fund F). The Federal Funds for this program are appropriated in the operating budget to comply with the Federal Cash Management Act. The required state matching funds are appropriated as Bond Funds in Part II, Capital Projects Budget, of this Act.

(3) **Administrative Fee on Infrastructure for Economic Development Fund Projects:** A one-half of one percent administrative fee is authorized to be paid to the Kentucky Infrastructure Authority for the administration of each project funded by the Infrastructure for Economic Development Fund for Coal-Producing Counties and the Infrastructure for Economic Development Fund for Tobacco Counties. These administrative fees shall be paid, upon inception of the project, out of the fund from which the project was allocated.

(4) **Local Government Economic Development Funds:** Included in the above General Fund appropriation is \$370,000 in fiscal year 2006-2007 and \$311,700 in fiscal year 2007-2008 from the Local Government Economic Development Fund to support services provided to coal-producing counties.

(5) **Infrastructure for Economic Development Fund for Non-Coal Producing Counties:** Included in the above General Fund appropriation is \$13,968,000 in fiscal year 2007-2008 for debt service to support \$150,000,000 Bond Funds for the Infrastructure for Economic Development Fund for Non-Coal Producing Counties as set forth in Part II, Capital Projects Budget, of this Act.

(6) **Infrastructure for Economic Development Fund for Coal-Producing Counties:** Included in the above General Fund appropriation is \$9,312,000 in fiscal year 2007-2008 for debt service to support \$100,000,000 Bond Funds for the Infrastructure for Economic Development Fund for Coal-Producing Counties as set forth in Part II, Capital Projects Budget, of this Act.

**8. MILITARY AFFAIRS**

	<b>2006-07</b>	<b>2007-08</b>
General Fund	12,588,700	12,799,700
Restricted Funds	24,271,500	24,271,500
Federal Funds	62,302,800	62,660,700
<b>TOTAL</b>	<b>99,163,000</b>	<b>99,731,900</b>

(1) **Kentucky National Guard:** There is appropriated from the General Fund the necessary funds to be expended, subject to the conditions and procedures provided in this Act, which are required as a result of the Governor's call of the Kentucky National Guard to active duty when an emergency or exigent situation has been declared to exist by the Governor. These necessary funds shall be made available from the General Fund Surplus Account (KRS 48.700) or the Budget Reserve Trust Fund Account (KRS 48.705).

(2) **Disaster or Emergency Aid Funds:** There is appropriated from the General Fund the necessary funds, subject to the conditions and procedures in this Act, which are required to match federal aid to which the state would be eligible in the event of a presidentially declared disaster or emergency. These necessary funds shall be made available from the General Fund Surplus Account (KRS 48.700) or the Budget Reserve Trust Fund Account (KRS 48.705).

(3) **Base Realignment and Closure:** Included in the above General Fund appropriation is \$300,000 in fiscal year 2006-2007 and \$300,000 in fiscal year 2007-2008 for the Kentucky Commission on Military Affairs to support Kentucky's efforts regarding the Base Realignment and Closure process. The Department of Military Affairs shall continue to provide administrative support for this activity.

(4) **Patton Museum:** Included in the above General Fund appropriation is an additional \$500,000 in fiscal year 2006-2007 ~~and \$500,000 in fiscal year 2007-2008~~ (Veto #3) for the Kentucky Commission on Military Affairs to provide funds for a grant to support the operations of the Patton Museum. The Department of Military Affairs shall provide administrative support for this activity.

(5) **Military Burial Honor Guard Program:** Included in the above General Fund appropriation is an additional \$200,000 in each fiscal year to support the Military Burial Honor Guard Program/Military Burial Honor Guard Trust Fund for providing the proper support and decorum for military funeral honors pursuant to KRS 36.390 to 36.396. These funds shall not lapse nor be utilized for other than the intended purposes.

Pursuant to KRS 36.390, the Department of Military Affairs shall coordinate with the Department of Veterans' Affairs and the Board of Embalmers and Funeral Directors on the implementation of the Military Burial Honor Guard Program. The Board of Embalmers and Funeral Directors shall mail program notification letters to all licensed embalmers and funeral directors with information related to program description and contacts for the Military Burial Honor Guard Program. These letters shall be mailed with the annual renewal notifications prior to July 1 each year. New applicants will receive their notification of the program at the time of licensing. The Board of Embalmers and Funeral Directors shall establish a section on the Board's web site pertaining to the Military Burial Honor Guard Program. The Department of Military Affairs and the Department of Veterans' Affairs shall report to the Interim Joint Committee on Seniors, Veterans, Military Affairs, and Public Protection prior to January 1, 2007, on the implementation of the Military Burial Honor Guard Program. The report shall include recommendations on organizational related matters, training and continuing education needs, equipment requirements for organizations performing or coordinating the honors ceremonies, and the expenditure of funds.

(6) **Debt Service:** Included in the above General Fund appropriation is \$211,000 in fiscal year 2006-2007 and \$422,000 in fiscal year 2007-2008 for debt service to support new bonds as set forth in Part II, Capital Projects Budget, of this Act.

(7) **Military Family Assistance Trust Fund:** Included in the above General Fund appropriation is an additional \$500,000 each fiscal year to provide funding to support the Military Family Assistance Trust Fund as codified in Part XXVIII of this Act. Of the total General Fund appropriation, \$400,000 each fiscal year shall be used as proceeds for the Fund and \$100,000 shall be used for operations.

(8) **Morehead/Rowan County Airport:** The Kentucky National Guard may accept any available federal dollars for construction of a road to the Morehead/Rowan County Airport. The Kentucky National Guard shall work with the Transportation Cabinet to complete this project.

**9. COMMISSION ON HUMAN RIGHTS**

	<b>2005-06</b>	<b>2006-07</b>	<b>2007-08</b>
General Fund	-0-	1,840,900	1,859,100
Restricted Funds	-0-	1,700	1,600
Federal Funds	126,100	293,400	305,700
<b>TOTAL</b>	<b>126,100</b>	<b>2,136,000</b>	<b>2,166,400</b>

**10. COMMISSION ON WOMEN**

	<b>2006-07</b>	<b>2007-08</b>
General Fund	266,200	266,200
Restricted Funds	25,600	24,400
<b>TOTAL</b>	<b>291,800</b>	<b>290,600</b>

**11. GOVERNOR'S OFFICE FOR LOCAL DEVELOPMENT**

	<b>2006-07</b>	<b>2007-08</b>
General Fund	13,498,500	20,887,400
Restricted Funds	2,585,600	2,085,600
Federal Funds	55,564,200	55,564,200
<b>TOTAL</b>	<b>71,648,300</b>	<b>78,537,200</b>

(1) **Flood Control Matching Fund Project Review:** The Governor's Office for Local Development shall transmit a copy of the application for a flood-related project to be funded from the flood control matching fund to the Environmental and Public Protection Cabinet with a request for a review of the project pursuant to KRS Chapter 151.

(2) **Owenton/Owen County Natural Gas Line Project:** Included in the above General Fund appropriation is \$234,000 in fiscal year 2007-2008 to provide new debt service for the Owenton/Owen County Natural Gas Line Project as set forth in Part II, Capital Projects Budget, of this Act.

(3) **Support of the 12 Multicounty Regional Industrial Park Authorities:** Included in the above Restricted Funds appropriation is \$300,000 in fiscal year 2006-2007 and \$300,000 in fiscal year 2007-2008 in support of the 12 multicounty regional industrial park authorities. Funds shall be distributed equally to the 12 multicounty regional industrial park authorities for marketing and maintenance of the industrial parks and the procurement of property and casualty insurance on the parks.

(4) **Buckhorn Children's Home:** Included in the above Restricted Funds appropriation is \$500,000 in fiscal year 2006-2007 for a grant to the Buckhorn Children's Home.

(5) **Prior Year Funded Community Development Projects:** Notwithstanding any statutory provision or agreement between a state agency and any local government to the contrary, any fund balance remaining in any Community Development Project appropriated in 2000 Ky. Acts ch. 549, Part II, Section R, remain authorized and may be retained by the local entity and expended in a manner consistent with the intent and purpose of the appropriation. The Secretary of the Finance and Administration Cabinet, pursuant to KRS 48.500, shall make any determination necessary to effect this provision.

(6) **Debt Service - Warren County Fiscal Court - Transpark - Rail Spur:** Included in the above General Fund appropriation is \$422,000 in fiscal year 2007-2008 for debt service to support \$4,500,000 Bond Funds for the Warren County Fiscal Court Transpark, for Rail Spur and Infrastructure Improvements, as set forth in Part II, Capital Projects Budget, of this Act.

(7) **Jessamine County Fiscal Court - Building Restoration in Nicholasville:** Included in the above General Fund appropriation is \$300,000 in fiscal year 2006-2007 for a grant to Jessamine County Fiscal Court for building restoration in Nicholasville.

(8) **Chamber of Commerce/Vision 2015 Northern Kentucky Encyclopedia:** Included in the above General Fund appropriation is \$100,000 in fiscal year 2006-2007 for a grant to Chamber of Commerce/Vision 2015 Northern Kentucky Encyclopedia.

(9) **Scott County Fiscal Court - Buffalo Park Improvement and Infrastructure:** Included in the above General Fund appropriation is \$150,000 in fiscal year 2006-2007 for a grant to Scott County Fiscal Court for the Buffalo Park Improvement and Infrastructure.

(10) **City of Covington - Timestar Commons - Planning:** Included in the above General Fund appropriation is \$250,000 in fiscal year 2006-2007 for a grant to the City of Covington for Timestar Commons planning.

(11) **City of Ludlow - Municipal Meeting Center:** Included in the above General Fund appropriation is \$225,000 in fiscal year 2006-2007 for a grant to the City of Ludlow for Phases I through III of the upgrade and renovation of the Municipal Meeting Center.

(12) **Richmond Arts Council:** Included in the above General Fund appropriation is \$100,000 in fiscal year 2006-2007 and \$100,000 in fiscal year 2007-2008 for a grant to the Richmond Arts Council.

(13) **Debt Service - Community Development Fund Projects:** Included in the above General Fund appropriation is \$7,045,000 in fiscal year 2007-2008 for debt service to support \$75,658,000 in Bond Funds for the Community Development Fund Projects, as set forth in Part II, Capital Projects Budget, of this Act.

~~[(14) **Debt Service - Louisville Zoo - Glacier Run:** Included in the above General Fund appropriation is \$561,000 in fiscal year 2007-2008 for debt service on \$6,000,000 Bond Funds for the Louisville Zoo - Glacier Run project as set forth in Part II, Capital Projects Budget, of this Act.] (Veto #4)~~

## 12. LOCAL GOVERNMENT ECONOMIC ASSISTANCE FUND

	2006-07	2007-08
General Fund	52,535,600	51,443,100

## 13. LOCAL GOVERNMENT ECONOMIC DEVELOPMENT FUND

	2006-07	2007-08
General Fund	51,716,800	50,453,700

(1) **Coal Severance Tax Collections Calculations and Transfers:** The above appropriations from the General Fund are based on the official estimate presented by the Office of State Budget Director for coal severance tax collections during the biennium, distributed in accordance with KRS 42.450 to 42.495.

(2) **Trover Clinic Grant:** Notwithstanding KRS 42.4582 and 42.4585, the quarterly calculation and transfer of the funds shall be made only after each quarterly installment of the annual appropriation of \$1,000,000 in fiscal year 2006-2007 and \$1,000,000 in fiscal year 2007-2008 has been credited to the Trover Clinic Grant within the Governor's Office for Local Development.

(3) **Community Development Office:** Notwithstanding KRS 42.4592, the quarterly calculation of the allocation of moneys to coal-producing counties through the Local Government Economic Development Fund shall be made only after each quarterly installment of the annual appropriation of \$669,700 in fiscal year 2006-2007 and \$728,000 in fiscal year 2007-2008 is appropriated as General Fund moneys to the Community Development Office in the Governor's Office for Local Development.

(4) **Kentucky Infrastructure Authority:** Notwithstanding KRS 42.4592, the quarterly calculation of the allocation of moneys to coal-producing counties through the Local Government Economic Development Fund shall be made only after each quarterly installment of the annual appropriation of \$370,000 in fiscal year 2006-2007 and \$311,700 in fiscal year 2007-2008 is appropriated as General Fund moneys to the Kentucky Infrastructure Authority.

(5) **Tourism Marketing Program:** Notwithstanding KRS 42.4588, \$1,000,000 in fiscal year 2006-2007 and \$1,000,000 in fiscal year 2007-2008 shall be transferred from the Local Government Economic Development Fund, Multi-County Fund, to the Tourism Marketing Program within the Commerce Cabinet. Fees for professional artists and entertainers performing on the Kentucky Music Trail shall be paid from the Tourism Marketing Program.

(6) **Read to Achieve:** Notwithstanding KRS 42.4592, the quarterly calculation of the allocation of moneys to coal-producing counties through the Local Government Economic Development Fund shall be made only after each quarterly installment of the annual appropriation of \$4,000,000 in fiscal year 2006-2007 and \$4,000,000 in fiscal

year 2007-2008 is appropriated as General Fund moneys to the Read to Achieve Program within the Department of Education.

(7) **Drug Courts:** Notwithstanding KRS 42.4588, \$1,300,000 in fiscal year 2006-2007 and \$1,800,000 in fiscal year 2007-2008 shall be transferred from the Local Government Economic Development Fund, Multi-County Fund, to the Drug Court Program in the Office of Drug Control Policy, Justice Administration budget unit.

(8) **Kentucky Wood Products Competitiveness Corporation:** Notwithstanding KRS 42.4586, no funds shall be transferred to the Secondary Wood Products Development Fund.

(9) **Kentucky Workers' Compensation Funding Commission:** Notwithstanding KRS 342.122(1)(c), no General Fund appropriation is provided to the Kentucky Workers' Compensation Funding Commission in fiscal year 2006-2007 and fiscal year 2007-2008.

(10) **Energy Research and Development Fund:** Notwithstanding KRS 42.4588, \$3,500,000 in fiscal year 2006-2007 and \$3,500,000 in fiscal year 2007-2008 shall be transferred from the Local Government Economic Development Fund to the Office of Energy Policy within the Commerce Cabinet as General Fund moneys. These funds shall be used for research projects relating to clean coal, new combustion technology, thin-seam coal extraction research, synthetic natural gas produced from coal through gasification processes, and the development of alternative transportation fuels produced by processes that convert coal or biomass resources or extract oil from oil shale and shall be targeted solely to Kentucky's Local Government Economic Development Fund-eligible counties. The Office of Energy Policy shall coordinate its efforts with those of Kentucky's universities and related Kentucky Community and Technical College System programs in order to maximize Kentucky's opportunities for federal funding and receive research grants and awards from federal and other sources of funding for the development of clean coal technology, coal-to-liquid-fuel conversion, alternate transportation fuels, and biomass energy resources.

(11) **School Facilities Construction Commission:** Notwithstanding KRS 42.4592, the quarterly calculation of the allocation of moneys to coal-producing counties through the Local Government Economic Development Fund in fiscal year 2006-2007 shall be made only after funds totaling \$4,617,900, and in fiscal year 2007-2008 shall be made only after funds totaling \$4,617,900, is appropriated as General Fund moneys to the School Facilities Construction Commission to provide debt service to support previously authorized bonds.

(12) **Kentucky Infrastructure Authority:** Notwithstanding KRS 42.4592, the quarterly calculation of the allocation of moneys to coal-producing counties through the Local Government Economic Development Fund shall be made only after each quarterly installment of the annual appropriation of \$4,091,900 in fiscal year 2006-2007 and \$4,091,900 in fiscal year 2007-2008 is appropriated as General Fund moneys to the Finance and Administration Cabinet, Debt Service budget unit to provide General Fund debt service to support previously authorized bonds for the Water and Sewer Resources Development Fund for Coal Producing Counties.

(13) **KIA Infrastructure for Economic Development Fund for Coal-Producing Counties:** Notwithstanding KRS 42.4588, funds totaling \$7,450,000 in fiscal year 2006-2007 and \$7,450,000 in fiscal year 2007-2008 shall be transferred from the Local Government Economic Development Fund, Multi-County Fund, to the General Fund to be used by the Finance and Administration Cabinet Debt Service budget unit to support previously authorized bonds for the Infrastructure for Economic Development Fund for Coal-Producing Counties, Bond Pool.

(14) **Debt Service:** All necessary debt service amounts shall be appropriated from the General Fund and shall be fully paid regardless of whether there are sufficient moneys available to be transferred from coal severance tax-supported funding program accounts to other accounts of the General Fund.

(15) **Flood Matching/State Owned Dam Repair Pool:** Notwithstanding KRS 42.4592, the quarterly calculation of the allocation of moneys to coal-producing counties through the Local Government Economic Development Fund shall be made only after each quarterly installment of the annual appropriation of \$800,000 in fiscal year 2006-2007 and \$800,000 in fiscal year 2007-2008 is appropriated as General Fund moneys to the Governor's Office for Local Development.

Notwithstanding KRS 42.4588, \$700,000 in fiscal year 2006-2007 and \$700,000 in fiscal year 2007-2008 shall be transferred from the Local Government Economic Development Fund, Multi-County Fund, to the Flood Matching/State Owned Dam Repair Pool within the Governor's Office for Local Development.

(16) **Osteopathic Medicine Scholarship Program:** The transfer of moneys from the General Fund to the Local Government Economic Development Fund shall be made after the transfer to the Osteopathic Medicine Scholarship Program has been made pursuant to KRS 164.7891(11) and (12) in the amount of \$1,024,300 in fiscal

year 2006-2007 and \$1,024,300 in fiscal year 2007-2008, within the Kentucky Higher Education Assistance Authority.

**(17) Operation Unite:** Notwithstanding KRS 42.4588, funds totaling \$1,250,000 in fiscal year 2006-2007 and \$1,250,000 in fiscal year 2007-2008 shall be transferred from the Local Government Economic Development Fund, Multi-County Fund, to the Office of Drug Control Policy for Operation Unite in relation to the Federal Task Force on Drug Abuse.

**(18) Mining Engineering Scholarship Program:** Notwithstanding KRS 42.4592, the quarterly calculation of the allocation of moneys to coal-producing counties through the Local Government Economic Development Fund shall be made only after each quarterly installment of the annual appropriation of \$200,000 in fiscal year 2006-2007 and \$200,000 in fiscal year 2007-2008 is appropriated as General Fund moneys to the University of Kentucky for the Mining Engineering Scholarship Program.

**(19) 404 Permitting Program:** Notwithstanding KRS 42.4588, \$300,000 in fiscal year 2006-2007 and \$300,000 in fiscal year 2007-2008 shall be transferred from the Local Government Economic Development Fund, Multi-County Fund, to the U.S. Clean Water Act section for 404 Permitting Program in the Environmental and Public Protection Cabinet, Division of Water. These funds will only be made available after the Commonwealth assumes primacy over the 404 Permitting Program.

**(20) School Technology:** Notwithstanding 42.4588, \$5,000,000 in fiscal year 2006-2007 and \$5,000,000 in fiscal year 2007-2008 shall be transferred from the Local Government Economic Development Fund, Multi-County Fund, to the Office of Operations and Support Services within the Department of Education for school technology purposes.

**(21) Parameters for County Flexibility:** Notwithstanding KRS 42.4588(2), Local Government Economic Development Fund allocations may be used to support the nonrecurring investments in public health and safety, economic development, public infrastructure, information technology development and access, and public water and wastewater development, with the concurrence of both the respective fiscal court and the Governor's Office for Local Development or the Kentucky Infrastructure Authority, as appropriate.

**(22) Support of the 12 Multicounty Regional Industrial Park Authorities:** Notwithstanding KRS 42.4588, funds totaling \$300,000 in fiscal year 2006-2007 and \$300,000 in fiscal year 2007-2008 shall be transferred from the Local Government Economic Development Fund, Multi-County Fund, to the Governor's Office for Local Development to be distributed equally to the 12 multicounty regional industrial park authorities located in coal counties to be used for marketing and maintenance of the industrial parks and for procurement of property and casualty insurance on the parks. ~~The Cabinet for Economic Development is directed to evaluate the ongoing marketing, maintenance, and insurance needs of multicounty regional industrial parks and make necessary expenditures from the Multi-County Fund to ensure viability of these parks. (Veto #5)~~

**(23) Coal Severance Tax Receipts:** The appropriations of severance tax receipts made in this Act shall not lapse but shall be carried forward at the end of each fiscal year.

**(24) Buckhorn Children's Home:** Notwithstanding KRS 42.4588, funds totaling \$500,000 in fiscal year 2006-2007 shall be transferred from the Local Government Economic Development Fund, Multi-County Fund, to the Governor's Office for Local Development to be distributed as a grant to the Buckhorn Children's Home.

**(25) Infrastructure for Economic Development Fund for Coal Producing Counties:** Notwithstanding KRS 42.4592, the quarterly calculation of the allocation of moneys to coal-producing counties through the Local Government Economic Development Fund shall be made only after each quarterly installment of the annual appropriation of \$1,164,000 in fiscal year 2007-2008 is appropriated as General Fund moneys to the Kentucky Infrastructure Authority for debt service on \$100,000,000 Bond Funds for the Infrastructure for Economic Development Fund for Coal-Producing Counties.

Notwithstanding KRS 42.4588, funds totaling \$8,148,000 in fiscal year 2007-2008 shall be transferred from the Local Government Economic Development Fund, Multi-County Fund, to the Kentucky Infrastructure Authority for debt service on \$100,000,000 Bond Funds for the Infrastructure for Economic Development Fund for Coal-Producing Counties.

**(26) Industrial Park Priority:** Notwithstanding KRS 42.4588(2), any county that is providing at least \$1,000,000 from their Local Government Economic Development Fund, Single County Account for an industrial park project, shall be given higher priority when applying for Local Government Economic Development Fund, Multi-County Fund dollars for the same project.

(27) **Pharmacy Scholarship Fund:** Notwithstanding KRS 42.4582 and 42.4585, the quarterly calculation and transfer of the funds in fiscal year 2007-2008 shall be made only after each quarterly installment of the annual appropriation of \$1,000,000 has been credited to the Pharmacy Scholarship Fund within the Kentucky Higher Education Assistance Authority.

(28) **Kentucky Geological Survey:** Notwithstanding KRS 42.4588, funds totaling \$250,000 in fiscal year 2007-2008 shall be transferred from the Local Government Economic Development Fund, Multi-County Fund, to the University of Kentucky for the Kentucky Geological Survey.

	2006-07	2007-08
<b>14. AREA DEVELOPMENT FUND</b>		
General Fund	809,700	809,700

(1) **Appropriation Limit:** Notwithstanding KRS 48.185, funds appropriated from the General Fund for the Area Development Fund shall be limited to these amounts.

**15. EXECUTIVE BRANCH ETHICS COMMISSION**

	2005-06	2006-07	2007-08
General Fund	62,400	435,000	444,000
Restricted Funds	-0-	1,500	1,500
TOTAL	62,400	436,500	445,500

**16. SECRETARY OF STATE**

	2006-07	2007-08
General Fund	2,299,300	2,298,100
Restricted Funds	849,200	900,000
TOTAL	3,148,500	3,198,100

(1) **Carry Forward of Restricted Funds Appropriation Balance:** Notwithstanding KRS 14.140(3), the above Restricted Funds appropriations shall not lapse and shall be used for the continuation of current activities within the General Administration unit and for the operations and staff of the Uniform Commercial Code Branch.

**17. BOARD OF ELECTIONS**

	2006-07	2007-08
General Fund	4,878,500	4,861,900
Restricted Funds	77,600	93,900
Federal Funds	10,000,000	5,628,500
TOTAL	14,956,100	10,584,300

(1) **Help America Vote Act of 2002:** Amounts above those appropriated that are necessary to match Federal Funds from the Help America Vote Act shall be deemed a necessary government expense and shall be paid from the General Fund Surplus Account (KRS 48.700) or the Budget Reserve Trust Fund (KRS 48.705). Notwithstanding KRS 45.229, any unexpended balance from the General Fund appropriation necessary to match Federal Funds shall not lapse and shall carry forward to fiscal year 2006-2007 and fiscal year 2007-2008.

(2) **Cost of Elections:** Included in the above General Fund appropriation is \$3,280,900 in fiscal year 2006-2007 and \$3,291,100 in fiscal year 2007-2008 to pay the state's share of county election expenses (KRS 117.345) and the state's share of voter registration expenses (KRS 116.112(7), 116.145, and 117.343). Notwithstanding KRS 117.345(2), the maximum state payment rate is increased from the current statutory level of \$255 to \$300 per precinct per election to each precinct using voting machines. Any amount that the state is required to pay for precinct election expenses under the provisions of KRS 116.112(7), 116.145, 117.343, and 117.345 shall be deemed necessary government expenses and shall be paid from the General Fund Surplus Account (KRS 48.700) or the Budget Reserve Trust Fund Account (KRS 48.705).

**18. REGISTRY OF ELECTION FINANCE**

	<b>2006-07</b>	<b>2007-08</b>
General Fund	1,547,100	1,571,700

**19. ATTORNEY GENERAL**

	<b>2006-07</b>	<b>2007-08</b>
General Fund	14,276,500	14,113,100
Restricted Funds	9,167,300	9,109,100
Federal Funds	2,437,000	2,531,500
<b>TOTAL</b>	<b>25,880,800</b>	<b>25,753,700</b>

(1) **Expert Witnesses:** In addition to such funds as may be appropriated, the Office of the Attorney General may request from the Finance and Administration Cabinet, as a necessary government expense, such funds as may be necessary for expert witnesses. Upon justification of the request, the Finance and Administration Cabinet shall provide up to \$275,000 for the 2006-2008 fiscal biennium for this purpose to the Office of the Attorney General. The Office of Insurance shall provide the Office of the Attorney General any available information to assist in the preparation of a rate hearing pursuant to KRS 304.17A-095.

(2) **Annual and Sick Leave Service Credit:** Notwithstanding any statutory or regulatory restrictions to the contrary, any former employee of the Unified Prosecutorial System who has been appointed to a permanent full-time position under KRS Chapter 18A shall be credited annual and sick leave based on service credited under the Kentucky Retirement Systems solely for the purpose of computation of sick and annual leave. This provision shall only apply to any new appointment or current employee as of July 1, 1998.

(3) **Legal Services Contracts:** The Office of the Attorney General may present proposals to state agencies specifying legal work that is presently accomplished through Personal Service Contracts that indicate the Office of the Attorney General's capacity to perform the work at a lesser cost. State agencies may agree to make arrangements with the Office of the Attorney General to perform the legal work and compensate the Office of the Attorney General for the legal services. Notwithstanding KRS Chapter 45A, the Office of the Attorney General may contract with outside law firms on a contingency basis.

(4) **Child Sexual Abuse License Plate Revenue:** Notwithstanding KRS 186.162, the Transportation Cabinet shall review the costs related to the distribution of child victims' license plates. Any revenue received from the sale or renewal of those plates in excess of actual costs shall be transferred to the Child Victims' Trust Fund on an annual basis.

**20. UNIFIED PROSECUTORIAL SYSTEM**

(1) **Prosecutors Advisory Council Administrative Functions:** The Prosecutors Advisory Council shall approve compensation for employees of the Unified Prosecutorial System subject to the appropriations in this Act.

**a. Commonwealth's Attorneys**

	<b>2006-07</b>	<b>2007-08</b>
General Fund	31,752,200	32,558,100
Restricted Funds	234,000	249,900
Federal Funds	179,700	186,500
<b>TOTAL</b>	<b>32,165,900</b>	<b>32,994,500</b>

**b. County Attorneys**

	<b>2006-07</b>	<b>2007-08</b>
General Fund	26,875,000	27,752,300
Restricted Funds	23,000	23,500
Federal Funds	472,700	502,000
<b>TOTAL</b>	<b>27,370,700</b>	<b>28,277,800</b>



**TOTAL - UNIFIED PROSECUTORIAL SYSTEM**

	<b>2006-07</b>	<b>2007-08</b>
General Fund	58,627,200	60,310,400
Restricted Funds	257,000	273,400
Federal Funds	652,400	688,500
<b>TOTAL</b>	<b>59,536,600</b>	<b>61,272,300</b>

**21. TREASURY**

	<b>2006-07</b>	<b>2007-08</b>
General Fund	2,171,300	2,210,400
Restricted Funds	744,500	753,100
Road Fund	250,000	250,000
<b>TOTAL</b>	<b>3,165,800</b>	<b>3,213,500</b>

(1) **Unclaimed Property Fund:** Included in the above Restricted Funds appropriation is a recurring transfer from the Unclaimed Property Fund. In each respective fiscal year of the 2006-2008 fiscal biennium, \$744,500 and \$753,100 is appropriated to provide funding for services performed by the Unclaimed Property Division of the Department of the Treasury.

**22. AGRICULTURE**

	<b>2006-07</b>	<b>2007-08</b>
General Fund	19,803,100	21,529,700
Restricted Funds	4,937,200	4,548,900
Federal Funds	3,947,400	3,889,200
<b>TOTAL</b>	<b>28,687,700</b>	<b>29,967,800</b>

(1) **Breathitt Veterinary Center and Diagnostic Laboratories:** Included in the above General Fund appropriation is \$478,500 in fiscal year 2006-2007 and \$478,500 in fiscal year 2007-2008 for the Breathitt Veterinary Center at Murray State University and \$478,500 in fiscal year 2006-2007 and \$478,500 in fiscal year 2007-2008 for the University of Kentucky for the diagnostic laboratories.

(2) **Enforcement of Tobacco Product Sale Restrictions:** Included in the above General Fund appropriation is \$260,000 in fiscal year 2006-2007 and \$260,000 in fiscal year 2007-2008 to carry out the provisions of KRS 438.335.

(3) **Purchase of Agricultural Conservation Easement (PACE) Program:** The PACE board may contract directly with land surveyors, real estate appraisers, and other licensed professionals as necessary. The Department of Agriculture may receive funds from local and private sources to match Federal Funds for the Purchase of Agricultural Conservation Easement (PACE) Program.

(4) **Metrology Lab Operating Fees:** The Department of Agriculture may promulgate administrative regulations establishing license fees, testing fees, and any other fees necessary to operate and maintain a metrology lab in the Department of Agriculture. These Restricted Funds receipts shall be utilized for personnel and operations of the metrology lab.

(5) **County Fair Grants:** Included in the above General Fund appropriation is \$495,000 in fiscal year 2006-2007 and \$495,000 in fiscal year 2007-2008 to support the capital improvement grants to the Local Agricultural Fair Program.

~~[(6) **Debt Service:** Included in the above General Fund appropriation is \$462,000 in fiscal year 2007-2008 for debt service to support new bonds for Animal Shelters as set forth in Part II, Capital Projects Budget, of this Act.] (Veto #4)~~

**23. AUDITOR OF PUBLIC ACCOUNTS**

	2006-07	2007-08
General Fund	5,829,900	5,828,300
Restricted Funds	3,297,500	3,297,500
TOTAL	9,127,400	9,125,800

(1) **Auditor's Scholarships:** Notwithstanding KRS 43.200, no funding is provided for Auditor's scholarships.

(2) **Audit Services Contracts:** No state agency shall enter into any contract with a nongovernmental entity for an audit unless the Auditor of Public Accounts has declined in writing to perform the audit or has failed to respond within 30 days of receipt of a written request. The agency requesting the audit shall furnish the Auditor of Public Accounts a comprehensive statement of the scope and nature of the proposed audit.

(3) **Audit Records and Status Reports:** The Auditor of Public Accounts shall report in writing each 60 days to the Interim Joint Committee on Appropriations and Revenue the progress of all state audits, together with copies of all completed audits. The Auditor of Public Accounts shall maintain a record of all time and expenses for each audit or investigation.

(4) **Compensatory Leave Conversion to Sick Leave:** If the Auditor of Public Accounts determines that internal budgetary pressures warrant further austerity measures, the State Auditor may institute a policy to suspend payment of 50 hour blocks of compensatory time for those auditors who have accumulated 240 hours of compensatory time and instead to convert those hours to sick leave.

(5) **Auditor Salary Equity:** Included in the above General Fund appropriation are funds to provide an increase to each merit classified auditor within the Auditor of Public Accounts office to be added to the eligible employee's base salary effective July 1, 2006. The Secretary of the Personnel Cabinet shall take such action to develop a revised classification and salary compensation schedule to implement this provision in consultation with the Auditor of Public Accounts to be effective by July 1, 2006. This salary increase shall be in addition to any salary increase provided to state employees included in this Act.

#### 24. PERSONNEL BOARD

	2005-06	2006-07	2007-08
General Fund	38,600	-0-	-0-
Restricted Funds	-0-	754,500	767,100
TOTAL	38,600	754,500	767,100

(1) **Personnel Board Operating Assessment:** Each agency of the Executive Branch with employees covered by KRS Chapter 18A shall be assessed each fiscal year the amount required for the operation of the Personnel Board, as appropriated above. The agency assessment shall be determined by the Secretary of the Finance and Administration Cabinet based on the authorized full-time positions of each agency on July 1 each year of the biennium. The Secretary of the Finance and Administration Cabinet shall collect the assessment and allot these Restricted Funds for the routine operations of the Personnel Board. Notwithstanding KRS 45.229, any Restricted Funds generated by this assessment not spent in fiscal year 2006-2007 shall not lapse but shall be carried forward to the next fiscal year and utilized for the routine operations of the Personnel Board.

(2) **Special Assessment:** As a result of increased workload or for other reasons in the best interest of the State Merit System, the Chairman of the Personnel Board may request a special assessment to adequately provide for the financial needs and operation of the Personnel Board. Any special assessment for Personnel Board operations shall receive the prior approval of the State Budget Director and the Secretary of the Finance and Administration Cabinet. Should any special assessment be approved, it shall be uniformly implemented in accordance with the same procedures as the regular Personnel Board Operating Assessment.

#### 25. KENTUCKY RETIREMENT SYSTEMS

	2005-06	2006-07	2007-08
Restricted Funds	1,235,000	22,580,700	24,253,100

(1) **Dependent Subsidy for Retirees - Kentucky Employee Retirement System:** From July 1, 2006, through December 31, 2007, in addition to the benefits conferred under KRS 61.702, a recipient of a nonhazardous

monthly retirement allowance shall also be eligible for the dependent subsidy as provided under the terms established by the State Group Health Insurance Program. The dependent subsidy conferred to recipients of a nonhazardous monthly retirement allowance shall not be considered as a benefit protected by the inviolable contract provisions of KRS 61.692, 16.652 and 78.852.

(2) **Dependent Subsidy for Retirees - County Employees Retirement System:** From July 1, 2006, through December 31, 2007, in addition to the benefits conferred under KRS 61.702, a recipient of a nonhazardous monthly retirement allowance shall also be eligible for the dependent subsidy as provided under the terms established by the State Group Health Insurance Program. The dependent subsidy conferred to recipients of a nonhazardous monthly retirement allowance shall not be considered as a benefit protected by the inviolable contract provisions of KRS 61.692, 16.652 and 78.852.

## 26. OCCUPATIONAL AND PROFESSIONAL BOARDS AND COMMISSIONS

### a. Accountancy

	2006-07	2007-08
Restricted Funds	617,600	619,200

### b. Certification of Alcohol and Drug Counselors

	2006-07	2007-08
Restricted Funds	67,200	67,200

### c. Architects

	2006-07	2007-08
Restricted Funds	356,600	362,800

### d. Certification for Professional Art Therapists

	2006-07	2007-08
Restricted Funds	11,400	11,400

### e. Auctioneers

	2006-07	2007-08
Restricted Funds	405,500	412,700

### f. Barbering

	2006-07	2007-08
Restricted Funds	247,400	249,400

### g. Chiropractic Examiners

	2006-07	2007-08
Restricted Funds	203,900	211,100

### h. Dentistry

	2006-07	2007-08
Restricted Funds	639,800	641,800

### i. Licensure and Certification for Dietitians and Nutritionists

	2006-07	2007-08
Restricted Funds	77,500	77,500

### j. Embalmers and Funeral Directors

	2006-07	2007-08
Restricted Funds	259,400	262,800

(1) **Military Burial Honor Guard Program:** Pursuant to KRS 36.390, the Department of Military Affairs shall coordinate with the Department of Veterans' Affairs and the Board of Embalmers and Funeral Directors on the implementation of the Military Burial Honor Guard Program. The Board of Embalmers and Funeral Directors shall mail program notification letters to all licensed embalmers and funeral directors with information related to program description and contacts for the Military Burial Honor Guard Program. These letters shall be mailed with the annual renewal notifications prior to July 1 each year. New applicants will receive their notification of the program at the time of licensing. The Board of Embalmers and Funeral Directors shall establish a section on the Board's Web site pertaining to the Military Burial Honor Guard Program. The Department of Military Affairs and the Department of Veterans' Affairs shall report to the Interim Joint Committee on Seniors, Veterans, Military Affairs, and Public Protection prior to January 1, 2007, on the implementation of the Military Burial Honor Guard Program. The report shall include recommendations on organizational related matters, training and continuing education needs, equipment requirements for organizations performing or coordinating the honors ceremonies, and the expenditure of funds.

**k. Licensure for Professional Engineers and Land Surveyors**

	<b>2006-07</b>	<b>2007-08</b>
Restricted Funds	1,398,400	1,411,400

**l. Certification of Fee-Based Pastoral Counselors**

	<b>2006-07</b>	<b>2007-08</b>
Restricted Funds	3,500	3,500

**m. Registration for Professional Geologists**

	<b>2006-07</b>	<b>2007-08</b>
Restricted Funds	135,000	135,000

**n. Hairdressers and Cosmetologists**

	<b>2006-07</b>	<b>2007-08</b>
Restricted Funds	1,043,000	1,074,100

**o. Specialists in Hearing Instruments**

	<b>2006-07</b>	<b>2007-08</b>
Restricted Funds	55,200	55,200

**p. Interpreters for the Deaf and Hard of Hearing**

	<b>2006-07</b>	<b>2007-08</b>
Restricted Funds	31,000	31,000

**q. Examiners and Registration of Landscape Architects**

	<b>2006-07</b>	<b>2007-08</b>
Restricted Funds	53,000	53,200

**r. Licensure of Marriage and Family Therapists**

	<b>2006-07</b>	<b>2007-08</b>
Restricted Funds	83,200	83,200

**s. Licensure for Massage Therapy**

	<b>2006-07</b>	<b>2007-08</b>
Restricted Funds	62,800	62,800

**t. Medical Licensure**

	<b>2006-07</b>	<b>2007-08</b>
Restricted Funds	2,408,200	2,427,400

<b>u. Nursing</b>		
	<b>2006-07</b>	<b>2007-08</b>
Restricted Funds	4,656,900	4,760,600
<b>v. Licensure for Nursing Home Administrators</b>		
	<b>2006-07</b>	<b>2007-08</b>
Restricted Funds	76,200	76,200
<b>w. Licensure for Occupational Therapy</b>		
	<b>2006-07</b>	<b>2007-08</b>
Restricted Funds	86,000	86,000
<b>x. Ophthalmic Dispensers</b>		
	<b>2006-07</b>	<b>2007-08</b>
Restricted Funds	62,900	62,900
<b>y. Optometric Examiners</b>		
	<b>2006-07</b>	<b>2007-08</b>
Restricted Funds	167,200	166,400
<b>z. Pharmacy</b>		
	<b>2006-07</b>	<b>2007-08</b>
Restricted Funds	1,037,200	1,045,000
<b>aa. Physical Therapy</b>		
	<b>2006-07</b>	<b>2007-08</b>
Restricted Funds	264,700	264,700
<b>ab. Podiatry</b>		
	<b>2006-07</b>	<b>2007-08</b>
Restricted Funds	21,700	21,700
<b>ac. Private Investigators</b>		
	<b>2006-07</b>	<b>2007-08</b>
Restricted Funds	64,200	64,200
<b>ad. Licensed Professional Counselors</b>		
	<b>2006-07</b>	<b>2007-08</b>
Restricted Funds	56,200	56,200
<b>ae. Proprietary Education</b>		
	<b>2006-07</b>	<b>2007-08</b>
Restricted Funds	164,300	164,300
<b>af. Examiners of Psychology</b>		
	<b>2006-07</b>	<b>2007-08</b>
Restricted Funds	176,100	176,100
<b>ag. Real Estate Appraisers</b>		
	<b>2006-07</b>	<b>2007-08</b>

	Restricted Funds	602,700	604,200	
ah.	Real Estate Commission			
		2006-07	2007-08	
	Restricted Funds	2,744,300	2,666,600	
ai.	Respiratory Care			
		2006-07	2007-08	
	Restricted Funds	127,100	127,100	
aj.	Social Work			
		2006-07	2007-08	
	Restricted Funds	145,300	145,300	
ak.	Speech-Language Pathology and Audiology			
		2006-07	2007-08	
	Restricted Funds	92,000	92,000	
al.	Veterinary Examiners			
		2006-07	2007-08	
	Restricted Funds	237,800	237,800	
TOTAL - OCCUPATIONAL AND PROFESSIONAL BOARDS AND COMMISSIONS				
		2006-07	2007-08	
	Restricted Funds	18,942,400	19,070,000	
27.	EMERGENCY MEDICAL SERVICES			
		2005-06	2006-07	2007-08
	General Fund	-0-	2,393,700	2,373,800
	Restricted Funds	40,000	401,300	422,700
	Federal Funds	-0-	155,000	155,000
	TOTAL	40,000	2,950,000	2,951,500
28.	KENTUCKY RIVER AUTHORITY			
			2006-07	2007-08
	General Fund		368,200	1,978,800
	Restricted Funds		5,436,600	4,414,800
	TOTAL		5,804,800	6,393,600

(1) **Water Withdrawal Fees:** The water withdrawal fees imposed by the Kentucky River Authority shall not be subject to state and local taxes. Notwithstanding that portion of the provision of KRS 151.710(10) that directs the Finance and Administration Cabinet to provide administrative services for the Kentucky River Authority, Tier I water withdrawal fees shall be used to support the operations of the Authority and for contractual services for water supply and quality studies.

(2) **Debt Service - Kentucky River Locks and Dams Maintenance and Renovations Pool:** Included in the above General Fund appropriation is \$1,630,000 in fiscal year 2007-2008 for debt service on \$17,500,000 in Bond Funds, and in the (Veto #4) Restricted Funds appropriation \$3,092,000 in fiscal year 2007-2008 for debt service on \$33,200,000 in Agency Bond Funds for the Kentucky River Locks and Dams Maintenance and Renovations Pool, as set forth in Part II, Capital Projects Budget, of this Act. The Agency Bonds may be issued by the State Property and Buildings Commission or the Kentucky Asset Liability Commission.

## **29. SCHOOL FACILITIES CONSTRUCTION COMMISSION**

	2006-07	2007-08
General Fund	107,589,000	117,974,500

(1) **Debt Service:** Included in the above General Fund appropriation is \$1,688,000 in fiscal year 2006-2007 and \$8,439,000 in fiscal year 2007-2008 for debt service on \$150,000,000 in bonds as set forth in Part II, Capital Projects Budget, of this Act.

(2) **Growth Nickel Levy:** The Facilities Support Program of Kentucky is fully funded in the 2006-2008 fiscal biennium. Notwithstanding KRS 157.621(3), local school districts may exercise authority expressed in KRS 157.621(1) and (2).

(3) **School Facility Revenue:** A local board of education may commit an equivalent tax rate not to exceed five cents in addition to the taxes levied in KRS 157.440(1)(b). Receipts from the levy shall be committed to debt service, new facilities, or major renovations of existing school facilities. The tax rate levied by the local board of education under this provision shall be made no later than October 1 of each odd-numbered year and shall not be equalized with state funding. The levy shall be subject to recall.

(4) **Urgent Need School Trust Fund:** The Urgent Need School Trust Fund is established in the Finance and Administration Cabinet for the purpose of assisting school districts that have urgent and critical construction needs. The Urgent Need School Trust Fund shall be administered by the School Facilities Construction Commission. The fund may receive state appropriations, contributions, and grants from any source which shall be credited to the trust fund and invested until needed. All interest earned on the fund shall be retained in the trust fund. Notwithstanding KRS 45.229, moneys in the trust fund shall not lapse, but shall carry forward at the end of each fiscal year.

The Secretary of the Finance and Administration Cabinet, the Commissioner of Education, and the Executive Director of the School Facilities Construction Commission shall jointly establish an Urgent Need School Trust Fund Advisory Committee to develop guidelines for the distribution of funds and to advise the School Facilities Construction Commission on the distribution of funds from this trust fund. Funds may be distributed to local school districts to address anomalies in the existing school construction funding formulas as direct grants, loans, matching funds, additional offers of assistance to address districts' unmet needs, or as equalization funds in situations where school districts have levied additional taxes for school construction purposes. The guidelines developed for distribution of funds from this trust fund shall be developed and presented to the Interim Joint Committee on Appropriations and Revenue and the Interim Joint Committee on Education no later than September 31, 2006. Area Vocational Centers shall be eligible to participate in the Urgent Need School Trust Fund. Included in the above appropriation is \$5,000,000 in fiscal year 2007-2008 for the Urgent Need School Trust Fund that may be distributed after July 1, 2007. In addition, funds authorized in subsections (1) and (6) of this section may be distributed to local school districts based on the guidelines developed by the Urgent Need School Trust Fund Advisory Committee after July 1, 2007.

(5) **Offers of Assistance:** Notwithstanding KRS 157.622, a local school district may accumulate credit, subject to the availability of funds, for its unused state allocation for a period not to exceed eight years.

(6) **Additional Offers of Assistance:** Notwithstanding KRS 157.611 to 157.640, 157.650, 157.655, 157.660, or 157.665, the School Facilities Construction Commission is authorized to make an additional \$100,000,000 in offers of assistance during the 2006-2008 biennium in anticipation of debt service availability during the 2008-2010 biennium. No bonded indebtedness based on the above amount is to be incurred during the 2006-2008 biennium.

~~[(7) **Debt Service:** Notwithstanding KRS 45.229, moneys appropriated for debt service shall not lapse but shall be credited to the Urgent Need School Trust Fund.] (Veto #6)~~

(8) **Administrative Costs:** The School Facilities Construction Commission may utilize up to \$300,000 in each fiscal year of the 2006-2008 biennium for administrative purposes.

(9) **School Facilities Evaluation:** The Kentucky Department of Education, in partnership with the School Facilities Construction Commission, shall conduct a comprehensive evaluation of the current facilities planning process, the process for categorizing schools for planning and funding purposes, major plant maintenance planning and implementation, the process used to determine unmet school facility needs, and the degree of equity in the distribution of state capital funds. The department shall involve local superintendents, finance officers, facility

managers and other local school personnel, consultants who are knowledgeable in school facilities planning and construction, and others as deemed appropriate.

The evaluation shall consider:

- (a) The feasibility of adding weights for special needs or situations, including but not limited to student growth, inadequate classroom space, student accommodations, health and safety needs, compliance with the Americans with Disabilities Act, school district size, and overall building condition as certified by the Department of Education, in the calculation of unmet needs;
- (b) The adequacy of long-range planning for plant maintenance, procedures for improving long-range planning, and the appropriate level of monitoring by local and state officials;
- (c) Measurable, objective criteria for categorizing schools for local planning purposes and for the distribution of state capital funds;
- (d) A waiver system to accommodate special facility needs;
- (e) The level of technical assistance and training that is necessary to ensure that local school district personnel are knowledgeable of the facility planning process, capital construction funding mechanisms, and long-range planning and examine the most effective methods for providing technical assistance and training; and
- (f) A detailed review of all capital funding sources, and a study of local effort, to include an examination of the individual and cumulative effect of multiple funding sources on the equitable distribution of state capital construction funds and the effects of permitting individual school districts to levy additional taxes for construction purposes based on special or unique circumstances in that school district.

Notwithstanding KRS 157.622, the School Facilities Construction Commission, in cooperation with the Urgent Need School Trust Fund Advisory Committee, shall incorporate the findings and recommendations of this evaluation in determining the 2006 Offers of Assistance to local school districts. The School Facilities Construction Commission is authorized to make the 2006 Offers of Assistance prior to completion of this evaluation if sufficient data and other information is available.

A preliminary report shall be made to the Interim Joint Committee on Appropriations and Revenue no later than September 15, 2006, and a final report, including recommendations for regulatory or statutory change, shall be made no later than September 30, 2006.

**(10) Use of Local District Capital Outlay Funds:** Notwithstanding KRS 157.420(4) and (6), a local district may submit a request to the Commissioner of Education to use capital outlay funds for maintenance expenditures or for the purchase of property insurance in fiscal year 2006-2007 and fiscal year 2007-2008 without forfeiture of the district's participation in the School Facilities Construction Commission Program.

### 30. TEACHERS' RETIREMENT SYSTEM

	2006-07	2007-08
General Fund	157,326,100	183,323,100
Restricted Funds	9,409,300	10,361,500
TOTAL	166,735,400	193,684,600

**(1) State Retirement Obligations:** Notwithstanding KRS 161.550, General Fund moneys are appropriated to comply with the obligations of the state under the Teachers' Retirement System statutes as provided in KRS 161.220 to 161.716.

**(2) Administrative Costs:** In accordance with KRS 161.420, in each fiscal year an amount not greater than four percent of the receipts of the state accumulation fund shall be set aside into the expense fund or expended for the administration of the retirement system. No General Fund moneys are provided in fiscal year 2006-2007 or fiscal year 2007-2008 for the cost of administration.

**(3) Amortization of Sick Leave:** Included in the above General Fund appropriation is \$4,293,800 in fiscal year 2006-2007 and \$9,211,000 in fiscal year 2007-2008 to provide the cost of amortizing the requirements of KRS 161.155 (sick leave) for members retiring during the 2006-2008 fiscal biennium.

**(4) Cost-of-Living Increase for Retirees:** Included in the above General Fund appropriation is \$4,312,800 in fiscal year 2006-2007 and \$7,865,100 in fiscal year 2007-2008 to provide, when combined with the annual one and



one-half percent retirement allowance increase as provided for under KRS 161.620, a total increase in retirement allowances of eligible system members and beneficiaries of two and three-tenths percent in fiscal year 2006-2007 and an additional two and one-tenths in fiscal year 2007-2008.

**(5) Supplemental Health Insurance Funding:** Notwithstanding KRS 161.675(4)(a) included in the above General Fund appropriation is \$50,000 in each fiscal year to enable the retirement system to provide a subsidy from July 1, 2006, through December 31, 2007, for those retired state members over age 65 that insure their spouses under age 65 through the state health insurance plan. The amount of the subsidy for those over age 65 shall not exceed the amount of the subsidy for members under age 65 that choose couple, family, or parent plus coverage. The spousal subsidy is not subject to KRS 161.714.

**(6) State Medical Insurance Fund Stabilization Contribution:** Notwithstanding KRS 161.420 and 161.550, a portion of the state employer contribution in a sufficient amount shall be allocated to the Teachers' Retirement System Medical Insurance Fund instead of the State Accumulation Fund. Also included in the above General Fund appropriation is \$14,133,200 in fiscal year 2007-2008 to amortize the cost of the State Medical Insurance Fund Stabilization Contribution with the remainder to be amortized under the schedule set forth in KRS 161.553.

**(7) Dependent Subsidy for Retirees under age 65:** Notwithstanding KRS 161.675(4)(a), from July 1, 2006, through December 31, 2007, for all retirees under the age of 65 who participate in the Kentucky Group Health Insurance Program through the Kentucky Teachers' Retirement System, the Kentucky Teachers' Retirement System shall pay the same dependent subsidy that Executive Branch agencies pay for their active employees who have similar coverage. The dependent subsidy is not subject to KRS 161.714.

**(8) Ad Hoc State Contribution:** Included in the above General Fund appropriation is \$12,974,100 in fiscal year 2006-2007 and \$29,444,100 in fiscal year 2007-2008 for an ad hoc contribution to the State Accumulation Fund.

**(9) Highly Skilled Educators' Retirement Benefits:** Salary supplements received by persons selected as highly skilled educators on or after July 1, 2000, shall not be included in the total salary compensation for any retirement benefits to which the employee may be entitled.

### 31. JUDGMENTS

	2005-06	2006-07	2007-08
General Fund	-0-	-0-	-0-

**(1) Payment of Judgments and Carry Forward of General Fund Appropriation Balance:** The above appropriation is for the payment of judgments as may be rendered against the Commonwealth by courts and orders of the State Personnel Board and, where applicable, shall be subject to the provisions of KRS Chapter 45, and for the payment of medical malpractice judgments against the University of Kentucky and the University of Louisville in accordance with KRS 164.892 and 164.941. Notwithstanding KRS 45.229, any remaining appropriation in the Judgments account at the end of fiscal year 2005-2006 or fiscal year 2006-2007 shall not lapse but shall be carried forward.

### 32. APPROPRIATIONS NOT OTHERWISE CLASSIFIED

	2006-07	2007-08
General Fund	3,917,500	3,917,500

**(1) Funding Sources for Appropriations Not Otherwise Classified:** Funds required to pay the costs of items included within the Appropriations Not Otherwise Classified are appropriated, and any required expenditure over the above amounts is to be paid first from the General Fund Surplus Account (KRS 48.700), if available, or from any available balance in either the Judgments budget unit appropriation or the Budget Reserve Trust Fund Account (KRS 48.705), subject to the conditions and procedures provided in this Act.

The above appropriation is for the payment of Attorney General Expense, Board of Claims Award, Guardian Ad Litem, Prior Year Claims, Unredeemed Checks Refunded, Involuntary Commitments - ICF/MR, Frankfort in Lieu of Taxes, Frankfort Cemetery, Police Officers and Firefighters Survivor Benefits, Medical Malpractice Liability Insurance Reimbursement, and Blanket Employee Bonds.

**(2) Repayment of Awards or Judgments:** Funds are appropriated from the General Fund for the repayment of awards or judgments made by the Board of Claims against departments, boards, commissions, and other

agencies maintained by appropriations out of the General Fund. However, awards under \$5,000 shall be paid from funds available for the operations of the agency.

(3) **Guardian Ad Litem Fees:** Included in the above appropriation is funding for fees to be paid to each guardian ad litem appointed by the court pursuant to KRS 311.732. The fee shall be fixed by the court and shall not exceed \$500.

(4) **Reissuance of Uncashed Checks:** Checks written by the State Treasurer and not cashed within the statutory period may be presented to the State Treasurer for reissuance in accordance with KRS 41.370.

(5) **Police Officer and Firefighter Survivor Benefits:** Funds are appropriated for payment of benefits for state and local police officers and firefighters in accordance with KRS 61.315 and 95A.070.

#### **TOTAL - GENERAL GOVERNMENT**

	<b>2005-06</b>	<b>2006-07</b>	<b>2007-08</b>
General Fund (Tobacco)	-0-	17,469,800	20,065,100
General Fund	101,000	550,266,300	618,517,500
Restricted Funds	1,275,000	131,392,600	132,843,000
Federal Funds	126,100	225,524,800	221,595,900
Road Fund	-0-	600,000	600,000
<b>TOTAL</b>	<b>1,502,100</b>	<b>925,253,500</b>	<b>993,621,500</b>

#### **B. COMMERCE CABINET**

##### **Budget Units**

##### **1. SECRETARY**

	<b>2006-07</b>	<b>2007-08</b>
General Fund	3,089,100	3,114,000
Restricted Funds	1,046,200	1,062,900
<b>TOTAL</b>	<b>4,135,300</b>	<b>4,176,900</b>

(1) **Outdoor Drama Grants:** Included in the above General Fund appropriation is \$371,000 in each fiscal year for the purpose of supporting the following grants: Someday Outdoor Drama, \$20,000 in each fiscal year; Stephen Foster, \$81,000 in each fiscal year; Pioneer School of Drama, \$28,500 in each fiscal year; Music Theater of Louisville, \$9,000 in each fiscal year; Pine Knob Theater, \$29,500 in each fiscal year; Kincaid Regional Theater, \$27,500 in each fiscal year; Twilight Cabaret, \$9,000 in each fiscal year; Horse Cave Theater, \$26,000 in each fiscal year; Jenny Wiley, \$39,500 in each fiscal year; Indian Fort Drama of Berea, \$25,000 in each fiscal year; Fort Harrod Drama Productions, \$41,000 in each fiscal year; Greenbo Lake State Resort Park, \$10,000 in each fiscal year; and Russell County Ruscotown Players Production, \$25,000 in each fiscal year.

##### **2. ARTISANS CENTER**

	<b>2005-06</b>	<b>2006-07</b>	<b>2007-08</b>
General Fund	-0-	156,200	156,200
Restricted Funds	125,800	2,169,000	2,193,400
<b>TOTAL</b>	<b>125,800</b>	<b>2,325,200</b>	<b>2,349,600</b>

##### **3. ENERGY POLICY**

	<b>2005-06</b>	<b>2006-07</b>	<b>2007-08</b>
General Fund	-0-	2,341,500	2,341,500
Restricted Funds	89,600	5,400,000	5,400,000
Federal Funds	-0-	2,382,800	2,382,800
<b>TOTAL</b>	<b>89,600</b>	<b>10,124,300</b>	<b>10,124,300</b>

(1) **Energy Research and Development:** Included in the above Restricted Funds appropriation is \$3,500,000 in fiscal year 2006-2007 and \$3,500,000 in fiscal year 2007-2008 which shall be used for research projects relating to clean coal, new combustion technology, thin-seam coal extraction research, synthetic natural gas produced from coal through gasification processes, and the development of alternative transportation fuels produced by processes that convert coal or biomass resources or extract oil from oil shale and shall be targeted solely to Kentucky's Local Government Economic Development Fund-eligible counties. The Office of Energy Policy shall coordinate its efforts with those of Kentucky's universities and related Kentucky Community and Technical College System programs in order to maximize Kentucky's opportunities for federal funding and receive research grants and awards from federal and other sources of funding for the development of clean coal technology, coal-to-liquid-fuel conversion, alternate transportation fuels, and biomass energy resources.

#### 4. TOURISM

	2006-07	2007-08
General Fund	7,130,500	7,176,500
Restricted Funds	8,700,000	9,200,000
TOTAL	15,830,500	16,376,500

(1) **Tourism Marketing and Development:** Included in the above Restricted Funds appropriation is \$1,000,000 in fiscal year 2006-2007 and \$1,000,000 in fiscal year 2007-2008 for Tourism Marketing and Development on behalf of the coal-producing counties. Fees for professional artists and entertainers performing on the Kentucky Music Trail may be paid from the Tourism Marketing Program.

(2) **Bluegrass State Games:** Included in the above General Fund appropriation is \$50,000 in each fiscal year for the Bluegrass State Games.

#### 5. PARKS

	2006-07	2007-08
General Fund	27,978,400	31,145,400
Restricted Funds	55,217,700	56,335,600
TOTAL	83,196,100	87,481,000

(1) **Park Capital Maintenance and Renovation Fund:** Notwithstanding KRS 148.810, the General Assembly authorizes the use of the Park Capital Maintenance and Renovation Fund for any ongoing cost of the Department of Parks.

~~[(2) **Debt Service:** Included in the above General Fund appropriation is \$3,167,000 in fiscal year 2007-2008 for new debt service to support new bonds as set forth in Part II, Capital Projects Budget, of this Act.] (Veto #4)~~

(3) **Nicholas Hildreth School:** Included in the above Restricted Funds appropriation is \$60,000 in fiscal year 2006-2007 to move the Nicholas Hildreth School to Blue Licks Battlefield State Park.

~~[(4) **Buckhorn Lake State Park:** Included in the above Restricted Funds appropriation is \$125,000 in fiscal year 2006-2007 to construct boat slips at Buckhorn Lake State Park.] (Veto #7)~~

#### 6. HORSE PARK COMMISSION

	2006-07	2007-08
General Fund	1,708,200	5,034,200
Restricted Funds	6,239,300	6,246,500
TOTAL	7,947,500	11,280,700

(1) **Debt Service:** Included in the above General Fund appropriation is \$3,399,000 in fiscal year 2007-2008 for new debt service to support new bonds as set forth in Part II, Capital Projects Budget, of this Act.

#### 7. STATE FAIR BOARD

2006-07	2007-08
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General Fund	396,800	553,800
Restricted Funds	37,058,600	37,821,900
TOTAL	37,455,400	38,375,700

(1) **Debt Service:** Included in the above Restricted Funds appropriation is \$4,322,100 in fiscal year 2006-2007 and \$4,424,400 in fiscal year 2007-2008 for previously issued bonds.

~~[(2) **Debt Service:** Included in the above General Fund appropriation is \$157,000 in fiscal year 2007-2008 for new debt service to support new bonds as set forth in Part II, Capital Projects Budget, of this Act.] (Veto #4)~~

## 8. FISH AND WILDLIFE RESOURCES

	2006-07	2007-08
Restricted Funds	28,778,500	29,810,000
Federal Funds	10,063,900	10,098,100
TOTAL	38,842,400	39,908,100

## 9. HISTORICAL SOCIETY

	2005-06	2006-07	2007-08
General Fund	125,000	8,762,800	8,045,500
Restricted Funds	-0-	760,900	819,600
Federal Funds	-0-	1,004,200	516,800
TOTAL	125,000	10,527,900	9,381,900

(1) **City of Hodgenville:** Included in the above General Fund appropriation is \$750,000 in fiscal year 2006-2007 to provide a grant for the City of Hodgenville to match Federal Funds.

(2) **Abraham Lincoln Bicentennial Commission:** Included in the above General Fund appropriation is \$2,000,000 in each year of the biennium for the Abraham Lincoln Bicentennial Commission.

(3) **Perryville Battlefield:** Included in the above General Fund appropriation is \$75,000 in fiscal year 2005-2006 for the 2006 reenactment of the battle at Perryville.

(4) **Lincoln Wedding Reenactment:** Included in the above General Fund appropriation is \$50,000 in fiscal year 2005-2006 for the Abraham Lincoln Bicentennial Commission to support the Lincoln Wedding Reenactment.

(5) **Debt Service:** Included in the above General Fund appropriation is \$32,000 in fiscal year 2007-2008 for new debt service to support new bonds as set forth in Part II, Capital Projects Budget, of this Act.

## 10. ARTS COUNCIL

	2006-07	2007-08
General Fund	4,203,200	4,182,500
Restricted Funds	441,900	452,700
Federal Funds	744,900	740,000
TOTAL	5,390,000	5,375,200

(1) **Open Meetings:** Any entity involved in producing or financing arts on a local or statewide basis, since the inception of fiscal year 2004-2005, which received a total of \$25,000 or less as a result of appropriations or grants from state or local governmental units, shall be exempt from the requirements of KRS 61.800 to 61.850.

(2) **Open Records:** Any entity involved in producing or financing arts on a local or statewide basis, since the inception of fiscal year 2004-2005, which received a total of \$25,000 or less as a result of appropriations or grants from state or local governmental units shall be exempt from the requirements of KRS 61.870 to 61.884.

## 11. HERITAGE COUNCIL

2006-07	2007-08
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General Fund	940,000	900,000
Restricted Funds	469,300	487,100
Federal Funds	669,000	669,000
<b>TOTAL</b>	<b>2,078,300</b>	<b>2,056,100</b>

(1) **African-American Heritage Council:** Included in the above General Fund appropriation is \$40,000 in fiscal year 2006-2007 for the African-American Heritage Council.

## 12. KENTUCKY CENTER FOR THE ARTS

	<b>2006-07</b>	<b>2007-08</b>
General Fund	1,114,400	1,264,400

(1) **Governor's School for the Arts:** Included in the above General Fund appropriation is \$150,000 in fiscal year 2007-2008 for stabilization of the Governor's School for the Arts.

## TOTAL - COMMERCE CABINET

	<b>2005-06</b>	<b>2006-07</b>	<b>2007-08</b>
General Fund	125,000	57,821,100	63,914,000
Restricted Funds	215,400	146,281,400	149,829,700
Federal Funds	-0-	14,864,800	14,406,700
<b>TOTAL</b>	<b>340,400</b>	<b>218,967,300</b>	<b>228,150,400</b>

## C. ECONOMIC DEVELOPMENT CABINET

### Budget Units

#### 1. SECRETARY

	<b>2006-07</b>	<b>2007-08</b>
General Fund	16,619,000	21,550,200
Restricted Funds	1,340,000	1,340,000
<b>TOTAL</b>	<b>17,959,000</b>	<b>22,890,200</b>

(1) **New Economy High-Tech Construction and High-Tech Investment Pools:** Included in the above General Fund appropriation is \$1,026,000 in fiscal year 2007-2008 for new debt service as set forth in Part II, Capital Projects Budget, of this Act. The Commissioner of the Department for Commercialization and Innovation shall determine the amounts to be apportioned between the High-Tech Investment and High-Tech Construction Pools.

(2) **Funding for Commercialization and Innovation:** Notwithstanding Subchapter 20 of KRS Chapter 154, interest income earned on balances in the High-Tech Construction Pool and the High-Tech Investment Pool shall be used to support the Department for Commercialization and Innovation within the Cabinet for Economic Development. Upon the recommendation of the Commissioner, these funds are authorized and appropriated to fund High-Tech Construction Pool and High-Tech Investment Pool projects. Loan repayments received by the High-Tech Construction and High-Tech Investment Pools are appropriated in addition to amounts specified in Part II, Capital Projects Budget, of this Act.

(3) **Louisville Waterfront Development Corporation:** Included in the above General Fund appropriation is \$420,800 in fiscal year 2006-2007 and \$420,800 in fiscal year 2007-2008 for the Louisville Waterfront Development Corporation.

#### 2. NEW BUSINESS DEVELOPMENT

	<b>2006-07</b>	<b>2007-08</b>
General Fund	1,365,200	1,377,500
Restricted Funds	747,000	747,000

TOTAL	2,112,200	2,124,500
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**3. FINANCIAL INCENTIVES**

	<b>2006-07</b>	<b>2007-08</b>
General Fund	3,200,000	4,015,000
Restricted Funds	1,789,600	1,810,600
TOTAL	4,989,600	5,825,600

(1) **Debt Service:** Included in the above General Fund appropriation is \$815,000 in fiscal year 2007-2008 for debt service to support new bonds as set forth in Part II, Capital Projects Budget, of this Act.

(2) **Carry Forward of General Fund Appropriation Balance for Bluegrass State Skills Corporation:** Notwithstanding KRS 45.229, the General Fund appropriation balance for training grants for fiscal year 2006-2007 and for fiscal year 2007-2008 for the Bluegrass State Skills Corporation shall not lapse and shall carry forward. The Corporation is authorized to extend an additional \$1,500,000 in training grant offers during the 2006-2008 biennium. If such offers are made and disbursements are required to support those offers, funds shall be appropriated from the General Fund Surplus Account (KRS 48.700) in an amount not to exceed \$1,500,000.

**4. EXISTING BUSINESS DEVELOPMENT**

	<b>2006-07</b>	<b>2007-08</b>
General Fund	3,457,500	3,503,400
Restricted Funds	210,000	210,000
Federal Funds	155,400	155,400
TOTAL	3,822,900	3,868,800

(1) **Small and Minority Business Entrepreneurship:** The Kentucky Economic Development Finance Authority shall make available \$300,000 in fiscal year 2007-2008 for micro-business loans in the Small and Minority Business entrepreneurship program in the Department of Existing Business Development.

**TOTAL - ECONOMIC DEVELOPMENT CABINET**

	<b>2006-07</b>	<b>2007-08</b>
General Fund	24,641,700	30,446,100
Restricted Funds	4,086,600	4,107,600
Federal Funds	155,400	155,400
TOTAL	28,883,700	34,709,100

**D. DEPARTMENT OF EDUCATION****Budget Units****1. EXECUTIVE POLICY AND MANAGEMENT**

	<b>2006-07</b>	<b>2007-08</b>
General Fund	672,000	679,800

(1) **Employment of Personnel:** Notwithstanding KRS 18A.115, the Department of Education may fill, through memoranda of agreement, not more than 50 percent of its existing authorized positions below the division director level with individuals employed as school administrators and educators in Kentucky.

(2) **Employment of Leadership Personnel:** Notwithstanding KRS 18A.005 to 18A.200, the Kentucky Board of Education shall continue to have sole authority to determine the employees of the Department of Education who are exempt from the classified service and to set their compensation comparable to the competitive market.

**2. OPERATIONS AND SUPPORT SERVICES**

	<b>2006-07</b>	<b>2007-08</b>
General Fund	36,925,500	56,074,400

Restricted Funds	7,210,100	7,210,100
Federal Funds	8,527,800	8,527,800
TOTAL	52,663,400	71,812,300

(1) **Teachers' Retirement System Employer Match:** Included in the above General Fund appropriation is \$2,705,600 in fiscal year 2006-2007 and \$2,840,900 in fiscal year 2007-2008 to enable the Department of Education to provide the employer match for the teacher retirement contribution for qualified employees as provided by KRS 161.550.

~~[(2) **Debt Service:** Included in the above General Fund appropriation is \$8,898,000 in fiscal year 2007-2008 to provide for debt service for new bonds as set forth in Part II, Capital Projects Budget, of this Act. Included in the \$8,898,000 is \$620,000 in fiscal year 2007-2008 to provide debt service for new bonds for a high speed education telecommunications network that supports a set of seamless P 16 management, instructional, and research applications. The network shall consist of 100 MBPS to at least 40 percent of Kentucky's local school districts and at least ten MBPS to the remaining local school districts. Included in the \$8,898,000 is \$696,000 in fiscal year 2007-2008 to provide debt service for a functionally robust and modern system to ensure the efficient collection and management of student information, including a unique student identifier, at the school, district, and state levels. Included in the \$8,898,000 is \$1,044,000 in fiscal year 2007-2008 to provide debt service for a Web-based, on-line testing program that provides a quicker return of test results, student accountability, and assessment integration into teaching and learning situations on a real time basis. Included in the \$8,898,000 is \$229,000 in fiscal year 2007-2008 to provide debt service for a knowledge management portal that will provide K-12 public educators with intuitive access to indexed, aligned, and well organized Web-based instructional resources such as units of study that connect curriculum, instruction, and assessment with other data generated by schools and the Kentucky Department of Education. Included in the \$8,898,000 is \$6,069,000 in fiscal year 2007-2008 to provide debt service for the purchase of modern workstations, stationary or mobile, for public K-12 schools to support advanced instructional activities, including on-line learning and Internet 2 instructional activities. The Kentucky Board of Education shall approve a plan for distribution of the workstations. Included in the \$8,898,000 is \$144,000 in fiscal year 2007-2008 to provide debt service for the Rockcastle County Vocational and Technical Center. Included in the \$8,898,000 is \$96,000 in fiscal year 2007-2008 to provide debt service for the Letcher County Central Vocational Center.] (Veto #4)~~

(3) **School Technology in Coal Counties:** Included in the above Restricted Funds appropriation is \$5,000,000 in each fiscal year from the Local Government Economic Development Multi-County Fund for the purpose of enhancing education technology in local school districts within coal-producing counties. The Commissioner of the Department of Education is authorized to use up to \$1,000,000 of the above \$5,000,000 appropriation in each fiscal year to make offers of assistance to qualifying local school districts in coal-producing counties to fund technology projects; to be eligible for these offers of assistance, local school districts may be required to provide a match of not more than two to one from any of their other funding courses. The Commissioner of the Department of Education shall use \$2,500,000 of the above \$5,000,000 appropriation to continue the Coal County Computing program ~~under the direction of the Kentucky Economic Development Finance Authority]. (Veto #8)~~ The Commissioner of the Department of Education shall distribute the remainder of the above \$5,000,000 appropriation to coal-producing counties in a manner consistent with distributions to local school districts from the Kentucky Education Technology System; these funds shall be in addition to any regular distribution to coal-producing counties from the Kentucky Education Technology System.

(4) **Education Technology Program:** Included in the above General Fund appropriation is \$19,500,000 in each fiscal year for the Education Technology Program.

### 3. LEARNING AND RESULTS SERVICES

	2006-07	2007-08
General Fund (Tobacco)	1,388,400	1,508,400
General Fund	791,940,900	839,939,300
Restricted Funds	2,621,200	2,621,200
Federal Funds	679,119,100	678,843,600
TOTAL	1,475,069,600	1,522,912,500

(1) **Funding for Employer Health and Life Insurance:** If the costs for health insurance or life insurance coverage for employees of local school districts exceed the levels of appropriated funds, any unexpended Support Education Excellence in Kentucky appropriations may be used to offset the unbudgeted costs. Any transfer shall be subject to approval of the Governor upon the written recommendation of the Secretary of the Finance and Administration Cabinet pursuant to the written request of the Commissioner of Education. The per-month per-employee administrative assessment shall be remitted to the Personnel Cabinet by the Department of Education from the General Fund appropriation for local school district health and life insurance.

(2) **Kentucky School for the Blind and Kentucky School for the Deaf:** Included in the above General Fund appropriation is \$6,441,400 in fiscal year 2006-2007 and \$6,657,100 in fiscal year 2007-2008 for the Kentucky School for the Blind, and \$9,003,200 in fiscal year 2006-2007 and \$9,304,200 in fiscal year 2007-2008 for the Kentucky School for the Deaf.

(3) **Kentucky Education Technology System:** (a) Area Vocational Education Centers shall be fully eligible to participate in the Kentucky Education Technology System. Notwithstanding KRS 157.660, the School Facilities Construction Commission, in consultation with the Kentucky Board of Education and the Department of Education, shall develop administrative regulations which identify a methodology by which the average daily attendance for Area Vocational Education Centers may be equated to the average daily attendance of other local school districts in order that they may receive their respective distributions of these funds.

(b) The School for the Deaf and the School for the Blind shall be fully eligible, along with local school districts, to participate in the Kentucky Education Technology System in a manner that takes into account the special needs of the students of these two schools.

(4) **Family Resource and Youth Services Centers:** Funds appropriated to establish and support Family Resource and Youth Services Centers shall be transferred in fiscal year 2006-2007 and in fiscal year 2007-2008 to the Cabinet for Health and Family Services consistent with the intent of KRS 156.497. The Cabinet for Health and Family Services is authorized to use, for administrative purposes, no more than three percent of the total funds transferred from the Department of Education for the Family Resource and Youth Services Centers. If a certified person is employed as a director or coordinator of a Family Resource or Youth Services Center, that person shall retain his or her status as a certified employee of the school district.

If 70 percent or more of the funding level provided by the state is utilized to support the salary of the director of a center, that center shall provide a report to the Cabinet for Health and Family Services identifying the salary of the director. The Cabinet for Health and Family Services shall transmit any reports received from Family Resource and Youth Services Centers pursuant to this provision to the Legislative Research Commission.

(5) **Health Insurance:** Included in the above General Fund appropriation is \$465,808,000 in fiscal year 2006-2007 for employer contributions for health insurance and the contribution to the flexible spending account for employees waiving coverage. Included in the above General Fund appropriation is \$503,855,000 in fiscal year 2007-2008 for employer contributions for health insurance and the contribution to the flexible spending account for employees waiving coverage.

(6) **Learning and Results Services Programs:** Notwithstanding KRS 156.265, included in the above General Fund appropriation are the following allocations for the 2006-2008 fiscal biennium:

- (a) \$31,859,500 in each fiscal year for the Extended School Services Program;
- (b) \$51,850,700 in each fiscal year for the Family Resource and Youth Services Centers Program;
- (c) \$75,127,000 in each fiscal year for the Preschool Program;
- (d) \$15,034,700 in each fiscal year for the Professional Development Program;
- (e) \$10,378,300 in each fiscal year for the Safe Schools Program;
- (f) \$1,400,000 in fiscal year 2007-2008 for ACT and WorkKeys testing;
- (g) \$21,700,100 in each fiscal year for the Textbooks Program;
- (h) \$1,200,000 in fiscal year 2006-2007 and \$1,400,000 in fiscal year 2007-2008 for the Collaborative Center for Literacy Development;
- (i) \$8,369,200 in each fiscal year for the Commonwealth Accountability Testing System (CATS);
- (j) \$616,500 in each fiscal year for the Blind/Deaf Residential Travel Program;



- (k) \$2,100,000 in each fiscal year for the Community Education Program;
- (l) \$720,900 in each fiscal year for the Dropout Prevention Program;
- (m) \$20,558,100 in fiscal year 2006-2007 and \$23,558,100 in fiscal year 2007-2008 for the Early Reading Incentive Grant/Read to Achieve Program;
- (n) \$7,121,500 in each fiscal year for the Gifted and Talented Program;
- (o) \$4,276,700 in each fiscal year for the School Food Services match;
- (p) \$10,962,100 in each fiscal year for the State Agency Children Program;
- (q) \$1,600,000 in each fiscal year for the Teacher Academies Program;
- (r) \$1,886,700 in each fiscal year for the Teacher Recruitment and Retention Program;
- (s) \$800,000 in each fiscal year for the Virtual Learning Program;
- (t) \$10,945,400 in fiscal year 2006-2007 and \$11,175,400 in fiscal year 2007-2008 for the Locally Operated Vocational Schools;
- (u) \$610,300 in each fiscal year for the Writing Program;
- (v) \$500,000 in each fiscal year for the Every1 Reads Program;
- (w) \$2,257,000 in fiscal year 2006-2007 and \$2,378,700 in fiscal year 2007-2008 for Local School District Life Insurance;
- (x) \$484,400 in each fiscal year for the Elementary Arts and Humanities Program;
- (y) \$3,000,000 in fiscal year 2006-2007 and \$6,900,000 in fiscal year 2007-2008 for the Mathematics Achievement Fund;
- (z) \$387,500 in each fiscal year for the Middle School Academic Center;
- (aa) \$381,500 in each fiscal year for the Leadership and Mentor Fund;
- (ab) \$3,925,300 in each fiscal year for the Professional Growth Fund;
- (ac) \$500,000 in each fiscal year for the Save the Children/Rural Literacy Program;
- (ad) The allocations referenced in subsection (5) of this budget unit for Local School District Health Insurance;
- (ae) \$100,000 in each fiscal year for a specialized tutoring program for students with learning disabilities from Appalachian counties, as identified by the Appalachian Regional Commission. This program shall be located at a public institution of high education selected by the Commissioner of Education;
- (af) \$430,000 in fiscal year 2007-2008 for the Partnership for Student Success Program;
- (ag) \$5,624,000 in fiscal year 2006-2007 and \$5,649,800 in fiscal year 2007-2008 for the Highly Skilled Educator Program; and
- (ah) \$1,504,100 in fiscal year 2006-2007 and \$1,507,900 in fiscal year 2007-2008 for the Commonwealth School Improvement Fund.

**(7) Program Flexibility:** Notwithstanding KRS 157.226(2) and (3), 157.3175(3) and (4), and 160.345(8) with regard to the state allocation, five programs (Professional Development, Extended School Services, Preschool, Textbooks, and Safe Schools) shall continue to permit the state and local school districts additional flexibility in the distribution of program funds while still addressing the governing statutes and serving the need and the intended student population.

**(8) Local District Grant Fund Carry Forward:** Notwithstanding KRS 45.229, up to ten percent of any non-SEEK state grant fund, other than any state grant fund for the Read to Achieve Program, appropriated to the Department of Education and disbursed to a local district that is unexpended during fiscal year 2006-2007 may be carried forward to fiscal year 2007-2008. Notwithstanding KRS 45.229, any state grant fund for the Read to Achieve Program in fiscal year 2006-2007 may be carried forward to fiscal year 2007-2008.

(9) **Publishing Requirements:** Notwithstanding KRS 158.6453(7), 160.463, and 424.220, public availability of the school district's complete annual financial statement and the school report card shall be made by publishing the documents in the newspaper of the largest general circulation in the county, electronically on the Internet, or by printed copy at a prearranged site at the main branch of the public library within the school district. If publication on the Internet or by printed copy at the public library is chosen, the superintendent shall be directed to publish notification in the newspaper of the largest circulation in the county as to the location where the document can be viewed by the public. The notification shall include the address of the library or the electronic address of the Web site on the Internet where the documents can be viewed.

(10) **Surplus Property:** Notwithstanding KRS 45A.045, 45.777, and 56.463, any funds received by the Commonwealth from the disposal of any surplus property at the Kentucky School for the Blind and the Kentucky School for the Deaf shall be deposited in a restricted account and shall not be expended without appropriation authority granted by the General Assembly.

(11) **Locally Operated Vocational Programs:** Notwithstanding KRS 157.069, the supplemental funding distribution shall include Category II and III programs in districts established after June 21, 2001, with state assistance if approved by the Commissioner of Education.

(12) **Allocation of Safe School Funds:** Notwithstanding KRS 158.446, the Center for School Safety shall develop and implement allotment policies for all moneys received for the purposes of KRS 158.440, 158.441, 158.442, 158.445, and 158.446.

(13) **Coordination With Head Start:** Each local district shall work with Head Start and other existing preschool programs to avoid duplication of services and programs, to avoid supplanting federal funds, to maximize Head Start funds in order to serve as many four year old children as possible, and shall maintain certification from the Head Start director that the Head Start Program is fully utilized. If a local district fails to comply with the requirements of this section, the Commissioner of the Department of Education shall withhold preschool funding for an amount equal to the number of Head Start eligible children served in the district who would have been eligible to be served by Head Start under the full utilization certification required under this section. The Commissioner of the Department of Education shall resolve any disputes and make a determination of the district's compliance with the full utilization requirement.

(14) **Partnership for Student Success:** Included in the above General Fund appropriation is \$430,000 in fiscal year 2007-2008 for the Partnership for Student Success Program. These funds shall be expended to develop pilot programs to demonstrate effective strategies to increase community and parental involvement in K-12 education by providing additional tools for educators to improve instruction and promote student health and wellness.

(15) **Funds Transfer:** The Commissioner of the Department of Education may transfer any available funds between the Professional Growth Fund and the Professional Development Leadership Mentor Fund as needed to satisfy the demand and need to support respective teacher programs.

(16) **School Calendar Evaluation:** The Kentucky Department of Education is directed to conduct an evaluation of school calendars. The primary purpose of this evaluation is to determine the impact of alternative school calendars, including the use of extended time beyond the six-hour instructional day, shortened days or weeks, and year-round calendars. The evaluation shall investigate the positive and negative effects on students, including academic achievement, extracurricular activities, parental support, and community acceptance. The evaluation shall review the impact on school district operations and finances related to transportation, utilities, staffing, facilities, food service, and other costs associated with operating efficiencies. A preliminary report shall be made to the Interim Joint Committee on Education by November 15, 2006, and a final report, including recommendations for regulatory or statutory changes, shall be made to the Interim Joint Committee on Education by January 15, 2007.

(17) **Advisory Council for Gifted and Talented Education:** Notwithstanding KRS 158.648(1), a member of the Advisory Council for Gifted and Talented Education may be reappointed but may not serve more than three consecutive terms. A member of the Kentucky Association for Gifted Education shall be a voting member of the Advisory Council for Gifted and Talented Education.

(18) **Highly Skilled Educators:** Notwithstanding KRS 158.6455(3), 158.782, and 160.350(3), the Kentucky Department of Education shall have the authority to expend moneys appropriated for the Highly Skilled Education Assistance Program on intervention services that may be required by the Federal No Child Left Behind Act of 2001 (Pub. L. 107-110).

**(19) Commonwealth School Improvement Fund:** Notwithstanding KRS 158.805, the Commissioner of Education shall be authorized to use the Commonwealth School Improvement Fund to provide support services to schools needing assistance under KRS 158.6455 or in order to meet the requirements of No Child Left Behind.

**(20) Community Education:** Included in the above General Fund appropriation is \$300,000 in each fiscal year to support the establishment of 15 additional community education programs.

#### **4. SUPPORT EDUCATION EXCELLENCE IN KENTUCKY (SEEK) PROGRAM**

	<b>2006-07</b>	<b>2007-08</b>
General Fund	2,680,910,200	2,930,340,800

**(1) Common School Fund Earnings:** Accumulated earnings for the Common School Fund shall be transferred in each fiscal year to the SEEK Program.

**(2) Base SEEK Allotments:** The above appropriation includes \$2,089,483,300 in fiscal year 2006-2007 and \$2,312,486,700 in fiscal year 2007-2008 for the base SEEK Program as defined by KRS 157.360. Funds appropriated to the SEEK Program shall be allotted to school districts in accordance with KRS 157.310 to 157.440, except that the total of the funds allotted shall not exceed the appropriations for this purpose except as provided in this Act. Notwithstanding KRS 157.360(2)(c), included in the appropriation for the base SEEK Program is \$211,953,500 in fiscal year 2006-2007 and \$214,752,800 in fiscal year 2007-2008 for pupil transportation.

**(3) Tier I Component:** Included in the above appropriation is \$157,620,900 in fiscal year 2006-2007 and \$161,638,900 in fiscal year 2007-2008 for the Tier I component as established by KRS 157.440.

**(4) Vocational Transportation:** Included in the above appropriation is \$2,416,900 in fiscal year 2006-2007 and \$2,416,900 in fiscal year 2007-2008 for vocational transportation.

**(5) Secondary Vocational Education:** Included in the above appropriation is \$23,053,800 in fiscal year 2006-2007 and \$23,561,000 in fiscal year 2007-2008 to provide secondary vocational education in state-operated vocational schools.

**(6) Teachers' Retirement System Employer Match:** Included in the above appropriation is \$319,184,300 in fiscal year 2006-2007 and \$346,100,400 in fiscal year 2007-2008 to enable local school districts to provide the employer match for qualified employees as provided for by KRS 161.550.

**(7) Salary Supplements for Nationally Certified Teachers:** Notwithstanding KRS 157.395, included in the above appropriation is \$2,104,000 in fiscal year 2006-2007 and \$2,504,000 in fiscal year 2007-2008 for the purpose of providing salary supplements for teachers attaining certification by the National Board for Professional Teaching Standards.

**(8) Allocation of SEEK Funds:** Notwithstanding KRS 157.360(2)(c), the above appropriation to the base SEEK Program is intended to provide a base guarantee of \$3,508 per student in average daily attendance in fiscal year 2006-2007 and \$3,822 per student in average daily attendance in fiscal year 2007-2008 as well as to meet the other requirements of KRS 157.360.

Nothing in this Act shall be construed as prohibiting the contracting out of pupil transportation services.

Funds appropriated to the SEEK Program shall be allotted to school districts in accordance with KRS 157.310 to 157.440, except that the total of the funds allotted shall not exceed the appropriations for this purpose except as provided in this Act. The total appropriation for the SEEK Program shall be measured by, or construed as, estimates of the state expenditures required by KRS 157.310 to 157.440. If the required expenditures exceed these estimates, the Secretary of the Finance and Administration Cabinet, upon the written request of the Commissioner of Education and with approval of the Governor, may increase the appropriation by such amount as may be available and necessary to meet, to the extent possible, the required expenditures under the cited sections of the Kentucky Revised Statutes, but any increase of the total appropriation to the SEEK Program is subject to Part III, General Provisions, of this Act, and the provisions of KRS Chapter 48. If funds appropriated to the SEEK Program are insufficient to provide the amount of money required under KRS 157.310 to 157.440, allotments to local school districts may be reduced in accordance with KRS 157.430.

**(9) Local School District Certified and Classified Employee Pay Policy:** Notwithstanding KRS 157.420, during fiscal year 2006-2007, local school districts shall provide all certified staff a salary or compensation increase of not less than two percent and, during fiscal year 2007-2008, local school districts shall provide all certified staff a

salary or compensation increase of not less than \$3,000. The salary increases in fiscal year 2006-2007 and fiscal year 2007-2008 for certified staff shall be in addition to the normal rank and step increase attained by certified personnel employed by local school districts. During fiscal year 2006-2007, local school districts shall provide all classified staff a salary increase of two percent and, during fiscal year 2007-2008, local school districts shall provide all classified staff a salary increase of five percent. In fiscal year 2007-2008, no classified staff member shall receive a salary increase in excess of \$2,500. Classified staff employed by a local board of education that work less than full-time shall receive a pro rata share of the salary increase based on terms of their employment. The above increase in fiscal year 2006-2007 and fiscal year 2007-2008 for classified staff shall be in addition to a normal step increase or any increase that might result from assuming new duties or obtaining additional qualifications.

**(10) Final SEEK Calculation:** Notwithstanding KRS 157.410, on or before March 1 of each year, the chief state school officer shall determine the exact amount of the public common school fund to which each district is entitled and the remainder of the amount due each district for the year shall be distributed in equal installments beginning the first month after completion of final calculation and for each successive month thereafter.

**(11) SEEK Adjustment Factors:** Funds allocated for the SEEK base and its adjustment factors that are not needed for the base or a particular adjustment factor may be allocated to other adjustment factors, if funds for that adjustment factor are not sufficient.

**(12) Facilities Support Program of Kentucky/Equalized Nickel Levies:** Included in the above appropriation is \$67,749,200 in fiscal year 2006-2007 and \$63,970,700 in fiscal year 2007-2008 to provide facilities equalization funding pursuant to KRS 157.440 and 157.620. Included in the above appropriation is \$12,177,600 in fiscal year 2006-2007 and \$11,134,200 in fiscal year 2007-2008 to provide facilities equalization funding pursuant to KRS 157.440, 157.620, and 157.621(2) and (3) for local school districts which have: (a) Levied the additional tax pursuant to KRS 157.621 for debt service and new facilities as of January 1, 2006; (b) Levied the five cents under the provisions of KRS 157.440; (c) Met the growth requirements in KRS 157.621(2) in fiscal year 2005-2006; and (d) Levied an additional nickel tax pursuant to KRS 157.621 in addition to (a) and (b) of this section by January 1, 2006.

**(13) Retroactive Equalized Facility Funding:** Included in the above appropriation is \$2,302,500 in fiscal year 2006-2007 and \$2,076,400 in fiscal year 2007-2008 to provide equalized facility funding to districts meeting the following eligibility requirements: A local board of education that levied a tax rate subject to recall in fiscal year during or prior to fiscal year 2003-2004 in addition to the five cents levied pursuant to KRS 157.440(1)(b) and that committed the receipts to debt service, new facilities, or major renovations of existing facilities shall be eligible for equalization funds from the state at 150 percent of the statewide average per pupil assessment. The equalization funds shall be used as provided in KRS 157.440(1)(b).

**(14) Equalized Facility Funding:** Included in the above General Fund appropriation is \$4,617,700 in fiscal year 2006-2007 and \$4,451,600 in fiscal year 2007-2008 to provide equalized facility funding to districts meeting the following eligibility requirements: (a) The board of education has levied at least a ten cent equivalent tax rate for building purposes or has debt service of at least a ten cent equivalent tax rate as of February 24, 2005; (b) The district has not received equalized growth facility funding as a result of 2005 Ky. Acts ch. 173, Part I, D. Department of Education, 4. Support Education Excellence in Kentucky (SEEK) Program; and (c) The district has received approval by the Commissioner of Education. Eligible districts shall receive equalization funds from the state at 150 percent of the statewide average per pupil assessment, and these funds shall be used as provided in KRS 157.440(1)(b).

**(15) School Employee Flexible Spending Account Funds Transfer:** Any funds remaining in flexible spending accounts of employees of local school districts for calendar year 2006 and calendar year 2007 shall be transferred to the credit of the General Fund.

**(16) Instructional Days:** Included in the above General Fund appropriation is \$32,600,000 to extend the school term in fiscal year 2007-2008 by an additional two instructional days. Notwithstanding KRS 158.070, the school term for fiscal year 2007-2008 shall include the equivalent of 177 instructional days and shall include no less than two additional six-hour instructional days in addition to the six-hour instructional days included in the 2005-2006 school calendar as approved by the Department of Education. Districts shall not be required to exceed 177 six-hour instructional days.

**(17) Facility Matching Grant:** Included in the above General Fund appropriation is \$200,000 in fiscal year 2006-2007 for a matching grant to the Hardin County Educational Foundation, Inc. for the completion of the John Hardin Performing Arts Center.

**(18) Transportation Study:** The Legislative Research Commission is hereby directed to study the current funding formula and the equitable disbursement of pupil transportation funds. The study of pupil transportation funding shall include:

(a) An analysis of the current formula used to determine the level of reimbursed funding for school districts, including its equity and adequacy, and recommendations for improvement; and

(b) A comparison of the efficiencies used by school districts in the operation of their transportation systems, including recommendations for efficiency requirements or incentives.

The Legislative Research Commission shall contract with nongovernmental consultants to conduct the study. The consultants shall have the full cooperation of the Executive Branch and the Legislative Branch.

The consultants shall present a final report of their findings to the Interim Joint Committee on Education and to the Interim Joint Committee on Appropriations and Revenue no later than July 1, 2007.

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

#### **TOTAL - DEPARTMENT OF EDUCATION**

	<b>2006-07</b>	<b>2007-08</b>
General Fund (Tobacco)	1,388,400	1,508,400
General Fund	3,510,448,600	3,827,034,300
Restricted Funds	9,831,300	9,831,300
Federal Funds	687,646,900	687,371,400
<b>TOTAL</b>	<b>4,209,315,200</b>	<b>4,525,745,400</b>

#### **E. EDUCATION CABINET**

##### **Budget Units**

##### **1. GENERAL ADMINISTRATION AND PROGRAM SUPPORT**

	<b>2006-07</b>	<b>2007-08</b>
General Fund	2,425,200	2,425,200
Restricted Funds	6,393,400	6,502,400
Federal Funds	190,000	190,000
<b>TOTAL</b>	<b>9,008,600</b>	<b>9,117,600</b>

**(1) East Kentucky Science Center:** Included in the above General Fund appropriation is \$225,200 in fiscal year 2006-2007 and \$225,200 in fiscal year 2007-2008 for a grant to the East Kentucky Science Center.

##### **2. DEAF AND HARD OF HEARING**

	<b>2005-06</b>	<b>2006-07</b>	<b>2007-08</b>
General Fund	-0-	920,400	933,000
Restricted Funds	5,000	590,000	590,000
<b>TOTAL</b>	<b>5,000</b>	<b>1,510,400</b>	<b>1,523,000</b>

**(1) Specialized Telecommunications Equipment:** Included in the above Restricted Funds appropriation is an additional \$100,000 in fiscal year 2006-2007 and \$100,000 in fiscal year 2007-2008 and General Fund moneys of \$100,000 in fiscal year 2006-2007 and \$100,000 in fiscal year 2007-2008 to be used for operating the Telecommunication Access Program.

##### **3. KENTUCKY EDUCATIONAL TELEVISION**

<b>2006-07</b>	<b>2007-08</b>
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General Fund	14,694,500	16,816,100
Restricted Funds	1,066,300	1,048,000
Federal Funds	700,000	700,000
<b>TOTAL</b>	<b>16,460,800</b>	<b>18,564,100</b>

(1) **Debt Service:** Included in the above General Fund appropriation is \$1,907,000 in fiscal year 2007-2008 to provide debt service for new bonds as set forth in Part II, Capital Projects Budget, of this Act.

#### **4. ENVIRONMENTAL EDUCATION COUNCIL**

	<b>2006-07</b>	<b>2007-08</b>
Restricted Funds	192,800	194,400

#### **5. LIBRARIES AND ARCHIVES**

##### **a. Libraries and Archives**

	<b>2006-07</b>	<b>2007-08</b>
General Fund	7,273,600	7,382,900
Restricted Funds	1,444,400	1,460,900
Federal Funds	1,964,500	1,986,100
<b>TOTAL</b>	<b>10,682,500</b>	<b>10,829,900</b>

##### **b. Direct Local Aid**

	<b>2006-07</b>	<b>2007-08</b>
General Fund	7,031,400	7,306,400
Restricted Funds	9,000	9,000
Federal Funds	424,000	424,000
<b>TOTAL</b>	<b>7,464,400</b>	<b>7,739,400</b>

(1) **Per Capita Grants:** Included in the above General Fund appropriation is \$4,000,000 in each fiscal year to award per capita grants in accordance with KRS 171.201. Notwithstanding KRS 171.201, the allotment of General Fund dollars distributed to each local library district shall not be less than received in fiscal year 2005-2006.

#### **TOTAL - DEPARTMENT FOR LIBRARIES AND ARCHIVES**

	<b>2006-07</b>	<b>2007-08</b>
General Fund	14,305,000	14,689,300
Restricted Funds	1,453,400	1,469,900
Federal Funds	2,388,500	2,410,100
<b>TOTAL</b>	<b>18,146,900</b>	<b>18,569,300</b>

#### **6. OFFICE FOR THE BLIND**

	<b>2006-07</b>	<b>2007-08</b>
General Fund	1,335,300	1,343,200
Restricted Funds	1,955,300	1,955,300
Federal Funds	9,349,400	9,477,200
<b>TOTAL</b>	<b>12,640,000</b>	<b>12,775,700</b>

#### **7. EMPLOYMENT AND TRAINING**

	<b>2006-07</b>	<b>2007-08</b>
Restricted Funds	3,000,000	3,000,000

Federal Funds	672,218,400	672,371,200
<b>TOTAL</b>	<b>675,218,400</b>	<b>675,371,200</b>

**(1) Unemployment Insurance Penalty and Interest Account:** Notwithstanding KRS 341.835, \$3,000,000 from the Unemployment Insurance Penalty and Interest Account in the Unemployment Compensation Administration Fund may be used during each fiscal year by the Office of Employment and Training to operate employment, training, and unemployment insurance programs.

**(2) Reed Act Distribution:** In addition to supplementing the Unemployment Insurance Trust Fund, Federal Funds made available to Kentucky as a result of the Reed Act distribution under Section 903(d) of the Social Security Act, as amended, in the amount of \$2,000,000 in fiscal year 2006-2007 and \$2,000,000 in fiscal year 2007-2008, are appropriated to the Office of Employment and Training for the administration of the unemployment compensation law and the public employment offices for costs allowable under the Unemployment Insurance and Wagner-Peyser programs.

## **8. CAREER AND TECHNICAL EDUCATION**

	<b>2006-07</b>	<b>2007-08</b>
General Fund	30,090,200	29,894,500
Restricted Funds	20,165,400	20,220,400
Federal Funds	15,188,500	15,188,500
<b>TOTAL</b>	<b>65,444,100</b>	<b>65,303,400</b>

**(1) Participation in the Education Technology Program by Area Vocational Education Centers:** Area Vocational Education Centers shall be fully eligible to participate in the Kentucky Education Technology System. Notwithstanding KRS 157.650, 157.655, 157.660, and 157.665, the School Facilities Construction Commission, in consultation with the Kentucky Board of Education and the Department of Education, shall develop administrative regulations which identify a methodology by which the average daily attendance for Area Vocational Education Centers may be equated to the average daily attendance of other local school districts in order that they may receive their respective distributions of these funds. The School Facilities Construction Commission shall include Area Vocational Education Centers in any offers of assistance to local school districts for technology assistance during the 2006-2008 fiscal biennium.

**(2) Area Technology Centers:** Included in the above General Fund appropriation is \$1,002,300 in fiscal year 2006-2007 and \$584,500 in fiscal year 2007-2008 for program operations at Pulaski, Warren, and Butler County Area Technology Centers. Included in the above Restricted Funds appropriation is \$600,000 in each fiscal year from the Department of Education for support of the ongoing operational costs for Pulaski, Warren, and Butler County Area Technology Centers and state-operated technical programs at Hancock and Kenton County schools. Notwithstanding KRS 45.229, unexpended General Fund appropriations to the Career and Technical Education Accessibility Fund for fiscal year 2005-2006, not to exceed \$142,000, shall not lapse and shall carry forward to fiscal year 2006-2007 to be used for the purchase of welding, carpentry, and automotive equipment for new vocational programs at the Pulaski, Warren, and Butler County area technology centers. Included in the above General Fund appropriation is \$85,000 in fiscal year 2006-2007 and \$50,200 in fiscal year 2007-2008 for operating and equipment at the Mayfield-Graves County Area Technology Center.

**(3) Transfer of State-Operated Secondary Vocational Education and Technology Centers:** (a) Notwithstanding KRS 151B.035, 151B.040, 151B.045, 151B.050, 151B.055, 151B.070, or any other statute to the contrary, effective at the beginning of fiscal year 2006-2007, a local board of education may submit a request to the Executive Director of the Office of Career and Technical Education to assume authority for the management and control of a state-operated secondary vocational education and technology center. Upon agreement between the Executive Director of the Office of Career and Technical Education and the local board of education for the transfer of a state-operated secondary vocational education and technology center, all personnel, equipment and supplies shall be transferred to the local board of education and shall only be utilized for the operation of the locally operated vocational center. The transfer of management and control of the secondary area vocational education and technology center shall be considered a permanent transfer to the local district.

(b) A certified employee who is affected by a transfer to the local board of education under this provision shall be granted a one year limited contract by the local board of education and shall be employed on the local district

salary schedule. A classified employee shall be guaranteed employment equal to his or her present status for at least one complete school term. A transferred employee shall be provided the benefits of comparable employees in the district and shall be subject to all rules and policies of the local board of education, including but not limited to disciplinary and personnel actions that are the same as those that may be exercised by the district for any other employee in the district during a contract period.

(c) A transferred employee who has accrued annual leave and compensatory time shall be paid a lump sum for the accrued time at the effective date of the transfer by the Office of Career and Technical Education. The employee shall be granted credit for accrued sick leave up to the maximum allowed for transfers for teachers between school districts. Sick leave credit shall be awarded to a classified employee based on the local board policy. Any excess sick leave that a classified or certified employee has earned that the district will not accept in the transfer may be requested to be held in escrow by the appropriate state personnel system under KRS Chapter 18A or KRS Chapter 151B, and the sick leave balance shall be restored to the employee if the employee returns to a state government position.

(d) An employee who is to be transferred to a local board of education under provisions of this section but who chooses not to accept a one year limited contract with the board shall be separated from the state system and the employee's position shall be abolished. Notwithstanding any other statute, the employee may apply for any state position for which the employee is qualified but shall not be granted priority over other applicants for a position because the employee's position was abolished due to a transfer of the vocational education and technology center. An employee who refuses a contract with the local board shall be provided a lump-sum payment for accrued annual leave and compensatory time, and the employee's sick leave balance shall be placed in escrow by the appropriate state personnel system under KRS Chapter 18A or KRS Chapter 151B. The sick leave balance shall be restored to the employee if the employee returns to a state government position.

(e) A certified employee, other than a principal, who has earned continuing status in the state certified personnel system under KRS Chapter 151B may be granted tenure under the provisions of KRS 161.740(1)(c). A principal may be granted tenure as a teacher, but the provisions relating to demotion of the principal under KRS 161.765 shall apply.

(f) An employee of the Office of Career and Technical Education who is transferred to the local school district and who occupies a position covered by the Kentucky Teachers' Retirement System shall remain in the Teachers' Retirement System.

(g) General Fund moneys previously appropriated to the Office of Career and Technical Education for support of the transferred state-operated vocational technical school shall be appropriated to the Kentucky Department of Education for support of the local board of education center operations effective at the beginning of fiscal year 2006-2007. In addition, the local board of education shall receive 100 percent of the Support Education Excellence in Kentucky (SEEK) Program funds from the Kentucky Department of Education that are generated from students enrolled in the center.

## **9. VOCATIONAL REHABILITATION**

	<b>2006-07</b>	<b>2007-08</b>
General Fund	13,089,700	13,134,400
Restricted Funds	2,673,500	2,675,600
Federal Funds	46,642,000	46,491,200
<b>TOTAL</b>	<b>62,405,200</b>	<b>62,301,200</b>

## **10. EDUCATION PROFESSIONAL STANDARDS BOARD**

	<b>2006-07</b>	<b>2007-08</b>
General Fund	10,328,800	10,328,800
Restricted Funds	1,416,800	1,449,500
Federal Funds	4,379,200	4,379,200
<b>TOTAL</b>	<b>16,124,800</b>	<b>16,157,500</b>



(1) **National Board of Teaching Standards Certification:** Notwithstanding KRS 161.134, up to \$800,000 in fiscal year 2006-2007 and \$800,000 in fiscal year 2007-2008 is provided for National Board of Teaching Standards Certification from the General Fund.

(2) **Employment of Leadership Personnel:** Notwithstanding KRS 18A.005 to 18A.200, the Education Professional Standards Board shall have the sole authority to determine the employees of the Education Professional Standards Board staff who are exempt from the classified service and to set their compensation comparable to the competitive market.

(3) **Kentucky Teacher Internship Program:** Notwithstanding KRS 45.229, any unexpended General Fund appropriation from fiscal year 2005-2006 and fiscal year 2006-2007 shall not lapse and shall carry forward to be used to support operations of the Kentucky Teacher Internship Program.

#### **TOTAL - EDUCATION CABINET**

	<b>2005-06</b>	<b>2006-07</b>	<b>2007-08</b>
General Fund	-0-	87,189,100	89,564,500
Restricted Funds	5,000	38,906,900	39,105,500
Federal Funds	-0-	751,056,000	751,207,400
<b>TOTAL</b>	<b>5,000</b>	<b>877,152,000</b>	<b>879,877,400</b>

#### **F. ENVIRONMENTAL AND PUBLIC PROTECTION CABINET**

##### **Budget Units**

##### **1. GENERAL ADMINISTRATION AND PROGRAM SUPPORT**

	<b>2006-07</b>	<b>2007-08</b>
General Fund	8,752,100	8,541,400
Restricted Funds	6,708,200	7,132,900
Federal Funds	1,531,900	1,612,700
<b>TOTAL</b>	<b>16,992,200</b>	<b>17,287,000</b>

(1) **Salary Range Increase for Engineering and Mine Inspector Positions:** Notwithstanding any other provision of law, the Secretary of the Environmental and Public Protection Cabinet may increase the salary range for authorized engineering and mine inspector positions within the Cabinet's air, waste, water, and mining programs as necessary to allow for employment and retention of staff sufficient to timely provide the permitting and compliance determinations under those programs. The salary range and caps may be exceeded only upon a finding by the Secretary that the increases are necessary and the presentation of the new salary range and the justification for that new range to the Interim Joint Committee on Appropriations and Revenue.

##### **2. ENVIRONMENTAL PROTECTION**

	<b>2005-06</b>	<b>2006-07</b>	<b>2007-08</b>
General Fund	21,000	25,611,800	26,118,000
Restricted Funds	-0-	40,294,200	35,159,600
Federal Funds	-0-	19,047,400	19,237,600
Road Fund	-0-	300,000	300,000
<b>TOTAL</b>	<b>21,000</b>	<b>85,253,400</b>	<b>80,815,200</b>

(1) **Water Discharge Permitting Program:** Notwithstanding KRS 224.20-730, \$233,926 in Restricted Funds shall be transferred in fiscal year 2006-2007 from the Division of Air Quality to the Division of Water to be used for activities relating to the Clean Water Act, Water Quality Standards and Discharge Permitting.

(2) **Municipal Solid Waste Landfill Inspectors:** Notwithstanding KRS 224.43-320, no funds are provided in the above appropriations for the assignment of full-time inspectors to each municipal solid waste landfill operating in the Commonwealth.

(3) **Kentucky Pride Program:** Included in the above Restricted Funds appropriation is \$18,339,300 in fiscal year 2006-2007 and \$13,705,400 in fiscal year 2007-2008 for the Kentucky Pride Program.

(4) **Solid Waste Enforcement Activity:** In accordance with KRS 224.43-505, the Environmental and Public Protection Cabinet shall suspend until July 1, 2008, enforcement activity regarding landfill closure, maintenance, monitoring, and remediation obligations against formerly permitted municipal solid waste disposal and water facilities owned by a city or county that ceases accepting waste prior to July 1, 1992, except as necessary to abate an environmental emergency.

(5) **404 Permitting Program:** Included in the above Road Fund appropriation is \$300,000 in each year of the biennium for the U.S. Clean Water Act section for the 404 Permitting Program in the Environmental and Public Protection Cabinet's Division of Water to facilitate highway construction projects.

### 3. NATURAL RESOURCES

	2006-07	2007-08
General Fund (Tobacco)	9,000,000	9,000,000
General Fund	14,895,300	14,895,700
Restricted Funds	5,704,300	5,886,500
Federal Funds	9,134,100	9,129,400
TOTAL	38,733,700	38,911,600

(1) **Emergency Forest Fire Suppression:** Not less than \$240,000 of the above General Fund appropriation for each fiscal year shall be set aside for emergency forest fire suppression. There is appropriated from the General Fund the necessary funds, subject to the conditions and procedures provided in this Act, which are required as a result of emergency fire suppression activities in excess of \$240,000. Fire suppression costs in excess of \$240,000 annually shall be deemed necessary government expenses and shall be paid from the General Fund Surplus Account (KRS 48.700) or the Budget Reserve Trust Fund Account (KRS 48.705).

(2) **Environmental Stewardship Program:** Included in the above General Fund (Tobacco) appropriation is \$9,000,000 in fiscal year 2006-2007 and \$9,000,000 in fiscal year 2007-2008 for the Environmental Stewardship Program.

(3) **Maxey Flats Deep Well Monitoring Project:** Notwithstanding KRS 149.280(2) and 149.670, in fiscal year 2006-2007 the Division of Forestry shall transfer \$500,000 to the Department of Environmental Protection, Division of Maxey Flats for the Deep Well Monitoring System capital project.

### 4. MINE RECLAMATION AND ENFORCEMENT

	2006-07	2007-08
General Fund	10,651,900	10,828,200
Restricted Funds	3,927,900	3,606,000
Federal Funds	18,314,400	18,871,500
TOTAL	32,894,200	33,305,700

(1) **Return of Permit and Acreage Fees:** Included in the above General Fund appropriation is \$675,000 in each fiscal year for the return of permit and acreage fees under KRS 350.139. Any required expenditure for this purpose in excess of this amount in either fiscal year is appropriated to the department.

(2) **Surface Coal Mining Permits:** The permit block provisions of KRS 350.085(6) shall apply both to surface coal mining and reclamation operations owned or controlled by the applicant, and those operations owning or controlling the applicant. The Environmental and Public Protection Cabinet shall continue in effect the current state administrative regulations regarding ownership and control provided that a due process hearing shall be afforded at the time the Cabinet makes a preliminary determination to impose a permit block.

The Cabinet shall conditionally issue a permit, permit renewal, or authorization to conduct surface coal mining and reclamation operations, if the Cabinet finds that a direct administrative or judicial appeal is presently being pursued, in good faith, to contest the validity of the determination of ownership and control linkage. The Cabinet shall conditionally issue permits where the applicant submits proof, including a settlement agreement, that the violation is being abated to the satisfaction of the issuing state or federal agency. If the initial judicial appeal affirms the ownership or control linkage, the applicant shall have 30 days to submit proof that the violation has been or is in the process of being corrected. Nothing in this section shall preclude the applicant from seeking further judicial relief. The reporting requirements of KRS 350.060(3) shall not extend to persons at the level above a publicly traded corporation who own or control the applicant.

The Cabinet shall continue in force the current administrative regulations regarding ownership and control, in a manner consistent with this section, until the Ownership and Control Settlement Rule is finalized, at which time the state program administrative regulations shall be revised to maintain consistency with the federal requirements and shall be submitted as a state program amendment for approval by the federal Office of Surface Mining Reclamation and Enforcement.

#### **5. ABANDONED MINE LAND RECLAMATION PROJECTS**

	<b>2006-07</b>	<b>2007-08</b>
Federal Funds	22,000,000	22,000,000

(1) **Fund Receipt and Expenditures Estimates:** The above appropriation represents estimates of the funds to be received and expended for this program. If additional funds become available, the funds are appropriated subject to the conditions and procedures provided in this Act.

#### **6. ENVIRONMENTAL QUALITY COMMISSION**

	<b>2006-07</b>	<b>2007-08</b>
Restricted Funds	266,600	263,800

#### **7. KENTUCKY NATURE PRESERVES COMMISSION**

	<b>2006-07</b>	<b>2007-08</b>
General Fund	1,166,500	1,166,500
Restricted Funds	378,900	402,800
Federal Funds	55,000	55,000
<b>TOTAL</b>	<b>1,600,400</b>	<b>1,624,300</b>

#### **8. PUBLIC PROTECTION COMMISSIONER**

	<b>2006-07</b>	<b>2007-08</b>
Restricted Funds	1,188,700	1,193,400

#### **9. BOXING AND WRESTLING AUTHORITY**

	<b>2006-07</b>	<b>2007-08</b>
Restricted Funds	100,000	100,000

#### **10. PETROLEUM STORAGE TANK ENVIRONMENTAL ASSURANCE FUND**

	<b>2006-07</b>	<b>2007-08</b>
General Fund	-0-	3,479,000
Restricted Funds	29,164,500	29,277,700
<b>TOTAL</b>	<b>29,164,500</b>	<b>32,756,700</b>

(1) **Debt Service:** Included in the above General Fund appropriation in fiscal year 2007-2008 is \$3,479,000 for debt service for new bonds as set forth in Part II, Capital Projects Budget, of this Act. Included in the above Restricted Funds appropriation in fiscal year 2006-2007 is \$25,000,000 for underground storage tank fund payments from new bonds as set forth in Part II, Capital Projects Budget, of this Act.

(2) **Financial Responsibility Account:** Any Restricted Funds receipts generated by the Petroleum Storage Tank Assurance Fund in fiscal year 2006-2007 in excess of the amounts appropriated above shall be allocated to the Financial Responsibility Account to help ensure that the agency meets its reserve balance requirements in fiscal year 2007-2008.

# **11. ALCOHOLIC BEVERAGE CONTROL**

	<b>2006-07</b>	<b>2007-08</b>
General Fund	1,441,400	1,058,600
Restricted Funds	3,577,800	4,131,600
<b>TOTAL</b>	<b>5,019,200</b>	<b>5,190,200</b>

(1) **Sale and Distribution of Tobacco Products Enforcement:** Included in the above General Fund appropriation is \$250,000 in fiscal year 2006-2007 and \$250,000 in fiscal year 2007-2008 to carry out the provisions of KRS 438.337.

# **12. CHARITABLE GAMING**

	<b>2006-07</b>	<b>2007-08</b>
Restricted Funds	3,299,600	3,343,200

# **13. BOARD OF CLAIMS/CRIME VICTIMS' COMPENSATION BOARD**

	<b>2006-07</b>	<b>2007-08</b>
General Fund	848,000	848,000
Restricted Funds	2,119,200	1,997,400
Federal Funds	540,100	540,100
<b>TOTAL</b>	<b>3,507,300</b>	<b>3,385,500</b>

(1) **Sexual Assault Examinations:** Notwithstanding KRS 216B.400(8), examinations for reported victims of sexual assault shall be paid by the Crime Victims' Compensation Board in a manner consistent with KRS Chapter 346, at a rate determined by the Board. The Board shall reimburse the hospital or sexual assault examination facility as provided in administrative regulations promulgated by the Board.

# **14. FINANCIAL INSTITUTIONS**

	<b>2006-07</b>	<b>2007-08</b>
Restricted Funds	9,223,800	9,342,200

# **15. HORSE RACING AUTHORITY**

	<b>2006-07</b>	<b>2007-08</b>
General Fund	1,709,700	509,700
Restricted Funds	27,934,800	27,778,100
<b>TOTAL</b>	<b>29,644,500</b>	<b>28,287,800</b>

~~[(1) **Prohibition of Racing Dates Fee and Assessments:** The Horse Racing Authority is prohibited from imposing a fee or assessment on thoroughbred and standardbred race tracks, based on the number of racing dates allotted to each track.](Veto #9)~~

(2) **Management and Financial Audit:** A management and financial audit shall be conducted by the Auditor of Public Accounts and shall be completed by December 31, 2006. A report shall be provided to the Interim Joint Committee on Licensing and Occupations and the racing associations licensed pursuant to KRS Chapter 230.

# **16. HOUSING, BUILDINGS AND CONSTRUCTION**

	<b>2006-07</b>	<b>2007-08</b>
General Fund	2,524,200	2,524,200
Restricted Funds	15,867,900	16,158,900

TOTAL	18,392,100	18,683,100
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**17. INSURANCE**

	<b>2006-07</b>	<b>2007-08</b>
General Fund (Tobacco)	13,692,700	14,496,000
General Fund	6,500,000	13,500,000
Restricted Funds	22,110,700	22,318,000
TOTAL	42,303,400	50,314,000

(1) **Additional Personnel:** Included in the above Restricted Funds appropriation is \$66,900 in fiscal year 2006-2007 and \$67,800 in fiscal year 2007-2008 to fill one position in the Captive Insurance Program.

(2) **Tobacco Settlement Funds:** Included in the above General Fund (Tobacco) appropriation is \$13,692,700 in fiscal year 2006-2007 and \$14,496,000 in fiscal year 2007-2008 for the Kentucky Access Program.

(3) **Kentucky Access:** Notwithstanding KRS 304.17B-021, during the 2006-2008 biennium, the Secretary of the Environmental and Public Protection Cabinet may seek authorization from the State Budget Director to reallocate excess unbudgeted operating funds generated by the Office of Insurance to Kentucky Access. Any such funding reallocations that are approved by the State Budget Director shall be reported to the Interim Joint Committee on Appropriations and Revenue consistent with the provisions of this Act.

(4) **Small Business Health Insurance:** Included in the above General Fund appropriation is \$6,500,000 in fiscal year 2006-2007 and \$13,500,000 in fiscal year 2007-2008 to fund the Small Business Health Insurance Subsidy Program.

**18. MINE SAFETY REVIEW COMMISSION**

	<b>2006-07</b>	<b>2007-08</b>
General Fund	200,700	202,400

**19. MINE SAFETY AND LICENSING**

	<b>2006-07</b>	<b>2007-08</b>
General Fund	9,522,600	9,522,600
Restricted Funds	1,437,200	1,635,900
Federal Funds	581,100	581,100
TOTAL	11,540,900	11,739,600

(1) **Coal Workers' Pneumoconiosis Fund:** Included in the above Restricted Funds appropriation is \$952,000 in fiscal year 2006-2007 and \$952,000 in fiscal year 2007-2008 to support compliance, education, and training programs from the Coal Workers' Pneumoconiosis Fund.

(2) **Necessary Mine Inspection Funding:** To adequately fund mine inspection salaries beyond the personnel appropriation during the biennium, up to \$750,000 in each fiscal year shall be deemed a necessary government expense and transferred from the General Fund Surplus Account (KRS 48.700) or the Budget Reserve Trust Fund Account (KRS 48.705). These funds shall be transferred only upon certification of need by the Secretary of the Environmental and Public Protection Cabinet to the Secretary of the Finance and Administration Cabinet.

**20. PUBLIC SERVICE COMMISSION**

	<b>2006-07</b>	<b>2007-08</b>
General Fund	12,624,800	13,006,000
Restricted Funds	850,000	850,000
Federal Funds	216,000	218,300
TOTAL	13,690,800	14,074,300

(1) **Debt Service:** Included in the above General Fund appropriation is \$589,000 in fiscal year 2006-2007 and \$589,000 in fiscal year 2007-2008 for debt service for previously issued bonds.

(2) **Lapse of General Fund Appropriation Balance:** Notwithstanding KRS 278.150(3), \$5,273,000 in fiscal year 2005-2006 shall lapse to the credit of the General Fund. Notwithstanding KRS 278.150(3), \$1,000,000 in fiscal year 2006-2007 and \$1,000,000 in fiscal year 2007-2008 shall lapse to the credit of the General Fund.

(3) **Water Districts and Water Associations:** A water district created pursuant to KRS Chapter 74 and a water association created pursuant to KRS Chapter 273 that undertakes a waterline extension or improvement project shall not be required to obtain a certificate of public convenience and necessity pursuant to KRS 278.020(1) if the water district or water association is a Class A or B utility as defined in the Uniform System of Accounts established by the Public Service Commission, pursuant to KRS 278.220, as the system of accounts prescribed for utilities in Kentucky, and either: (a) The water line extension or improvement project will not cost in excess of \$500,000; or (b) The water district or water association will not, as a result of the water line extension or improvement project, incur obligations requiring Public Service Commission approval pursuant to KRS 278.300. In either case, the water district or water association shall not, as a result of the water line extension or improvement project, increase rates to its customers.

(4) **Kentucky Broadband Task Force Report:** The Kentucky Broadband Task Force shall examine the deployment of broadband, as defined in KRS 278.5461, in the Commonwealth and provide to the Legislative Research Commission and to the Governor a final report to be submitted no later than November 15, 2006.

(5) **Telecommunication Access Program:** Notwithstanding KRS 278.5499, the funding mechanism for the telecommunication device for the deaf distribution program shall allocate not more than two cents per access line per month.

## 21. TAX APPEALS

	2006-07	2007-08
General Fund	471,400	465,400

## 22. LABOR

	2006-07	2007-08
General Fund	2,453,400	2,456,800
Restricted Funds	116,986,200	117,654,300
Federal Funds	3,343,800	3,329,800
TOTAL	122,783,400	123,440,900

## 23. OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION

	2006-07	2007-08
Restricted Funds	500,600	510,900

## 24. WORKERS' COMPENSATION BOARD

	2006-07	2007-08
Restricted Funds	937,900	949,500

## 25. WORKERS' COMPENSATION FUNDING COMMISSION

	2006-07	2007-08
Restricted Funds	137,298,200	135,181,600

(1) **Commission Funding:** Notwithstanding KRS 342.122(1)(c), no General Fund appropriation is provided to the Kentucky Workers' Compensation Funding Commission in fiscal year 2006-2007 and fiscal year 2007-2008.

(2) **Mine Safety Funding:** Notwithstanding KRS 342.122(1)(a), \$952,000 in each year of the biennium from the Coal Workers' Pneumoconiosis Fund shall support mine safety compliance, education, and training in the Office of Mine Safety and Licensing in the Department of Public Protection.

**TOTAL - ENVIRONMENTAL AND PUBLIC PROTECTION CABINET**

	<b>2005-06</b>	<b>2006-07</b>	<b>2007-08</b>
General Fund (Tobacco)	-0-	22,692,700	23,496,000
General Fund	21,000	99,373,800	109,122,500
Restricted Funds	-0-	429,877,200	424,874,300
Federal Funds	-0-	74,763,800	75,575,500
Road Fund	-0-	300,000	300,000
<b>TOTAL</b>	<b>21,000</b>	<b>627,007,500</b>	<b>633,368,300</b>

**G. FINANCE AND ADMINISTRATION CABINET****Budget Units****1. GENERAL ADMINISTRATION**

	<b>2006-07</b>	<b>2007-08</b>
General Fund	10,281,500	10,442,600
Restricted Funds	34,891,600	34,756,000
Road Fund	400,000	400,000
<b>TOTAL</b>	<b>45,573,100</b>	<b>45,598,600</b>

(1) **Affordable Housing Trust Fund:** Included in the above Restricted Funds appropriation is \$4,300,000 in fiscal year 2006-2007 and \$4,300,000 in fiscal year 2007-2008 for the Affordable Housing Trust Fund. The Kentucky Housing Corporation shall provide from the Kentucky Housing Corporation Housing Assistance Fund to the Affordable Housing Trust Fund \$500,000 in fiscal year 2006-2007 and \$500,000 in fiscal year 2007-2008.

(2) **Trooper Island, Inc.:** The Kentucky Housing Corporation shall provide from the Kentucky Housing Corporation Housing Assistance Fund to Trooper Island, Inc., \$250,000 in fiscal year 2006-2007 and \$250,000 in fiscal year 2007-2008.

(3) **Gubernatorial Transition:** Funds that are necessary to meet the Commonwealth's obligations for gubernatorial transition, up to but not to exceed \$220,000 in fiscal year 2007-2008, shall be deemed a necessary government expense, and shall be paid from the General Fund Surplus Account (KRS 48.700) or the Budget Reserve Trust Fund Account (KRS 48.705).

**2. CONTROLLER**

	<b>2006-07</b>	<b>2007-08</b>
General Fund	10,954,300	10,954,300
Restricted Funds	2,052,700	2,052,900
Federal Funds	1,000,000	1,000,000
<b>TOTAL</b>	<b>14,007,000</b>	<b>14,007,200</b>

(1) **Social Security Contingent Liability Fund:** Any expenditures that may be required by KRS 61.470 are hereby deemed necessary government expenses and shall be paid first from the General Fund Surplus Account (KRS 48.700), if available, or from any available balance in either the Judgments budget unit appropriation or the Budget Reserve Trust Fund Account (KRS 48.705), subject to the conditions and procedures provided in this Act.

**3. DEBT SERVICE**

	<b>2006-07</b>	<b>2007-08</b>
General Fund (Tobacco)	17,842,700	17,847,400
General Fund	328,147,100	327,397,800

TOTAL	345,989,800	345,245,200
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(1) **New Debt Service:** Included in the above General Fund appropriation is \$3,492,000 in fiscal year 2006-2007 and \$11,137,000 in fiscal year 2007-2008 to support new bonds as set forth in Part II, Capital Projects Budget, of this Act for appropriation units within the Finance and Administration Cabinet.

(2) **Tobacco Settlement Funds - Debt Service:** To the extent that revenues sufficient to support the required debt service appropriations are received from the Tobacco Settlement Program, those revenues shall be made available from those accounts to the appropriate account of the General Fund. All necessary debt service amounts shall be appropriated from the General Fund and shall be fully paid regardless of whether there is a sufficient amount available to be transferred from tobacco-supported funding program accounts to other accounts of the General Fund.

#### 4. FACILITIES AND SUPPORT SERVICES

	<b>2006-07</b>	<b>2007-08</b>
General Fund	7,518,200	7,526,800
Restricted Funds	29,908,400	30,360,400
TOTAL	37,426,600	37,887,200

(1) **Capital Construction Contingency Fund:** If funds in the Capital Construction Contingency Fund are not sufficient, then expenditures of the fund are to be paid first from the General Fund Surplus Account (KRS 48.700), if available, or from the Budget Reserve Trust Fund Account (KRS 48.705), subject to the conditions and procedures provided in this Act.

(2) **Emergency Repair, Maintenance, and Replacement Fund:** If funds in the Emergency Repair, Maintenance, and Replacement Fund are not sufficient, then expenditures of the fund are to be paid first from the General Fund Surplus Account (KRS 48.700), if available, or from the Budget Reserve Trust Fund Account (KRS 48.705), subject to the conditions and procedures provided in this Act.

#### 5. COUNTY COSTS

	<b>2006-07</b>	<b>2007-08</b>
General Fund	19,181,500	20,481,500
Restricted Funds	1,950,000	1,950,000
TOTAL	21,131,500	22,431,500

(1) **County Costs:** Funds required to pay county costs are appropriated and additional funds may be allotted from the General Fund Surplus Account (KRS 48.700) or the Budget Reserve Trust Fund Account (KRS 48.705) by the Secretary of the Finance and Administration Cabinet, subject to the conditions and procedures provided in this Act.

#### 6. COMMONWEALTH OFFICE OF TECHNOLOGY

	<b>2006-07</b>	<b>2007-08</b>
Restricted Funds	61,168,500	62,962,400
Federal Funds	863,100	775,000
TOTAL	62,031,600	63,737,400

~~[(1) **Reporting Requirements:** The Commonwealth Office of Technology shall report semiannually to the Interim Joint Committee on Appropriations and Revenue the number of sole source contracts, amounts awarded for sole source contracts, and the purposes of the sole source contracts; and the number of contract employees, the amount expended for contract employees, the projects contract employees worked on, and a justification why state merit employees were not used.] (Veto #10)~~

#### 7. REVENUE

	<b>2006-07</b>	<b>2007-08</b>
General Fund (Tobacco)	175,000	175,000
General Fund	71,880,000	73,234,300



Restricted Funds	4,381,500	4,378,600
Road Fund	2,000,000	2,000,000
<b>TOTAL</b>	<b>78,436,500</b>	<b>79,787,900</b>

(1) **Insurance Surcharge Rate:** Pursuant to KRS 136.392, the insurance surcharge rate shall be calculated at a rate to provide sufficient funds in the 2006-2008 fiscal biennium for the Firefighters Foundation Program Fund and the Kentucky Law Enforcement Foundation Program Fund. The calculation of sufficient funds for the above-named programs shall include any Restricted Funds carried forward from fiscal years 2005-2006 and 2006-2007 provided by the General Assembly in this Act.

(2) **Road Fund Compliance and Motor Vehicle Property Tax Programs:** The above Road Fund appropriation in each fiscal year represents the cost of the Road Fund Compliance and Motor Vehicle Property Tax Programs within the Department of Revenue and is to be used exclusively for that purpose.

(3) **Operations of Revenue:** Notwithstanding KRS 132.672 and 365.390(2), funds may be expended in support of the operations of the Department of Revenue.

(4) **Debt Collection Fee Distribution:** Notwithstanding KRS 45.238(3), 45.240(3) and 45.241(7)(b), the Secretary of the Finance and Administration Cabinet may determine, on an equitable basis, that all or a portion of any debt or improper payment recovered by the Department of Revenue pursuant to the provisions of KRS 45.237, 45.238 and 45.241 may be returned to the agency certifying the debt or improper payment or to the Court of Justice for allocation as otherwise provided by law.

The Department of Revenue may promulgate an administrative regulation pursuant to KRS Chapter 13A to establish criteria to administer the provisions of this section.

## 8. PROPERTY VALUATION ADMINISTRATORS

	<b>2006-07</b>	<b>2007-08</b>
General Fund	32,769,300	33,399,300
Restricted Funds	4,319,400	4,319,400
<b>TOTAL</b>	<b>37,088,700</b>	<b>37,718,700</b>

(1) **Management of Expenditures:** Notwithstanding KRS 132.590 and 132.597, the property valuation administrators are authorized to take necessary actions to manage expenditures within the appropriated amounts contained in this Act.

## TOTAL - FINANCE AND ADMINISTRATION CABINET

	<b>2006-07</b>	<b>2007-08</b>
General Fund (Tobacco)	18,017,700	18,022,400
General Fund	480,731,900	483,436,600
Restricted Funds	138,672,100	140,779,700
Federal Funds	1,863,100	1,775,000
Road Fund	2,400,000	2,400,000
<b>TOTAL</b>	<b>641,684,800</b>	<b>646,413,700</b>

## H. CABINET FOR HEALTH AND FAMILY SERVICES

### Budget Units

#### 1. GENERAL ADMINISTRATION AND PROGRAM SUPPORT

	<b>2005-06</b>	<b>2006-07</b>	<b>2007-08</b>
General Fund	-0-	35,015,700	34,600,000
Restricted Funds	450,000	11,405,400	11,417,500

Federal Funds	-0-	43,040,700	42,408,400
<b>TOTAL</b>	<b>450,000</b>	<b>89,461,800</b>	<b>88,425,900</b>

(1) **Maximizing Federal Funds:** Pursuant to compliance with the State/Executive Branch Budget Bill and the Statutory Budget Memorandum, the Cabinet for Health and Family Services shall maximize Federal Funds for programs within the Cabinet.

(2) **Human Services Transportation Delivery:** Notwithstanding KRS 281.014, the Kentucky Works Program shall not participate in the Human Services Transportation Delivery Program or the Coordinated Transportation Advisory Committee.

(3) **Debt Service:** Included in the above General Fund appropriation is \$220,000 in fiscal year 2007-2008 for debt service for new bonds as set forth in Part II, Capital Projects Budget, of this Act.

(4) **Federally Funded Positions:** Notwithstanding KRS 18A.010(2) and any provisions of this Act to the contrary, direct service units of the Office of Inspector General, Department for Human Support Services, Commission for Children with Special Health Care Needs, Department for Disability Determination Services, Department for Community Based Services, Department for Medicaid Services, Department for Mental Health/Mental Retardation Services, and the Department for Public Health shall be authorized to establish and fill such positions as are 100 percent federally funded for salary and fringe benefits.

## 2. COMMISSION FOR CHILDREN WITH SPECIAL HEALTH CARE NEEDS

	<b>2006-07</b>	<b>2007-08</b>
General Fund (Tobacco)	312,100	352,000
General Fund	5,835,400	5,917,000
Restricted Funds	6,696,100	6,773,400
Federal Funds	4,379,000	4,379,000
<b>TOTAL</b>	<b>17,222,600</b>	<b>17,421,400</b>

(1) **Tobacco Settlement Funds:** Included in the above General Fund (Tobacco) appropriation is \$310,100 in fiscal year 2006-2007 and \$350,000 in fiscal year 2007-2008 for Universal Newborn Hearing Screening and \$2,000 in each fiscal year for Vision Screening.

## 3. MEDICAID SERVICES

### a. Medicaid Administration

	<b>2005-06</b>	<b>2006-07</b>	<b>2007-08</b>
General Fund	17,198,900	37,882,400	36,441,700
Restricted Funds	-0-	14,075,000	13,080,000
Federal Funds	24,271,000	56,945,500	46,579,400
<b>TOTAL</b>	<b>41,469,900</b>	<b>108,902,900</b>	<b>96,101,100</b>

(1) **Transfer of Excess Administrative Funds for Medicaid Benefits:** If any portion of the above General Fund appropriation in either fiscal year is deemed to be in excess of the necessary expenses for administration of the Department, the amount may be used for Medicaid Benefits, in accordance with statutes governing the functions and activities of the Department for Medicaid Services. In no instance shall these excess funds be used without prior written approval of the State Budget Director to:

- (a) Establish a new program;
- (b) Expand the services of an existing program; or
- (c) Increase rates or payment levels in an existing program.

Any transfer authorized under this section shall be approved by the Secretary of the Finance and Administration Cabinet upon recommendation of the State Budget Director.

(2) **Medicaid Service Category Expenditure Information:** No Medicaid managed care contract shall be valid, and no payment to a Medicaid managed care vendor by the Finance and Administration Cabinet or the Cabinet

for Health and Family Services shall be made, unless the Medicaid managed care contract contains a provision that the contractor shall collect Medicaid expenditure data by the categories of services paid for by the Medicaid Program. Actual statewide Medicaid expenditure data by all categories of Medicaid services, including mandated and optional Medicaid services, special expenditures/offsets, and Disproportionate Share Hospital payments by type of hospital, shall be compiled by the Department for Medicaid Services for all Medicaid providers and forwarded to the Interim Joint Committee on Appropriations and Revenue on a quarterly basis. Projections of Medicaid expenditures by categories of Medicaid services shall be provided to the Interim Joint Committee on Appropriations and Revenue upon request.

**(3) Medicaid Eligibility Determination Contract Funding:** Included in the above General Fund and Restricted Funds appropriations are the total state matching funds required to fully fund the Medicaid Eligibility Determination contract in each year of the fiscal biennium between the Department for Medicaid Services and Department for Community Based Services.

**b. Medicaid Benefits**

	<b>2005-06</b>	<b>2006-07</b>	<b>2007-08</b>
General Fund	68,101,100	1,001,577,900	1,041,097,000
Restricted Funds	5,021,900	383,400,500	388,805,100
Federal Funds	215,142,900	3,100,931,200	3,212,280,900
<b>TOTAL</b>	<b>288,265,900</b>	<b>4,485,909,600</b>	<b>4,642,183,000</b>

**(1) Supports for Community Living Slots:** Included in the above appropriation is \$1,856,300 in General Fund moneys and \$4,331,200 in Federal Funds in fiscal year 2006-2007 to support 100 additional Supports for Community Living slots and \$6,393,800 in General Fund moneys and \$14,918,700 in Federal Funds in fiscal year 2007-2008 to support 100 additional Supports for Community Living slots for a total of 200 additional slots.

Supports for Community Living Waiver funds shall be utilized only for direct services to qualified Supports for Community Living Waiver recipients, and any unexpended funds shall not lapse but shall be carried forward to the next fiscal year for the same purpose.

**(2) Carry Forward of General Fund Appropriation Balance:** Notwithstanding KRS 45.229, any General Fund appropriation unexpended in fiscal year 2006-2007 shall not lapse, but shall be carried forward into the next fiscal year.

**(3) Disproportionate Share Hospital Program:** Hospitals shall report indigent inpatient and outpatient care for which, under federal law, the hospital is eligible to receive disproportionate share payments. Disproportionate Share Hospital payments shall equal the maximum amounts established by federal law.

**(4) Hospital Indigent Patient Billing:** Hospitals shall not bill patients for services where the services have been reported to the Cabinet and the hospital has received disproportionate share payments for the specific services.

**(5) Provider Tax Information:** Any provider who posts a sign or includes information on customer receipts or any material distributed for public consumption indicating that it has paid provider tax shall also post, in the same size typeset as the provider tax information, the amount of payment received from the Department for Medicaid Services during the same period the provider tax was paid. Providers who fail to meet this requirement shall be excluded from the Disproportionate Share Hospital and Medicaid Programs. The Cabinet for Health and Family Services shall include this provision in facilities' annual licensure inspection.

**(6) Quality and Charity Care Trust Fund:** No hospital shall be reimbursed from both the Quality and Charity Care Trust Fund and the Disproportionate Share Hospital Program for the same service to the same patient. Any hospital that willfully violates this provision shall be subject to a penalty equal to three times the amount of the improper charge to the funds, which shall be credited to the General Fund. The Secretary of the Cabinet for Health and Family Services shall have the authority to secure the patient information as needed from the participating facilities in order to determine compliance and enforce this provision. Each facility billing and receiving reimbursements from the Quality and Charity Care Trust Fund shall be required to identify each patient by Social Security number and indicate whether the patient is classified as indigent or medically needy. Notwithstanding any other provision of this Act or law, in any fiscal year for which all the parties to the Quality and Charity Care Trust Agreement so agree, the General Fund appropriation to fulfill the Commonwealth's contractual obligation relating to

the Quality and Charity Care Trust Agreement or any portion thereof, together with any other funds paid to the Quality and Charity Care Trust contractual obligation of the parties, or any portion thereof, shall be transferred to the Department for Medicaid Services as part of its Restricted Funds appropriation for Medicaid Benefits. In any fiscal year for which all the parties to the Quality and Charity Care Trust Agreement do not agree to transfer all or any portion of the Trust's revenues to the Department for Medicaid Services for Medicaid Benefits, the Quality and Charity Care Trust shall operate pursuant to its contractual provisions.

(7) **Kentucky Children's Health Insurance Program (KCHIP):** The Secretary of the Cabinet for Health and Family Services may transfer funds from Medicaid Benefits to the KCHIP General Fund or Restricted Funds appropriations to be used to match the Federal Funds allocation. These transfers may be made to cover both additional regular allocations and redistribution from the federal government. The Secretary shall recommend any proposed transfer to the State Budget Director for review and concurrence prior to transfer. Upon concurrence of the State Budget Director and prior to the transfer, the Secretary shall make the appropriate interim appropriation increase requests pursuant to KRS 48.630.

(8) **Intergovernmental Transfers (IGT's):** Any funds received through an IGT agreement between the Department for Medicaid Services and other governmental entities, in accordance with a federally approved State Plan amendment, shall be used to provide for the health and welfare of the citizens of the Commonwealth through the provision of Medicaid Benefits. Revenues from IGT's are contingent upon agreement by the parties and, when negotiated, the Secretary of the Cabinet for Health and Family Services shall make the appropriate interim appropriations increase requests pursuant to KRS 48.630.

(9) **Medicaid Budget Analysis Reports:** The Department for Medicaid Services shall submit a quarterly budget analysis report to the Interim Joint Committee on Appropriations and Revenue. The report shall provide monthly detail of actual expenditures, eligibles, and average monthly cost per eligible by eligibility category along with current trailing 12-month averages for each of these figures. The report shall also provide actual figures for all categories of noneligible-specific expenditures such as Supplemental Medical Insurance premiums, Kentucky Patient Access to Care, nonemergency transportation, drug rebates, cost settlements, and Disproportionate Share Hospital payments by type of hospital. The report shall compare the actual expenditure experience with those underlying the enacted or revised enacted budget and explain any significant variances which may occur.

(10) **Medicaid Benefits Budget Deficit:** In the event Medicaid Benefits expenditures are projected to exceed available funds, the Secretary of the Cabinet for Health and Family Services shall be empowered to recommend that reimbursement rates, optional services, eligibles, or programs be reduced or maintained at levels existing at the time of the projected deficit in order to avoid a budget deficit. The projected deficit shall be confirmed by the Office of State Budget Director. No service, eligible, or program reductions shall be implemented by the Cabinet for Health and Family Services without written notice of such action to the Interim Joint Committee on Appropriations and Revenue and the State Budget Director. Such actions taken by the Cabinet for Health and Family Services shall be reported, upon request, at the next meeting of the Interim Joint Committee on Appropriations and Revenue.

(11) **Medicaid Benefits Budget Surplus:** In the event Medicaid Benefits expenditures are less than available funds, the Secretary of the Cabinet for Health and Family Services may recommend the utilization of available funds to increase reimbursement rates, support program administration, or expand the Medicaid Program or the number of eligibles. No reimbursement rate, service, eligible, or program shall be increased without written approval of the State Budget Director and a report to the Interim Joint Committee on Appropriations and Revenue.

(12) **Transfer of Medicaid Benefits Funds for Medicaid Modernization:** Any portion of the General Fund appropriation in either fiscal year that is deemed to be necessary for the administration of the Medicaid Modernization initiative may be transferred from Medicaid Benefits in accordance with statutes governing the functions and activities of the Department for Medicaid Services. The Secretary shall recommend any proposed transfer to the State Budget Director for approval prior to transfer. Such action shall be reported by the Cabinet for Health and Family Services to the Interim Joint Committee on Appropriations and Revenue.

(13) **Critical Access Hospitals:** Notwithstanding 2004 Ky. Acts ch. 56, sec. 2, through June 30, 2008, no acute care hospital shall convert to a critical access hospital unless the hospital has either received funding for a feasibility study from the Kentucky State Office of Rural Health or filed a written request by January 1, 2006, with the Kentucky State Office of Rural Health requesting funding for conducting a feasibility study.

(14) **Medicaid Copayments:** Notwithstanding KRS 205.6312, the Department for Medicaid Services may impose copayments for services rendered to Medicaid recipients not to exceed the amounts permitted by federal authority.

**(15) Medicaid State Match for Preventive Services By Local and District Health Departments:**

Included in the above appropriation in each year of the fiscal biennium are the total state matching funds required to fully support preventive health services provided to Medicaid recipients through local and district health departments. Such services shall continue, at a minimum, at the current level of effort.

**(16) Quarterly Cost Containment Reporting:** The Cabinet for Health and Family Services shall submit a quarterly report to the Interim Joint Committee on Appropriations and Revenue on cost-containment initiatives implemented to reduce costs in the Medicaid Program, including the actual experience compared to projected savings for each initiative. In addition, this report shall include any anticipated initiatives to be implemented to reduce Medicaid costs, including a projection for savings from each initiative and implementation date. If applicable, the report shall also include a list of anticipated Medicaid Program expansions, including projected costs and implementation dates.

**(17) Adult Day Care Service Rate Increase:** Included in the above appropriation is \$700,000 in Restricted Funds and \$1,595,100 in Federal Funds in fiscal year 2006-2007 and \$700,000 in Restricted Funds and \$1,601,100 in Federal Funds in fiscal year 2007-2008 to increase reimbursement rates for Adult Day Care services.

**(18) School-based Health Service Expansion:** Included in the above appropriation is \$250,000 in Restricted Funds and \$569,700 in Federal Funds in fiscal year 2006-2007 and \$250,000 in Restricted Funds and \$571,800 in Federal Funds in fiscal year 2007-2008 to expand school-based health services.

**(19) Ambulance Fee Increase:** The Department for Medicaid Services shall continue ambulance reimbursement during each fiscal year at the rate level established by the 2005 General Assembly for fiscal year 2005-2006.

**(20) Model II Waiver Expansion:** Included in the above appropriation is \$1,000,000 in General Fund support and \$2,278,700 in Federal Funds in fiscal year 2006-2007 and \$1,000,000 in General Fund support and \$2,287,300 in Federal Funds in fiscal year 2007-2008 to expand Model II waiver services to approximately 40 additional ventilator-dependent patients.

**(21) Breast and Cervical Cancer Treatment Expansion:** Included in the above appropriation is \$150,000 in Restricted Funds and \$341,800 in Federal Funds in fiscal year 2006-2007 and \$150,000 in Restricted Funds and \$343,100 in Federal Funds in fiscal year 2007-2008 to expand the Breast and Cervical Cancer Treatment Services Program.

**(22) General Fund Carry Forward:** Notwithstanding KRS 45.229, included in the above General Fund appropriation is \$3,264,000 in fiscal year 2005-2006 which shall be carried forward and utilized to support Medicaid Benefits expenditures in fiscal year 2006-2007 and \$2,387,300 in fiscal year 2006-2007 which shall be carried forward and utilized to support Medicaid Benefits expenditures in fiscal year 2007-2008.

**(23) Hospital Provider Tax and Enhanced Payments:** Notwithstanding KRS 142.303 or the 2004-2006 State/Executive Branch Budget (2005 Ky. Acts ch. 173) establishing a lower amount of tax, hospital provider tax collections in fiscal year 2005-2006 shall not be less than \$180,000,000. Notwithstanding KRS 205.640 and any other provision of the Kentucky Revised Statutes to the contrary, the Department for Medicaid Services shall use these funds to maintain and continue the hospital inpatient payment enhancements to Kentucky hospitals adopted in fiscal year 2005-2006 and the additional funding allocated by the Department to enhance reimbursement to hospitals paid under managed care arrangements. If the aggregate tax collected from all hospitals in fiscal year 2005-2006 pursuant to KRS 142.303 is less than \$180,000,000, each hospital shall pay an additional provider tax in an amount equal to its pro rata share of the difference, based on its taxes paid in relation to total hospital taxes paid in the prior fiscal year. If the hospital provider tax paid in fiscal year 2005-2006 pursuant to KRS 142.303 is greater than \$180,000,000, the amount in excess of \$180,000,000 shall be deposited into the "Hospital Payment Improvement Trust Fund," which is hereby created in the State Treasury as a trust and agency account, and shall be matched with Federal Funds for the sole use of increasing reimbursement to Kentucky hospitals, including those paid under managed care arrangements. To the extent that funds remain in the trust fund established by 2005 Ky. Acts ch. 173, Part I, H.3.b.(7), those funds shall be transferred to the fund created in this subsection, and shall be used for the purposes stated above. Any outstanding payments due pursuant to the provisions of 2005 Ky. Acts ch. 173, Part I, H.3.b.(7) shall be retroactive to the beginning of fiscal year 2005-2006 and shall be paid no later than July 30, 2006.

Notwithstanding KRS 142.303, hospital provider tax collections for fiscal year 2006-2007 and fiscal year 2007-2008 shall be not less than \$180,000,000, but shall not exceed the amount of the aggregate provider taxes paid by hospitals in fiscal year 2005-2006. Notwithstanding KRS 205.640 and any other provision of the Kentucky

Revised Statutes to the contrary, the Department for Medicaid Services shall use these funds to maintain and continue the hospital inpatient payment enhancements to Kentucky hospitals adopted in fiscal year 2005-2006 and the additional funding allocated by the Department to enhance reimbursement to hospitals paid under managed care arrangements. Notwithstanding KRS 142.301 to 142.363, taxes due in fiscal year 2006-2007 and in fiscal year 2007-2008 shall be paid in 12 equal monthly installments, except as otherwise provided below, with each payment due no later than 20 days after the last day of each calendar month. At least 30 days prior to the beginning of the fiscal year, the Department of Revenue shall send written notice to each hospital of the hospital's estimated total tax liability for the year, which shall be the amount the hospital paid in taxes in fiscal year 2005-2006. The estimate for fiscal year 2006-2007 shall be based on actual payments for the first ten months of fiscal year 2005-2006, and an estimated amount for the last two months of fiscal year 2005-2006. Any adjustment in the total payment amount due to differences between the estimated and actual payments for the last two months of fiscal year 2005-2006 shall be made in the final payment due for fiscal year 2006-2007. In the case of a new hospital that did not operate in state fiscal year 2005-2006, the hospital shall be taxed pursuant to KRS 142.303. Any hospital provider tax collections in excess of \$180,000,000 in fiscal year 2006-2007 or in fiscal year 2007-2008 shall be deposited into the "Hospital Payment Improvement Trust Fund," which is hereby created in the State Treasury as a trust and agency account, and shall be matched with Federal Funds for the sole use of increasing reimbursement to Kentucky hospitals, including those paid under managed care arrangements. Any payments due pursuant to this section shall be made by July 30 of each fiscal year.

**(24) Acquired Brain Injury Waiver Program:** Included in the above appropriation is \$1,000,000 in General Fund moneys and \$2,278,700 in Federal Funds in fiscal year 2006-2007 and \$1,000,000 in General Fund moneys and \$2,287,300 in Federal Funds in fiscal year 2007-2008 to support 65 additional individuals through the Acquired Brain Injury Waiver Program.

**(25) Medicaid Pharmacy:** Notwithstanding KRS 205.6312(4), a pharmacy provider participating in the Medical Assistance Program shall not be required to serve an eligible recipient if the recipient does not make the required copayment at the time of service, except for an initial encounter when a recipient presents a condition which could result in harm to the recipient if left untreated, in which case the pharmacist shall dispense a 72 hour emergency supply of the required medicine. The recipient may then return to the pharmacy with the necessary copayment to obtain the remainder of the prescription. Only one dispensing fee shall be paid by the Cabinet for the provision of both the emergency supply and the remainder of the prescription.

**(26) Appeals:** An appeal for denial of a service or services provided by a Medicaid managed care organization for medical necessity, or denial, limitation, or termination of a health care service in a case involving a medical or surgical specialty or subspecialty, shall, upon request of the recipient, authorized person, or provider, include a review by a board-eligible or board-certified physician in the appropriate specialty or subspecialty area; except in the case of a health care service rendered by a chiropractor or optometrist, in which case, the denial shall be made respectively by a chiropractor or optometrist duly licensed in Kentucky as specified in KRS 304.17A-607(1)(b). The physician reviewer shall not have participated in the initial review and denial of service and shall not be the provider of service or services under consideration in the appeal.

#### 4. MENTAL HEALTH AND MENTAL RETARDATION SERVICES

	2006-07	2007-08
General Fund (Tobacco)	800,000	800,000
General Fund	185,755,200	194,117,600
Restricted Funds	207,572,000	210,790,500
Federal Funds	44,300,200	43,682,000
TOTAL	438,427,400	449,390,100

**(1) Disproportionate Share Hospital Funds:** Mental health disproportionate share funds are budgeted at the maximum amounts permitted by the Federal Balanced Budget Act of 1997, as amended by the Federal Benefits Improvements and Protection Act of 2000 and the Medicare Modernization Act of 2003, in the amount of \$34,567,300 in each fiscal year.

**(2) Kentucky Commission on Services and Supports for Individuals with Mental Illness, Alcohol and Other Drug Abuse Disorders, and Dual Diagnoses:** The Department for Mental Health and Mental Retardation Services shall provide at least \$12,500 each fiscal year to be distributed to support the continued operation of the 14 regional planning councils and Commission activities relating to the mandates of KRS 210.500, 210.502, 210.504,

210.506, and 210.509, through June 30, 2008. The regional planning councils shall make recommendations for, and the Commission shall develop, a two-year work plan for specifying goals and strategies relating to services and supports for individuals with mental illness, alcohol and other drug disorders, and dual diagnoses, and efforts to reduce the stigma associated with mental illness and other substance abuse disorders. The Commission shall report workgroup activities and findings to the Governor and the Interim Joint Committee on Health and Welfare by December 1 of each year.

(3) **Debt Service:** Included in the above General Fund appropriation in fiscal year 2007-2008 is \$101,000 for debt service to support new bonds as set forth in Part II, Capital Projects Budget, of this Act.

(4) **Tobacco Settlement Funds:** Included in the above General Fund (Tobacco) appropriation is \$800,000 in each fiscal year for substance abuse prevention and treatment for pregnant women with a history of substance abuse problems.

(5) **Replacement of Eastern State Hospital:** The Secretary of the Cabinet for Health and Family Services, in compliance with KRS 210.370 to 210.485 and KRS Chapter 45A, shall be authorized to provide for the replacement and continuing operation of Eastern State Hospital. The Cabinet for Health and Family Services shall solicit proposals for such replacement by no later than January 1, 2007.

(6) **Prior Notice Process for Changes to the Operations of Central State Hospital Intermediate Care Facility for the Mentally Retarded/Developmentally Disabled (ICF MR/DD):** Notwithstanding KRS 210.045(1)(g), 210.045(1)(h), and 210.045(2), the 60 day notice requirement contained in KRS 210.045 is suspended until July 1, 2008, for changes to Central State Hospital ICF MR/DD as referenced in subsection (7) of this section. However, the remaining provisions of KRS 210.045 shall continue to be in effect.

(7) **Hazelwood Intermediate Care Facility for the Mentally Retarded/Developmentally Disabled (ICF MR/DD):** The Cabinet for Health and Family Services may procure, through the process established by KRS Chapter 45A, a contractual arrangement for a nonstate agency to construct residential units to accommodate the transfer of licensed ICF MR/DD beds at Central State Hospital to the Hazelwood campus. The Cabinet may use these units to house residents currently located at Central State ICF MR/DD. Requests for Proposals shall be issued no later than January 1, 2007, for the construction of the residential units to accommodate the transfer of licensed ICF MR/DD beds at Central State to the Hazelwood campus, and the construction of an outpatient psychiatric physical health clinic and an outpatient psychiatric dental clinic on the campus of Hazelwood ICF MR/DD.

(8) **Crisis Stabilization Mental Health Services through Regional Mental Health/Mental Retardation (MH/MR) Boards:** Included in the above General Fund appropriation is \$3,027,400 in fiscal year 2006-2007 and \$3,077,500 in fiscal year 2007-2008 to support crisis stabilization mental health services provided through regional MH/MR boards, including \$127,400 in fiscal year 2006-2007 and \$177,500 in fiscal year 2007-2008 for mental inquest warrant patients served by Hardin Memorial Hospital.

(9) **Wellsprings David Block Crisis Stabilization Unit:** Included in the above General Fund appropriation is \$500,000 in each fiscal year to establish the Wellsprings David Block Crisis Stabilization Unit in Louisville, Kentucky to provide mental health crisis stabilization services.

(10) **Aging Caregivers One-Stop Shop:** Included in the above General Fund appropriation is \$200,000 in each fiscal year to establish an Aging Caregivers One-Stop Shop to provide aging caregivers with information, consultation, and assistance with choices and planning for long-term supports for individuals with mental retardation and developmental disability.

## 5. PUBLIC HEALTH

	2006-07	2007-08
General Fund (Tobacco)	14,000,900	14,721,100
General Fund	70,899,700	73,823,000
Restricted Funds	71,482,700	71,599,000
Federal Funds	169,426,000	169,878,400
TOTAL	325,809,300	330,021,500

(1) **Health Kentucky:** Included in the above General Fund appropriation is \$150,000 in fiscal year 2006-2007 for Health Kentucky, Inc.

(2) **Tobacco Settlement Funds:** Included in the above General Fund (Tobacco) appropriation is \$7,149,800 in fiscal year 2006-2007 and \$7,599,900 in fiscal year 2007-2008 for the Health Access Nurturing Development Services Program; \$1,000,000 in fiscal year 2006-2007 and \$1,140,100 in fiscal year 2007-2008 for Healthy Start initiatives; \$1,750,000 in each fiscal year for Universal Children's Immunizations; \$400,000 in each fiscal year for the Folic Acid Program; \$775,000 in each fiscal year for Early Childhood Mental Health; \$210,500 in each fiscal year for Early Childhood Oral Health; \$2,215,600 in fiscal year 2006-2007 and \$2,345,600 in fiscal year 2007-2008 for the Smoking Cessation Program; and \$500,000 in each fiscal year for the Kentucky Early Intervention Services First Steps Program.

(3) **Governor's Council on Wellness and Physical Activity:** Included in the above General Fund appropriation is \$1,000,000 in fiscal year 2006-2007 and \$1,500,000 in fiscal year 2007-2008 for the Governor's Council on Wellness and Physical Activity to develop and implement a statewide fitness program available to all Kentuckians that promotes fitness and wellness for persons of all ages and fitness levels.

(4) **Local and District Health Department Payments:** The Department for Public Health shall not impose a cap or other restriction on the number or amount of services that a Local or District Health Department may provide. The Department for Public Health shall submit all requests for payment for services provided to the Department for Medicaid Services that are submitted by a Local or District Health Department.

(5) **Medicaid State Match for Preventive Services Through Local and District Health Departments:** Included in the Medicaid Benefits appropriation is the total General Fund state matching dollars required in each fiscal year to fully support preventive health services provided to Medicaid recipients through Local and District Health Departments.

(6) **Health Insurance for Local and District Health Departments:** Included in the above General Fund appropriation is \$6,174,000 each fiscal year to assist the Local and District Health Departments with the required increased employer contribution for employee health insurance. These funds shall be distributed to the Local and District Health Departments at least quarterly.

(7) **Diabetes Services:** Included in the above General Fund appropriation is \$2,300,000 in fiscal 2006-2007 and \$3,050,000 in fiscal year 2007-2008 for continuation of base services through Local or District Health Departments.

(8) **Diabetes Research Board:** Included in the above General Fund appropriation is \$200,000 in each fiscal year, which shall be allocated to the Diabetes Research Board.

(9) **Diabetes Centers of Excellence:** Included in the above General Fund appropriation is \$750,000 each fiscal year to establish three regional Diabetes Centers of Excellence. Services within the Centers will be based on the number of Medicaid recipients diagnosed with diabetes within the area. These centers shall be designed to provide education, intervention therapy, and case management services and shall demonstrate the effectiveness of this intervention with outcomes and reduced Medicaid expenditures for this disease.

(10) **Local and District Health Department Infrastructure Pool:** Included in the above General Fund appropriation is \$466,000 in fiscal year 2007-2008 to provide debt service to support \$10,000,000 in bonds for a Local and District Health Department Infrastructure Pool to be administered by the Department for Public Health to address a portion of the construction and renovation needs of the local public health agencies as set forth in Part II, Capital Projects Budget, of this Act. The Department for Public Health shall establish an application process to participate in this pool, and that process shall require in-kind or matching funds from the local agency of not less than 25 percent of the grant requested. No individual grant from this pool shall exceed \$500,000. If the amount of bond funds available from the pool is not sufficient to cover all applications, the department shall determine the distribution of pool assets.

(11) **Kentucky Prescription Drug Patient Assistance Program:** Included in the above General Fund appropriation is \$125,000 in fiscal year 2006-2007 and \$200,000 in fiscal year 2007-2008 to establish the Kentucky Prescription Drug Patient Assistance Program to create a statewide network to link low-income Kentuckians with prescription drug patient assistance programs offered by pharmaceutical companies and to provide assistance in obtaining and completing the required documents. The Department may contract with the University of Kentucky, local health departments, or other organizations to develop a network and provide this assistance.



(a) As used in this subsection, "prescription drug patient assistance programs" means the programs offered by pharmaceutical companies under which the companies provide drugs to low-income individuals at no charge or at a substantially reduced cost. The term does not include the provision of a drug as part of a clinical trial.

(b) The Kentucky Prescription Drug Patient Assistance Program is established within the Cabinet for Health and Family Services, Department for Public Health. The purposes of the program are to:

1. Create an Internet-based statewide network to link low-income Kentuckians with prescription drug patient assistance programs offered by pharmaceutical companies;
2. Provide assistance in obtaining and completing the required documents;
3. Establish guidelines related to the security and privacy of protected health information provided through the Internet-based statewide network; and
4. Explore the feasibility of the standardization of the application process for prescription drug patient assistance programs.

(c) If funds are available, the program created in paragraph (b) of this subsection shall:

1. Provide information on the eligibility guidelines and drug coverage provided through any drug assistance program offered by the cabinet;
2. Provide information on the process for applying to pharmaceutical companies for free or discounted prescription drugs;
3. Provide information to individuals, physicians, pharmacists, and pharmacies regarding eligibility for prescription drug patient assistance programs;
4. Increase awareness of the various prescription drug patient assistance programs offered by pharmaceutical companies;
5. Establish an Internet-based statewide network to provide information on prescription drug patient assistance programs;
6. Link individuals to local community resources to assist with completing required documents; and
7. Use the e-health network Web site to provide a link to information on prescription drug assistance programs, eligibility guidelines, and applications. The e-health network link shall have the capability of supporting the completion and transmission of the applications online to health care providers for any required signatures.

(d) The cabinet may consult or contract with the University of Kentucky College of Pharmacy, University of Kentucky College of Agriculture Cooperative Extension, local health departments, libraries, the Kentucky Cancer Caucus, or other organizations to develop a network of agencies to assist individuals in accessing prescriptions through the prescription drug patient assistance programs.

(e) The cabinet may seek funding for the Internet-based statewide network created under paragraph (b) of this subsection from pharmaceutical companies or any other private entity. Any funding provided by a private entity shall be on a voluntary basis.

(f) The cabinet may promulgate an administrative regulation to establish guidelines related to the security and privacy of protected health information provided through the Internet-based statewide network created under paragraph (b) of this subsection.

**(12) Area Health Education Centers:** Included in the above General Fund appropriation is \$1,500,000 in fiscal year 2006-2007 and \$1,500,000 in fiscal year 2007-2008 to support the Area Health Education Centers. The Cabinet for Health and Family Services shall contract with the University of Louisville and the University of Kentucky to provide the required support and the amount of that contract shall be in addition to any other appropriations received by the universities and shall not become part of the universities' base budgets for purposes of the Council on Postsecondary Education funding formula.

**(13) Central Kentucky Blood Center:** Included in the above General Fund appropriation is \$500,000 in fiscal year 2006-2007 to provide assistance toward the construction of new facilities and purchase of equipment related to blood collection and distribution.

**(14) Kentucky AIDS Drug Assistance Program:** Included in the above General Fund appropriation is \$250,000 in each fiscal year for the Kentucky AIDS Drug Assistance Program (KADAP).

**(15) Poison Control Center:** Additional support of \$150,000 is provided in the above General Fund appropriation in each fiscal year for the Poison Control Center.

**(16) Lead Poisoning and Screening Program:** Included in the above General Fund appropriation is \$50,000 in each fiscal year for the Lead Poisoning and Screening Program. With these funds, the Department for Public Health shall review all federal Medicaid or Medicare compliance issues with respect to lead poisoning and screening and report its findings to the General Assembly. The report shall include a proposed plan of action to correct any deficiencies or areas where programs and services are offered or supported by the Cabinet and are not in compliance with federal requirements related to lead poisoning and screening.

**(17) Osteoporosis Prevention and Education Program:** Included in the above General Fund appropriation is \$90,000 in each fiscal year to establish, promote, and maintain a statewide multigenerational osteoporosis prevention and education program.

## 6. HEALTH POLICY

	2006-07	2007-08
General Fund	636,000	625,600
Restricted Funds	605,700	622,400
TOTAL	1,241,700	1,248,000

~~[(1) **Voluntary Relinquishment of a Certificate of Need or Licensure:** Notwithstanding KRS 216B.061, following the voluntary closure of a health care facility, revocation of a certificate of need, or the revocation of licensure, the beds, equipment, and services provided by the closed facility shall be reserved for applications for any certificate of need to reestablish the same services, in whole or part, in the same county as the closed health facility.] (Veto #11)~~

## 7. HUMAN SUPPORT SERVICES

	2005-06	2006-07	2007-08
General Fund (Tobacco)	-0-	100,000	100,000
General Fund	-0-	41,528,400	45,648,400
Restricted Funds	100,000	656,600	656,600
Federal Funds	-0-	24,396,700	24,401,900
TOTAL	100,000	66,681,700	70,806,900

**(1) Local Match Requirements:** Notwithstanding KRS 205.460, entities contracting with the Cabinet for Health and Family Services to provide essential services under KRS 205.455 and 205.460 shall provide local match equal to or greater than the amount in effect during fiscal year 2005-2006. Local match may include any combination of materials, commodities, transportation, office space, personal services, or other types of facility services or funds. The Secretary of the Cabinet for Health and Family Services shall prescribe the procedures to certify the local match assurance.

**(2) Tobacco Settlement Funds:** Included in the above General Fund (Tobacco) appropriation is \$100,000 in each fiscal year for the Children's Advocacy Centers.

**(3) Children's Advocacy Centers:** Included in the above General Fund appropriation is funding to provide each Regional Children's Advocacy Center an increase in its base operating grant of \$32,000 for each fiscal year. Also included in the above General Fund appropriation is funding to provide each Regional Children's Center an additional \$34,600 appropriation each fiscal year provided that the Center has on staff, or can document the intent to employ or contract for, a qualified forensic interviewer at least half-time.

**(4) Regional Rape Crisis Centers:** Included in the above General Fund appropriation is funding to provide an increase of \$66,600 in base state funding for each region, for each year of the biennium, to cover increased levels of client service needs and increased cost of center operations.

(5) **Domestic Violence Statewide Programs:** Included in the above General Fund appropriation is funding to provide a grant of \$45,000 for each region for each fiscal year, to cover increased levels of client service needs and increased cost of center operations of Domestic Violence Programs. These funds are in addition to funding received through the Department for Community Based Services.

(6) **Family Resource and Youth Service Centers:** Included in the above General Fund appropriation is \$1,522,600 in fiscal year 2006-2007 and \$3,045,200 in fiscal year 2007-2008 to provide an allocation rate increase to \$204 per eligible child in fiscal year 2006-2007, and return to the original allocation rate of \$210 per eligible child in fiscal year 2007-2008. Also included in the above General Fund appropriation is \$1,060,800 to expand the program to serve 25 additional schools in fiscal year 2006-2007 and \$2,373,000 to expand the program to serve 29 additional schools in fiscal year 2007-2008.

(7) **Kentucky Family Caregiver Program:** Included in the above General Fund appropriation is \$1,250,000 in fiscal year 2006-2007 and \$2,000,000 in fiscal year 2007-2008 for the expansion of the Kentucky Family Caregiver Program to provide assistance grants or vouchers to grandparents who are the primary caregivers of their grandchildren. To be eligible for this program, a grandparent may not have annual income that exceeds 150 percent of the federal poverty level and may not be receiving payments from the Kinship Care Program. The maximum total of grants or vouchers per child shall be \$750 in any one fiscal year for each grandchild. Grants or vouchers from this program shall be utilized by the grandparent to provide child clothing, respite assistance, educational supplies or assistance, required legal services, medical and dental services, and other expenses for the grandchild that the cabinet authorizes. The Cabinet for Health and Family Services shall promulgate administrative regulations, in accordance with KRS Chapter 13A, to implement this program no later than January 1, 2007.

(8) **Expansion of Aging Services:** Included in the above General Fund appropriation is \$3,500,000 in fiscal year 2006-2007 and \$4,000,000 in fiscal year 2007-2008 to expand Aging Services. With these additional funds and the base appropriation, the General Fund amount shall be expended in the following manner: \$28,224,300 in fiscal year 2006-2007 and \$28,724,400 in fiscal year 2007-2008 to address waiting lists in programs such as Homecare Services, the Personal Care Attendant Program, Adult Day Care, and Home-Delivered Meals. The additional funding provided in this subsection shall only be utilized for the provision of additional direct services in these programs.

(9) **Dementia Training:** Included in the above General Fund appropriation is \$50,000 in fiscal year 2006-2007 and \$50,000 in fiscal year 2007-2008 to create a voluntary pilot program for dementia training for long-term care facilities.

(10) **Ready, Set, Success Program:** The Department for Human Support Services shall establish a "Ready, Set, Success" pilot program to encourage the development of local community partnerships and the development of programs and services for children who are under age six, and to ensure that children across the Commonwealth are born healthy, are nurtured, and remain healthy, safe, and prepared to succeed in school and life.

a. The Department shall promulgate administrative regulations to define the "Ready, Set, Success" Program and service criteria.

b. The Department, in cooperation with the Kentucky Department of Education and the Education Cabinet, may host an annual statewide "Ready, Set, Success" summit to share findings and best practices from the pilot program. The Department shall advise the Department of Education and the Education Cabinet on the time and location of the summit.

## 8. OMBUDSMAN

	2006-07	2007-08
General Fund	3,568,400	3,534,400
Restricted Funds	50,000	50,000
Federal Funds	2,203,600	2,183,000
TOTAL	5,822,000	5,767,400

## 9. DISABILITY DETERMINATION SERVICES

	2006-07	2007-08
Restricted Funds	65,800	65,800

Federal Funds	48,584,000	50,174,900
TOTAL	48,649,800	50,240,700

**10. COMMUNITY BASED SERVICES**

	<b>2005-06</b>	<b>2006-07</b>	<b>2007-08</b>
General Fund (Tobacco)	-0-	6,970,400	7,420,400
General Fund	-0-	316,033,500	341,729,700
Restricted Funds	-0-	133,505,800	136,301,300
Federal Funds	4,900,300	511,118,200	523,230,400
TOTAL	4,900,300	967,627,900	1,008,681,800

(1) **Tobacco Settlement Funds:** Included in the above General Fund (Tobacco) appropriation is \$6,970,400 in fiscal year 2006-2007 and \$7,420,400 in fiscal year 2007-2008 for the Early Childhood Development Program.

(2) **Out-of-Home Care:** Included in the above General Fund appropriation is \$7,383,000 in fiscal year 2006-2007 and \$22,962,600 in fiscal year 2007-2008 which is necessary to support and sustain the increased number of court-committed children in the care of the Cabinet.

(3) **Criminal Background Investigation Fee Establishment:** The Secretary of the Cabinet for Health and Family Services may promulgate administrative regulations necessary to prescribe criminal background investigation fee amounts which are reflected in the Restricted Funds appropriation above.

(4) **Department for Community Based Services Modernization:** Savings generated through efficiencies achieved from the modernization and streamlining of the Department for Community Based Services shall be redirected to other areas within the Department for Community Based Services to enhance adult protection services and family based services, to accommodate increased numbers of children in care, and to offset reductions in available federal funding.

(5) **Protection and Permanency Staff Technology Improvements:** Included in the above appropriation is \$1,008,300 in General Fund support and \$291,700 in Federal Funds in each fiscal year to provide technology improvements for each Adult Protection and Child Protection Services staff, including but not limited to new laptop or desktop computers. In addition, included in the above appropriation is \$244,900 in General Fund support and \$31,500 in Federal Funds in fiscal year 2006-2007 to provide digital cameras for each Adult Protection and Child Protection Services staff and a printer for each investigative team in each local office to assist in documenting abuse investigations.

(6) **Foster Parent and Adoption Assistance Rate Increases:** Included in the above appropriation to increase Foster Parent and Adoption Assistance daily reimbursement rates beginning on July 1, 2007, is \$4,844,500 in General Fund moneys and \$3,989,300 in Federal Funds for \$3 per day in fiscal year 2007-2008.

(7) **Private Child Care Provider Rate Increases:** Included in the above appropriation to increase Private Child Care Provider reimbursement rates beginning on July 1, 2007, is \$2,883,700 in General Fund moneys and \$544,800 in Federal Funds for an additional \$3 per day in fiscal year 2007-2008.

(8) **Performance Incentives for Hard-to-Place Youth:** Included in the above appropriation is \$961,200 in General Fund moneys and \$181,600 in Federal Funds in fiscal year 2007-2008 to create a pool to serve hard-to-place youth by providing performance incentives to private child care providers beginning on July 1, 2007.

(9) **Foster Youth Transitional Assistance:** Included in the above General Fund appropriation is \$1,000,000 in each fiscal year to provide assistance grants or vouchers to current or former foster youth ages 18 through 23. The maximum total of grants or vouchers per youth shall be \$7,500 in any one fiscal year for working youth. Youth may be eligible for an additional grant totaling \$2,500 per year while attending a community college or four year college or university. Grants or vouchers from this program shall be utilized by the youth for transitional assistance into independence, including but not limited to housing, clothing, transportation, tuition, medical and dental services, and other expenses for the youth for the transition that the cabinet authorizes. The Cabinet for Health and Family Services shall promulgate administrative regulations, in accordance with KRS Chapter 13A, to implement this program no later than October 1, 2006. ~~Notwithstanding KRS 45.229, any General Fund moneys for this purpose~~

~~unexpended in fiscal year 2006-2007 shall not lapse but shall carry forward into fiscal year 2007-2008 for the same purpose.] (Veto #12)~~

**(10) Home of the Innocents:** Included in the above General Fund appropriation is \$385,000 in fiscal year 2007-2008 for debt service to support new bonds for a matching grant to Home of the Innocents for Phase II of the Childrens' Village as set forth in Part II, Capital Projects Budget, of this Act. Up to \$8,250,000 in funds generated by Home of the Innocents from other public and private sources shall be matched by the Commonwealth.

~~**(11) Brooklawn Child and Family Services:** Included in the above General Fund appropriation is \$96,000 in fiscal year 2007-2008 for debt service to support new bonds for the Brooklawn Child and Family Services project as set forth in Part II, Capital Projects Budget, of this Act.] (Veto #4)~~

## **TOTAL - CABINET FOR HEALTH AND FAMILY SERVICES**

	<b>2005-06</b>	<b>2006-07</b>	<b>2007-08</b>
General Fund (Tobacco)	-0-	22,183,400	23,393,500
General Fund	85,300,000	1,698,732,600	1,777,534,400
Restricted Funds	5,571,900	829,515,600	840,161,600
Federal Funds	244,314,200	4,005,325,100	4,119,198,300
<b>TOTAL</b>	<b>335,186,100</b>	<b>6,555,756,700</b>	<b>6,760,287,800</b>

## **I. JUSTICE AND PUBLIC SAFETY CABINET**

### **Budget Units**

#### **1. JUSTICE ADMINISTRATION**

	<b>2006-07</b>	<b>2007-08</b>
General Fund (Tobacco)	1,816,800	1,923,400
General Fund	13,796,700	13,946,400
Restricted Funds	3,340,100	3,840,100
Federal Funds	9,666,100	9,142,700
<b>TOTAL</b>	<b>28,619,700</b>	<b>28,852,600</b>

**(1) Office of Drug Control Policy:** Included in the above Restricted Funds appropriation is \$1,300,000 in fiscal year 2006-2007 and \$1,800,000 in fiscal year 2007-2008 for regional Drug Courts in Kentucky's coal-producing counties.

**(2) Tobacco Settlement Funds:** Included in the above General Fund (Tobacco) appropriation is \$1,816,800 in fiscal year 2006-2007 and \$1,923,400 in fiscal year 2007-2008 for the Office of Drug Control Policy.

**(3) Civil Legal Services for Indigents:** Included in the above General Fund appropriation is \$1,500,000 in fiscal year 2006-2007 and \$1,500,000 in fiscal year 2007-2008 to provide free legal services for indigents.

**(4) Operation Unite:** Included in the above Restricted Funds appropriation is \$1,250,000 in each year of the biennium for Operation Unite.

**(5) Multijurisdictional Drug Task Forces:** Included in the above General Fund appropriation is \$1,000,000 in each fiscal year to be administered by the Office of Drug Control Policy for the purpose of maintaining existing multijurisdictional drug task forces and allowing for expansion to under served and unserved areas to assist local and state law enforcement agencies in a proactive effort to combat drugs and crime.

#### **2. CRIMINAL JUSTICE TRAINING**

	<b>2005-06</b>	<b>2006-07</b>	<b>2007-08</b>
Restricted Funds	602,000	46,367,300	46,744,800
Federal Funds	-0-	1,873,500	1,886,300

TOTAL	602,000	48,240,800	48,631,100
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(1) **Kentucky Law Enforcement Foundation Program Fund:** Included in the above Restricted Funds appropriation is \$44,732,300 in fiscal year 2006-2007 and \$45,105,000 in fiscal year 2007-2008 for the Kentucky Law Enforcement Foundation Program Fund.

(2) **Training Incentive Payments:** Notwithstanding KRS 15.460(1), included in the above Restricted Funds appropriation is \$3,100 in fiscal year 2006-2007 and \$3,100 in fiscal year 2007-2008 for each participant for training incentive payments.

(3) **Training Incentive Stipends - Justice and Public Safety Cabinet Personnel:** Notwithstanding KRS 15.410, 15.420(2), 15.440(1), 15.460(1), and 15.470(2) and (4), included in the above Restricted Funds appropriation is sufficient funding for a \$3,100 annual training incentive stipend for Kentucky state troopers, Kentucky State Police arson investigators, Kentucky State Police hazardous devices investigators, Kentucky State Police legislative security specialists, and Kentucky vehicle enforcement officers.

### 3. JUVENILE JUSTICE

	2006-07	2007-08
General Fund	84,005,900	85,724,900
Restricted Funds	12,200,000	12,200,000
Federal Funds	14,720,000	14,420,000
TOTAL	110,925,900	112,344,900

(1) **Mary Kendall Homes:** Included in the above General Fund appropriation is \$350,000 in fiscal year 2006-2007 and \$350,000 in fiscal year 2007-2008 for the support of the Mary Kendall Homes.

(2) **Madison County Juvenile Detention Facility:** The Madison County juvenile detention facility may remain open to hold juveniles from Madison County, and the county shall receive the detention subsidy provided for in KRS 635.060(3).

### 4. STATE POLICE

	2005-06	2006-07	2007-08
General Fund	1,301,200	69,645,800	80,305,900
Restricted Funds	-0-	16,713,900	13,543,600
Federal Funds	-0-	13,444,700	13,444,700
Road Fund	-0-	50,000,000	50,000,000
TOTAL	1,301,200	149,804,400	157,294,200

(1) **Call to Extraordinary Duty:** There is appropriated from the General Fund to the Department of State Police, subject to the conditions and procedures provided in this Act, funds which are required as a result of the Governor's call of the Kentucky State Police to extraordinary duty when an emergency situation has been declared to exist by the Governor. Funding is authorized to be provided from the General Fund Surplus Account (KRS 48.700) or the Budget Reserve Trust Fund Account (KRS 48.705).

(2) **State Police Authorized Strength:** The Kentucky State Police sworn officer authorized strength is 1,070.

(3) **State Police Personnel Training Incentive:** Included in the above Restricted Funds appropriation is sufficient funding for a \$3,100 annual training incentive stipend for state troopers, arson investigators, hazardous devices investigators, and legislative security specialists.

(4) **Restricted Funds Uses:** Notwithstanding KRS 42.320(2)(h), 189A.050(3)(a), and 237.110(15), funds are included in the above Restricted Funds appropriation to maintain the operations and administration of the Kentucky State Police.

(5) **Dispatcher Training Incentive:** Included in the above General Fund appropriation is sufficient funding for a \$3,100 annual training incentive stipend for dispatchers.

(6) **Statewide Mobile Data Infrastructure:** Included in the above General Fund appropriation is \$1,000,000 in each fiscal year for the upkeep and maintenance of the statewide mobile data infrastructure. The Justice and Public Safety Cabinet shall allow any local or state first responding agency to use the system provided it complies with all applicable state standards for the system's uses. The Justice and Public Safety Cabinet shall not charge any first responding agency for using the system, maintenance, or any other fee related to connections, infrastructure upkeep, or maintenance

## 5. CORRECTIONS

### a. Corrections Management

	2006-07	2007-08
General Fund	7,253,600	7,119,700
Restricted Funds	15,693,100	15,843,700
TOTAL	22,946,700	22,963,400

(1) **Debt Service:** Included in the above General Fund appropriation is \$82,000 in fiscal year 2007-2008 to provide debt service to support new bonds as set forth in Part II, Capital Projects Budget, of this Act.

(2) **Appropriations Adjustments:** The General Assembly has determined that the Department of Corrections shall be permitted to adjust appropriations between the Community Services and Local Facilities budget unit and the Adult Correctional Institutions budget unit in fiscal year 2006-2007 and fiscal year 2007-2008. Only adjustments necessary to manage the diverse mix of inmate classifications, custody levels, probation and parole caseloads, and population increases and/or decreases shall be permitted. Any appropriations transferred or otherwise directed between these appropriation units shall be documented and justified in writing. No adjustments may be made except upon the prior written concurrence of the State Budget Director. The State Budget Director shall report the adjustments and the necessity of the adjustments to the Interim Joint Committee on Appropriations and Revenue.

(3) **Jailer Mental Health Screening Training:** The Kentucky Commission on Services and Supports for Individuals with Mental Illness, Alcohol and Other Drug Abuse Disorders, and Dual Diagnoses shall, in its annual review of the Commission plan, include in its duties recommendations for improvements in identifying, treating, housing, and transporting prisoners in jails and juveniles in detention centers with mental illness. Items to be reviewed shall include but not be limited to recommendations for statutory and regulatory changes, training and treatment funding, cost sharing, housing and transportation costs, appropriate treatment sites, and training requirements for local jailers and other officers of the court who may come in contact with persons incarcerated or in detention but deemed mentally ill.

The training shall continue to be delivered by Regional Mental Health/Mental Retardation Board staff to new jailers and new jail staff, except administrative support, on screening and responding to the needs of inmates with mental illness within six months of employment. Treatment services may also be provided for within this funding allocation.

### b. Adult Correctional Institutions

	2006-07	2007-08
General Fund	232,200,900	239,190,200
Restricted Funds	5,435,200	5,435,200
Federal Funds	1,706,600	1,706,600
TOTAL	239,342,700	246,332,000

(1) **Education Programs at Department of Corrections Facilities:** The Kentucky Community and Technical College System (KCTCS) shall provide adult basic education classes for the Department of Corrections which are aimed toward acquiring a general educational diploma (GED) and various technical trades aimed toward providing students with certifications and/or diplomas upon completion of qualifying examinations.

### c. Community Services and Local Facilities

	2006-07	2007-08
General Fund	114,496,600	130,140,300

Restricted Funds	4,369,000	1,869,000
Federal Funds	75,000	75,000
<b>TOTAL</b>	<b>118,940,600</b>	<b>132,084,300</b>

(1) **Excess Local Jail Per Diem Costs:** In the event that actual local jail per diem payments exceed the amounts provided to support the budgeted average daily population of state felons in county jails for fiscal year 2006-2007 and fiscal year 2007-2008, the payments shall be deemed necessary government expenses and may be paid from the General Fund Surplus Account (KRS 48.700) or the Budget Reserve Trust Fund Account (KRS 48.705), subject to notification as to necessity and amount by the State Budget Director who shall report any certified expenditure to the Interim Joint Committee on Appropriations and Revenue.

(2) **Local Jails Funding:** Notwithstanding KRS 441.605 to 441.695, funds in the amount of \$4,000,000 in fiscal year 2006-2007 and \$1,500,000 in fiscal year 2007-2008 shall be expended from the Kentucky Local Correctional Facilities Construction Authority for local correctional facility and operational support consistent with contractual covenants in accordance with bond indentures of the Authority.

(3) **Local Jail Per Diem Increase:** Included in the above General Fund appropriation is \$1,000,000 in each fiscal year to provide an increase of the per diem rate paid to counties for housing state inmates.

(4) **Intensive Secured Substance Abuse Recovery Program:** Funds provided for local jail per diem payments and for halfway house payments may also be used for the establishment and operation of an intensive secured substance abuse recovery program for substance abusers who have been charged with a felony offense. In the event that actual local jail per diem payments or the halfway house payments exceed the amounts provided to support the budgeted average daily population of state felons in county jails or in halfway houses for fiscal year 2006-2007 and fiscal year 2007-2008, the payments shall be deemed necessary government expenses and may be paid from the General Fund Surplus Account (KRS 48.700) or the Budget Reserve Trust Fund Account (KRS 48.705), subject to notification as to necessity and amount by the State Budget Director who shall report any certified expenditure to the Interim Joint Committee on Appropriations and Revenue.

**d. Local Jail Support**

	<b>2006-07</b>	<b>2007-08</b>
General Fund	16,236,100	16,236,100

(1) **Inmate Medical Care Expenses:** Included in the above General Fund appropriation is \$931,100 in fiscal year 2006-2007 and \$931,100 in fiscal year 2007-2008 for medical care contracts to be distributed, upon approval of the Department of Corrections, to counties by the formula codified in KRS 441.206, and \$295,900 in fiscal year 2006-2007 and \$295,900 in fiscal year 2007-2008, on a partial reimbursement basis, for medical claims in excess of the statutory threshold pursuant to KRS 441.045. The funding support for medical contracts and catastrophic medical expenses for indigents shall be maintained in discrete accounts. Any medical claim which exceeds the statutory threshold may be reimbursed for that amount in excess of the statutory threshold. In no event shall this apply to expenses of an elective, as opposed to emergency, basis and expenses shall be paid according to the Kentucky Medical Assistance Schedule.

(2) **Local Jail Support:** Included in the above General Fund appropriation is \$960,000 in each year of the biennium to provide a monthly payment of an annual amount of \$20,000 to each county with a life safety jail or a closed jail. The payment shall be in addition to the monthly payment required by KRS 441.206(2).

**TOTAL - CORRECTIONS**

	<b>2006-07</b>	<b>2007-08</b>
General Fund	370,187,200	392,686,300
Restricted Funds	25,497,300	23,147,900
Federal Funds	1,781,600	1,781,600
<b>TOTAL</b>	<b>397,466,100</b>	<b>417,615,800</b>

**6. VEHICLE ENFORCEMENT**

	<b>2006-07</b>	<b>2007-08</b>
Restricted Funds	1,666,300	1,043,500



Federal Funds	5,162,400	5,162,200
Road Fund	13,974,900	13,881,500
<b>TOTAL</b>	<b>20,803,600</b>	<b>20,087,200</b>

(1) **Vehicle Enforcement Officers' Training Incentive:** Included in the above Restricted Funds appropriation is sufficient funding to provide a \$3,100 annual training incentive stipend for vehicle enforcement officers.

## 7. PUBLIC ADVOCACY

	<b>2006-07</b>	<b>2007-08</b>
General Fund	29,770,700	31,886,400
Restricted Funds	6,815,500	4,455,800
Federal Funds	1,618,300	1,663,100
<b>TOTAL</b>	<b>38,204,500</b>	<b>38,005,300</b>

(1) **Compensatory Leave Conversion to Sick Leave:** If the Department of Public Advocacy determines that internal budgetary pressures warrant further austerity measures, the Public Advocate may institute a policy to suspend payment of 50 hour blocks of compensatory time for those attorneys who have accumulated 240 hours of compensatory time and instead to convert those hours to sick leave.

## TOTAL - JUSTICE AND PUBLIC SAFETY CABINET

	<b>2005-06</b>	<b>2006-07</b>	<b>2007-08</b>
General Fund (Tobacco)	-0-	1,816,800	1,923,400
General Fund	1,301,200	567,406,300	604,549,900
Restricted Funds	602,000	112,600,400	104,975,700
Federal Funds	-0-	48,266,600	47,500,600
Road Fund	-0-	63,974,900	63,881,500
<b>TOTAL</b>	<b>1,903,200</b>	<b>794,065,000</b>	<b>822,831,100</b>

## J. PERSONNEL CABINET

### 1. GENERAL OPERATIONS

	<b>2006-07</b>	<b>2007-08</b>
General Fund	1,805,600	932,200
Restricted Funds	19,569,900	20,785,200
<b>TOTAL</b>	<b>21,375,500</b>	<b>21,717,400</b>

(1) **Flexible Benefit Account:** Notwithstanding KRS 18A.225(2)(g), any funds from the calendar year 2005 and calendar year 2006 public employee health insurance program accruing to the Flexible Benefit Account, not otherwise appropriated in fiscal year 2006-2007 and in fiscal year 2007-2008, and in excess of the amount reflected in Part V, Funds Transfer, of this Act shall be credited to the General Fund Surplus Account.

(2) **Public Employees Self-Insured Health Insurance Premiums:** Beginning with the employer premium due for coverage effective July 1, 2006, under the Public Employees Self-Insured Health Insurance Program, the employer rate shall be reduced by 12 percent for the balance of Plan Year 2006. For Plan Year 2007, the increase in employer and employee premiums for coverage under the Public Employees Self-Insured Health Insurance Program shall not exceed 10.4 percent for the Essential Plan and 9 percent for the Enhanced and Premier Plan over the Plan Year 2006 rates as adjusted by this Act.

### 2. PUBLIC EMPLOYEES DEFERRED COMPENSATION AUTHORITY

<b>2006-07</b>	<b>2007-08</b>
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Restricted Funds	6,009,200	6,172,400
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**3. WORKERS' COMPENSATION BENEFITS AND RESERVE**

	<b>2006-07</b>	<b>2007-08</b>
Restricted Funds	24,798,500	26,204,400

**4. STATE SALARY AND COMPENSATION FUND**

	<b>2006-07</b>	<b>2007-08</b>
General Fund	8,000,000	24,000,000

(1) **Employee Compensation:** The above General Fund appropriation provides a pool of funds to be allocated in accordance with the procedures contained in Part IV, State Salary/Compensation and Employment Policy, of this Act. Included in the above \$8,000,000 General Fund appropriation in fiscal year 2006-2007 is \$3,842,500 which shall not be allocated, transferred, or expended and shall continue into fiscal year 2007-2008 and shall only be expended in that fiscal year for this same purpose.

**5. STATE GROUP HEALTH INSURANCE FUND**

	<b>2006-07</b>	<b>2007-08</b>
General Fund	2,476,000	2,476,000

(1) **Group Health Insurance:** The above General Fund appropriation is provided to support a dependent subsidy for full-time employees of quasi-governmental employers, excluding state agencies, participating in the State Group Health Insurance program. To participate in this fund, each quasi-governmental employer must certify to the Secretary of the Personnel Cabinet that no funds received from the pool are being utilized to fund any benefits for persons other than full-time employees.

**TOTAL - PERSONNEL CABINET**

	<b>2006-07</b>	<b>2007-08</b>
General Fund	12,281,600	27,408,200
Restricted Funds	50,377,600	53,162,000
TOTAL	62,659,200	80,570,200

**K. POSTSECONDARY EDUCATION****Budget Units****1. COUNCIL ON POSTSECONDARY EDUCATION**

	<b>2006-07</b>	<b>2007-08</b>
General Fund (Tobacco)	4,431,200	4,691,200
General Fund	56,931,200	95,120,700
Restricted Funds	6,610,700	6,527,900
Federal Funds	19,099,400	19,099,400
TOTAL	87,072,500	125,439,200

~~[(1) **Debt Service:** Included in the above General Fund appropriation is \$27,442,000 in fiscal year 2007-2008 for debt service to support new bonds for capital projects at the colleges and universities as set forth in Part II, Capital Projects Budget, of this Act.~~

~~[(2) **Debt Service:** Included in the above General Fund appropriation is \$551,000 in fiscal year 2007-2008 for debt service to support new bonds for Research Support - Lab Renovation, Fit up and Equipment at the University of Kentucky and the University of Louisville.~~

~~[(3) **Debt Service:** Included in the above General Fund appropriation is \$917,000 in fiscal year 2007-2008 for debt service to support new bonds for Information Technology and Equipment Acquisitions.] (Veto #4)~~

**(4) Carry Forward of General Fund Appropriation Balance:** Notwithstanding KRS 45.229, the General Fund appropriation in fiscal year 2005-2006 and fiscal year 2006-2007 to the Adult Education and Literacy Funding Program shall not lapse and shall carry forward.

Notwithstanding KRS 45.229, the General Fund appropriation in fiscal year 2005-2006 and fiscal year 2006-2007 to the Science and Technology Funding Program shall not lapse and shall carry forward.

**(5) Strategic Investment and Incentive Trust Funds Interest Income:** Notwithstanding KRS 164.7911, 164.7913, 164.7915, 164.7917, 164.7919, 164.7921, 164.7923, 164.7925, and 164.7927, interest earnings in the amount of \$393,900 in fiscal year 2006-2007 and \$393,900 in fiscal year 2007-2008 shall be transferred from Strategic Investment and Incentive Trust Fund accounts included under these statutes to Agency Revenue accounts within the Council on Postsecondary Education budget unit in the following amounts and for the following specified purposes: \$105,500 in each year of the biennium for the Minority Student College Preparation Program; \$188,400 in each year of the biennium for the Southern Regional Board Doctoral Scholars Program; and \$100,000 in each year of the biennium for the P-16 Council/Early Math Testing Programs.

**(6) Interest Earnings Transfer from the Strategic Investment and Incentive Trust Fund Accounts:** Notwithstanding KRS 164.7911, 164.7913, 164.7915, 164.7917, 164.7919, 164.7921, 164.7923, 164.7925, and 164.7927, any expenditures from the Strategic Investment and Incentive Trust Fund accounts in excess of appropriated amounts by the Council on Postsecondary Education shall be subject to KRS 48.630.

~~**(7) Kentucky Science and Technology Corporation:** Notwithstanding KRS 164.6017(2), the Kentucky Science and Technology Corporation shall administer the Rural Innovation, the Research and Development, and the Commercialization Funds.~~ *(Veto #13)*

**(8) Ovarian Cancer:** Notwithstanding KRS 164.476, General Fund (Tobacco) dollars in the amount of \$775,000 in each fiscal year shall be allotted from the Lung Cancer Research Fund to the Ovarian Cancer Screening Outreach Program at the University of Kentucky.

**(9) Regional Stewardship Funding Program:** Included in the above General Fund appropriation is \$1,200,000 in fiscal year 2006-2007 and \$3,600,000 in fiscal year 2007-2008 for the Regional Stewardship Funding Program. The funds will be allocated among the six public comprehensive universities ~~in equal amounts of \$800,000 per institution.~~ *(Veto #14)* Funds will be used for Regional Stewardship priorities related to collaboration with public elementary and secondary schools and regional economic development initiatives. Allocated funds will be distributed upon submission and approval of a strategic plan which determines stewardship priorities. Each institution shall submit a strategic plan for stewardship activities in priority areas. to the Council on Postsecondary Education by close of business January 1, 2007. Within 30 days of receipt of the proposals, the Council on Postsecondary Education shall advise the institutions of any non-compliance or non-conformity and shall work with the institution to help them qualify for the grant. ~~Once distributed, these funds will become recurring to the institutions.~~ *(Veto #14)* Each institution shall submit an annual report to the Council on Postsecondary Education and to Interim Joint Appropriations and Revenue Committee by September 1 of each year. The report should include descriptions of stewardship initiatives implemented, use of funds for each initiative, and outcomes of the initiatives.

**(10) Postsecondary Education Debt:** Notwithstanding KRS 45.750 to 45.810, in order to lower the cost of borrowing, any university that has heretofore issued or caused to be issued debt obligations through a not-for-profit corporation or a municipality or county government for which the rental or use payments of the university substantially meet the debt service requirements of those debt obligations is authorized to refinance those debt obligations if the principal amount of the debt obligations is not increased and the rental payments of the university are not increased. Any funds used by a university to make debt obligations issued by university pursuant to this authorization shall be subject to interception of state appropriated funds pursuant to KRS 164A.608.

**(11) Postsecondary Education Employment Status:** Notwithstanding KRS 164.225, 164.360, and 164.830, the appointment of a relative to the governing board of a public postsecondary education institution, as defined in KRS 164.001, shall not affect the employment status of any related person employed at least 36 months prior to the appointment of the relative.

## 2. KENTUCKY HIGHER EDUCATION ASSISTANCE AUTHORITY

	2006-07	2007-08
General Fund (Tobacco)	800,000	900,000
General Fund	164,624,300	174,304,900

Restricted Funds	39,044,500	36,219,300
Federal Funds	1,726,000	1,726,000
TOTAL	206,194,800	213,150,200

(1) **College Access Program:** Notwithstanding KRS 154A.130(4), included in the above General Fund appropriation is \$58,427,800 in fiscal year 2006-2007 and \$60,462,000 in fiscal year 2007-2008 for the College Access Program.

(2) **Kentucky Tuition Grant Program:** Notwithstanding KRS 154A.130(4), included in the above General Fund appropriation is \$30,270,100 in fiscal year 2006-2007 and \$32,476,200 in fiscal year 2007-2008 for the Kentucky Tuition Grant Program. ~~[All grants shall be awarded pursuant to KRS 164.785, and the applicant must be accepted by or enrolled as a full-time student at a Kentucky independent college or university which is accredited by the Southern Association of Colleges and Schools.] (Veto #15)~~

(3) **Teacher Scholarship Program:** Notwithstanding KRS 154A.130(4), included in the above General Fund appropriation is \$1,777,100 in fiscal year 2006-2007 and \$1,777,100 in fiscal year 2007-2008 for the Teacher Scholarship Program.

(4) **Tobacco Settlement Funds:** Included in the above General Fund (Tobacco) appropriation is \$800,000 in fiscal year 2006-2007 and \$900,000 in fiscal year 2007-2008 for Early Childhood Scholarships.

(5) **Kentucky National Guard Tuition Assistance Program:** Included in the above Restricted Funds appropriation is \$4,500,000 in fiscal year 2006-2007 and \$5,220,000 in fiscal year 2007-2008 for the Kentucky National Guard Tuition Assistance Program.

(6) **Kentucky Education Excellence Scholarships (KEES):** Notwithstanding KRS 154A.130(4), included in the above General Fund appropriation is \$73,125,000 in fiscal year 2006-2007 and \$77,565,300 in fiscal year 2007-2008 for the Kentucky Educational Excellence Scholarships (KEES). Included in the above Restricted Funds appropriation for KEES is \$14,909,100 in fiscal year 2006-2007 and \$11,345,800 in fiscal year 2007-2008.

(7) **Pharmacy Scholarship Program:** Included in the above General Fund appropriation is \$1,000,000 in fiscal year 2007-2008 for the Pharmacy Scholarship Program as set forth in Part XXIV, Pharmacy Scholarship Program, of this Act.

~~[(8) **Transactions Involving Property and Assets:** Notwithstanding any statute to the contrary, the Kentucky Higher Education Assistance Authority and the Higher Education Student Loan Corporation either jointly or separately, shall obtain authorization from the General Assembly prior to entering into any agreement, transaction, or series of agreements which would result in the transfer of ownership or ultimate managerial decision making authority regarding the control and investment performance of its property and assets. Nothing contained herein shall prohibit the Kentucky Higher Education Assistance Authority and the Higher Education Student Loan Corporation, either jointly or separately, from, in the usual and regular course of business, pledging or assigning their revenues and assets to: improve financial positions, secure obligations, satisfy pledge or trust agreements, or comply with an order of a court of competent jurisdiction.] (Veto #16)~~

### 3. EASTERN KENTUCKY UNIVERSITY

	2006-07	2007-08
General Fund	77,924,000	80,230,200
Restricted Funds	139,565,300	144,065,300
Federal Funds	57,172,800	57,172,800
TOTAL	274,662,100	281,468,300

(1) **Debt Service:** Included in the above General Fund appropriation is \$3,030,200 in fiscal year 2006-2007 and \$468,800 in fiscal year 2007-2008 for debt service for previously issued bonds.

(2) **Community Operations Board:** Included in the above General Fund appropriation is \$200,000 in fiscal year 2006-2007 and \$200,000 in fiscal year 2007-2008 to provide funds to the Community Operations Board for personnel and programmatic operations of the conferencing, meeting, and community areas, and the performing arts center located in Business/Technology Center, Phase II.

The Business/Technology Building, Phase II shall be governed by the Community Operations Board. The Community Operations Board shall consist of 13 members to be appointed as follows: Six by the President of Eastern Kentucky University, four by the Madison County judge/executive, two by the mayor of the City of Richmond, and one by the mayor of the City of Berea. Three of the members appointed by the President of Eastern Kentucky University will serve two year terms and three will serve a one year term. Two of the members appointed by the Madison County judge/executive will serve two year terms and two will serve a one year term. One member appointed by the mayor of the City of Richmond will serve a two year term and one will serve a one year term. The member appointed by the mayor of the City of Berea will serve a two year term. Members of the board will serve without compensation and will not be reimbursed for expenses incurred in performance of their duties. At the first meeting of the fiscal year, the board shall elect a chairman and a vice chairman. The board will establish policies and procedures for board operations and for facility use. ~~{ The board will make all decisions regarding use of the Business/Technology Building, Phase II including the conferencing and community areas and the performing arts center and will make all decisions regarding personnel and programmatic operations of the conferencing and community areas and the performing arts center. }~~ (Veto #17) The board is attached to Eastern Kentucky University for administrative purposes, and the university shall provide all facility maintenance and operations costs.

#### 4. KENTUCKY STATE UNIVERSITY

	2006-07	2007-08
General Fund	27,500,700	28,349,000
Restricted Funds	23,375,700	23,375,700
Federal Funds	14,296,000	14,296,000
TOTAL	65,172,400	66,020,700

(1) **Debt Service:** Included in the above General Fund appropriation is \$892,200 in fiscal year 2006-2007 and \$907,300 in fiscal year 2007-2008 for debt service for previously issued bonds.

(2) **Blazer Library:** Included in the above General Fund appropriation is \$500,000 in fiscal year 2006-2007 and \$500,000 in fiscal year 2007-2008 to purchase books and periodicals for Blazer Library.

#### 5. MOREHEAD STATE UNIVERSITY

	2006-07	2007-08
General Fund	45,462,600	48,697,600
Restricted Funds	62,467,400	62,754,000
Federal Funds	51,201,000	50,897,700
TOTAL	159,131,000	162,349,300

(1) **Debt Service:** Included in the above General Fund appropriation is \$1,409,500 in fiscal year 2006-2007 and \$495,500 in fiscal year 2007-2008 for debt service for previously issued bonds.

#### 6. MURRAY STATE UNIVERSITY

	2006-07	2007-08
General Fund	55,278,600	56,068,700
Restricted Funds	74,587,600	79,864,500
Federal Funds	14,886,900	14,886,900
TOTAL	144,753,100	150,820,100

(1) **Debt Service:** Included in the above General Fund appropriation is \$1,909,100 in fiscal year 2006-2007 for debt service for previously issued bonds.

#### 7. NORTHERN KENTUCKY UNIVERSITY

	2006-07	2007-08
General Fund	53,876,000	55,330,000

Restricted Funds	112,204,400	118,886,200
Federal Funds	14,331,400	14,331,400
<b>TOTAL</b>	<b>180,411,800</b>	<b>188,547,600</b>

(1) **Debt Service:** Included in the above General Fund appropriation is \$5,013,300 in fiscal year 2006-2007 and \$230,500 in fiscal year 2007-2008 for debt service for previously issued bonds.

(2) **Center for Mathematics:** Included in the above General Fund appropriation is \$1,000,000 in fiscal year 2006-2007 and \$1,500,000 in fiscal year 2007-2008 for the Center for Mathematics.

## 8. UNIVERSITY OF KENTUCKY

	<b>2006-07</b>	<b>2007-08</b>
General Fund	318,567,900	335,016,500
Restricted Funds	1,238,551,300	1,298,377,600
Federal Funds	171,613,900	177,404,300
<b>TOTAL</b>	<b>1,728,733,100</b>	<b>1,810,798,400</b>

(1) **Debt Service:** Included in the above General Fund appropriation is \$5,867,700 in fiscal year 2006-2007 and \$1,546,600 in fiscal year 2007-2008 for debt service for previously issued bonds for the University of Kentucky and \$754,900 in fiscal year 2006-2007 and \$398,900 in fiscal year 2007-2008 for debt service for previously issued bonds for Lexington Community College.

(2) **Adolescent Medicine and Young Parent Programs and Rape Crisis Center:** Included in the above General Fund appropriation is \$150,000 in fiscal year 2006-2007 and \$150,000 in fiscal year 2007-2008 for the Adolescent Medicine and Young Parent Programs and the Rape Crisis Center.

(3) **Cooperative Extension Agents:** The University of Kentucky is ~~is encouraged~~ (Veto #18) to provide funding in fiscal year 2006-2007 and fiscal year 2007-2008 to the Cooperative Extension Service to support the County Extension Enhancement Initiative. This initiative provides salary adjustments for County Extension Agents. These adjustments are in addition to any other salary adjustments which may be made.

(4) **Lexington Arboretum:** The University of Kentucky is encouraged to provide funding in fiscal year 2007-2008 for the arboretum.

(5) **Bath County Cooperative Extension:** The University of Kentucky is encouraged to provide funding in fiscal year 2007-2008 for the Bath County Cooperative Extension Education and Marketing Center.

(6) **Greenup County Cooperative Extension:** The University of Kentucky is encouraged to provide funding in fiscal year 2007-2008 for the Arts and Music program offered through the Greenup County Extension Service.

(7) **Center for Research on Violence Against Women:** Included in the above General Fund appropriation is \$150,000 in fiscal year 2006-2007 and \$150,000 in fiscal year 2007-2008 for the Center for Research on Violence Against Women.

(8) **Kentucky Geological Survey:** Included in the above General Fund appropriation is \$250,000 in fiscal year 2007-2008 from the General Fund portion of the Natural Gas Severance Tax after the statutory distribution required by KRS 42.450(2), and included in the above Restricted Funds appropriation is \$250,000 in fiscal year 2007-2008 from the Local Government Economic Development Fund, Multi-County Fund, for the Kentucky Geological Survey.

(9) **West Liberty Technical Center:** The University of Kentucky is encouraged to provide funding in fiscal year 2007-2008 for maintenance and operations of the West Liberty Technical Center.

## 9. UNIVERSITY OF LOUISVILLE

	<b>2006-07</b>	<b>2007-08</b>
General Fund	187,484,800	191,346,100
Restricted Funds	445,336,100	502,019,800
Federal Funds	136,481,300	156,953,600

TOTAL	769,302,200	850,319,500
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(1) **Debt Service:** Included in the above General Fund appropriation is \$10,951,200 in fiscal year 2006-2007 and \$3,791,500 in fiscal year 2007-2008 for debt service for previously issued bonds.

(2) **Quality and Charity Care Trust Agreement:** Included in the above General Fund appropriation is \$18,408,100 in fiscal year 2006-2007 and \$18,982,300 in fiscal year 2007-2008 to fulfill the Commonwealth's contractual obligation relating to indigent care furnished via the Quality and Charity Care Trust Agreement.

Notwithstanding KRS 45.229, the General Fund appropriation related to the Quality and Charity Trust Agreement in fiscal year 2006-2007 shall not lapse.

(3) **Saturday Academy Program:** The University of Louisville is encouraged to provide funding for the Saturday Academy Program.

(4) **Louisville Signature Partnership Program:** The University of Louisville is encouraged to provide funding for the Louisville Signature Partnership Program.

(5) **Equine Industry Program:** Included in the above General Fund appropriation is \$300,000 in fiscal year 2006-2007 and \$300,000 in fiscal year 2007-2008 for the Equine Industry Program.

#### 10. WESTERN KENTUCKY UNIVERSITY

	2006-07	2007-08
General Fund	80,224,200	86,396,200
Restricted Funds	175,046,300	183,059,600
Federal Funds	40,428,600	42,390,300
TOTAL	295,699,100	311,846,100

(1) **Debt Service:** Included in the above General Fund appropriation is \$3,171,000 in fiscal year 2006-2007 and \$1,280,600 in fiscal year 2007-2008 for debt service for previously issued bonds.

(2) **Kentucky Academy of Math and Science:** Included in the General Fund appropriation is \$500,000 in fiscal year 2006-2007 and \$2,800,000 in fiscal year 2007-2008 for operating costs of the Kentucky Academy of Math and Science.

#### 11. KENTUCKY COMMUNITY AND TECHNICAL COLLEGE SYSTEM

	2006-07	2007-08
General Fund	212,926,800	226,331,100
Restricted Funds	273,623,700	292,823,500
Federal Funds	144,916,100	153,070,400
TOTAL	631,466,600	672,225,000

(1) **Firefighters Foundation Program Fund:** Included in the above Restricted Funds appropriation is \$28,330,500 in fiscal year 2006-2007 and \$29,351,800 in fiscal year 2007-2008 for the Firefighters Foundation Program Fund. Notwithstanding KRS 95A.250(1), or the provisions of any other law, supplemental payments for each qualified professional firefighter under the Firefighters Foundation Program Fund shall be \$3,100 in fiscal year 2006-2007 and \$3,100 in fiscal year 2007-2008. Notwithstanding KRS 95A.200 to 95A.300, \$1,000,000 in fiscal year 2006-2007 and \$1,000,000 in fiscal year 2007-2008 from the Firefighters Foundation Program Fund is authorized to be expended on firefighter training, equipment, and support activities. Notwithstanding KRS 95A.200 to 95A.300, an additional \$750,000 in fiscal year 2006-2007 and \$1,000,000 in fiscal year 2007-2008 from the Firefighters Foundation Program Fund is authorized to be spent on a comprehensive physical aptitude test program for firefighters.

(2) **Firefighters Training Center Fund:** Notwithstanding KRS 95A.200 to 95A.265, \$500,000 in Restricted Funds is provided each fiscal year of the 2006-2008 fiscal biennium for the Firefighters Training Center Fund.

(3) **Health Care Coverage:** Included in the above General Fund appropriation is \$1,000,000 in fiscal year 2007-2008 for health care coverage for selected Kentucky Community and Technical College System employees. The University of Kentucky may recover up to \$1,000,000 in fiscal year 2007-2008 from the Kentucky Community and Technical College System for additional costs associated with providing health insurance coverage to those KCTCS employees who remain in the UK personnel system. Such recovery is allowed only to the extent that UK can provide documented proof that the cost of providing health insurance coverage for those KCTCS employees exceeds collected premiums minus deductions for discounts and rebates.

(4) **Salary Increases:** It is the intent of General Assembly that employees of KCTCS who are in the UK personnel system shall be treated the same with respect to compensation plans and salary increases implemented by KCTCS as all other employees of KCTCS; specifically, KCTCS shall not utilize the practice of providing lower salary increases to KCTCS employees who are in the UK personnel system by offsetting the money paid to UK for the cost of providing health insurance to these employees.

KCTCS shall make no distinction in compensation plans or salary increases among its employees based upon the personnel system to which they belong, except that KCTCS may make up the lower salary increases given in the past to those employees of KCTCS in the UK personnel system which were based upon reimbursing UK for the cost of providing health insurance.

(5) **Family Life Skills Center:** The Kentucky Community and Technical College System is encouraged to provide funds for the Family Life Skills Center at Hazard Community and Technical College - Lees College Campus.

~~[(6) **Conveyance of Property:** Notwithstanding KRS 164A.575 or KRS Chapter 45A, the Kentucky Community and Technical College System may convey fee simple title to certain of its real property located within the City of Covington, Kentucky, to the Gateway Community and Technical College Foundation, a Kentucky not-for-profit corporation, for future consideration as determined reasonable by the President of the Kentucky Community and Technical College System who is hereby authorized to execute all necessary documents and to take all necessary action to complete the foregoing conveyance.] (Veto #19)~~

(7) **Education Programs at Department of Corrections Facilities:** Included in the above General Fund appropriation is \$5,800,000 in fiscal year 2006-2007 and \$5,800,000 in fiscal year 2007-2008 for education programs at Department of Corrections Facilities. The Kentucky Community and Technical College System (KCTCS) shall continue to be the provider of educational services to the Department of Corrections (DOC). These services include adult basic education classes aimed toward acquiring a general education diploma (GED) and various technical trades aimed toward providing students with certifications and/or diplomas upon completing qualified examinations. The faculty and related staff shall remain employees of KCTCS. KCTCS shall determine curriculum which will facilitate transferability of credits to all Kentucky public postsecondary institutions. KCTCS faculty and related staff shall abide by all rules and regulations of the DOC to ensure that DOC's accreditation requirements and rehabilitation goals are met.

(8) **Maintenance and Operations of New Facilities:** Included in the above General Fund appropriation is \$267,800 in fiscal year 2006-2007 for maintenance and operation of new facilities coming on-line.

(9) **North American Racing Academy:** Included in the above General Fund appropriation is \$300,000 in fiscal year 2006-2007 for personnel to develop the North American Racing Academy.

#### **TOTAL - POSTSECONDARY EDUCATION**

	<b>2006-07</b>	<b>2007-08</b>
General Fund (Tobacco)	5,231,200	5,591,200
General Fund	1,280,801,100	1,377,191,000
Restricted Funds	2,590,413,000	2,747,973,400
Federal Funds	666,153,400	702,228,800
<b>TOTAL</b>	<b>4,542,598,700</b>	<b>4,832,984,400</b>

#### **L. TRANSPORTATION CABINET**

##### **Budget Units**

##### **1. GENERAL ADMINISTRATION AND SUPPORT**

<b>2006-07</b>	<b>2007-08</b>
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Restricted Funds	26,000	26,000
Road Fund	69,217,100	70,072,400
TOTAL	69,243,100	70,098,400

(1) **Biennial Highway Construction Programs:** The Secretary of Transportation is directed to produce a single document that contains two separately identified sections, as follows:

Section 1 shall detail the enacted fiscal biennium 2006-2008 Biennial Highway Construction Program and Section 2 shall detail the Highway Preconstruction Program Plan for fiscal year 2006-2007 through fiscal year 2011-2012 as identified by the 2006 General Assembly. This document shall mirror in data type and format the fiscal year 2004-2010 Recommended Six-Year Highway Plan as submitted to the 2004 General Assembly. The document shall be published and distributed to members of the General Assembly and the public within 60 days of adjournment of the 2006 Regular Session of the General Assembly.

No executive authority shall expend, or otherwise commit in any manner, available fiscal biennium 2006-2008 Road Fund resources for a project designated as a State Project in the fiscal year 2006-2007 through fiscal year 2011-2012 Highway Preconstruction Program Plan. In the event that federally funded projects contained in the enacted fiscal biennium 2006-2008 Biennial Highway Construction Program are delayed due to unforeseen circumstances, or if additional federal funds are received in excess of the amounts contemplated in this Act, the Transportation Cabinet may advance projects from the Highway Preconstruction Program Plan only to the extent required to assure that the Commonwealth makes full use of all available federal funds.

The Secretary of the Transportation Cabinet is further directed to report quarterly to the Interim Joint Committee on Appropriations and Revenue and the Interim Joint Committee on Transportation all activity, as prescribed by KRS 176.430, relating to all projects with open activity conducted by the Transportation Cabinet during the biennium including the year each project phase was enacted in a Six-Year Highway Plan. Pursuant to KRS 48.800(5), the Transportation Cabinet shall submit the electronic quarterly report in a format prescribed by the Legislative Research Commission.

Notwithstanding KRS 176.440(2), any project additions or modifications that the 2006 General Assembly may make to the fiscal year 2006-2012 Recommended Six-Year Road Plan shall carry the same force of law as projects that were included in the fiscal year 2006-2012 Recommended Six-Year Road Plan as submitted by the Executive Branch.

(2) **Debt Service:** Included in the above Road Fund appropriation is \$7,297,800 in fiscal year 2006-2007 and \$7,292,500 in fiscal year 2007-2008 for debt service on previously authorized bonds for the new Transportation Cabinet office building and parking structure.

(3) **Adopt-A-Highway Litter Program:** The Transportation Cabinet and Environmental and Public Protection Cabinet may receive, accept, and solicit grants, contributions of money, property, labor, or other things of value from any governmental agency, individual, nonprofit organization, or private business to be used for the Adopt-a-Highway Litter Program or other statewide litter programs. Any contribution of this nature shall be deemed to be a contribution to a state agency for a public purpose and shall be treated as Restricted Funds under KRS Chapter 45 and reported according to KRS Chapter 48, and shall not be subject to restrictions set forth under KRS Chapter 11A.

## 2. AVIATION

	2006-07	2007-08
Restricted Funds	197,000	172,000
Federal Funds	15,000	15,000
Road Fund	4,000,000	4,000,000
TOTAL	4,212,000	4,187,000

(1) **Operational Costs:** Notwithstanding KRS 183.525(5), the above Restricted Funds appropriation includes operational costs of the program in each fiscal year.

(2) **Aviation Projects:** The Transportation Cabinet, Aviation Development Program shall prioritize ~~and fund~~ (Veto #20) the following airport projects from appropriated Road Fund resources ~~in the designated fiscal year~~ (Veto #20) as included in the 2006-2012 Six Year Aviation Plan:

(a)	Bardstown-Nelson County Airport	\$1,200,000
(b)	Cynthiana-Harrison County Airport	\$500,000
(c)	Fleming-Mason Airport	\$2,000,000
(d)	Muhlenberg County Airport	\$1,000,000
(e)	Ohio County Airport	\$1,000,000
(f)	Big Sandy Regional Airport	\$2,500,000
(g)	Leitchfield-Grayson County Airport	\$1,000,000
(h)	Madison Airport	\$800,000
(i)	Lebanon-Springfield Airport	\$1,000,000
(j)	Tompkinsville-Monroe County Airport	\$1,000,000
(k)	Danville-Boyle County Airport	\$2,000,000
(l)	Muhlenberg County Airport	\$2,000,000
(m)	Henderson City County Airport	\$1,000,000
(n)	Russell County Airport	\$1,500,000
(o)	Powell County Airport	\$1,000,000
(p)	Ohio County Airport	\$1,500,000
(q)	Russellville-Logan County Airport	\$2,000,000
(r)	Falmouth-Pendleton County Airport	\$1,000,000

~~[(3) **Capital City Airport:** No appropriations for the Aviation budget unit or the Military Affairs budget unit shall be utilized for the purpose of studying, planning, or construction of additional runways for, or expansion of, the Capital City Airport.](Veto #21)~~

**(4) Use of Road Fund Resources:** The Cabinet may utilize an amount not to exceed \$10,000,000 of its annual Road Fund appropriations for the Department of Aviation, including but not limited to providing the above authorized financial aid to governmental units and local air boards for the development, construction, reconstruction, maintenance, and repair of airport runways, aprons, and taxiways at public airports and public use airports as defined in KRS 183.011(20) and (21).

**(5) Aviation Plan Project Report:** The Secretary of the Transportation Cabinet is directed to report quarterly to the Interim Joint Committee on Appropriations and Revenue and the Interim Joint Committee on Transportation all activity relating to all aviation projects with open activity conducted by the Transportation Cabinet during the biennium including the year each project phase was enacted in a Six Year Aviation Plan. The Transportation Cabinet shall submit the electronic quarterly report in a format prescribed by the Legislative Research Commission.

### 3. DEBT SERVICE

	2006-07	2007-08
Road Fund	162,710,200	181,143,200

**(1) Toll Road Lease-Rental Payments:** Included in the above Road Fund appropriation is \$205,100 in fiscal year 2006-2007 and \$80,000 in fiscal year 2007-2008 for toll road lease-rental payments.

**(2) Toll Road Termination:** The tolls on the Audubon Parkway and the Natcher Parkway shall be terminated during the first year of the biennium when the lease-rental payments on the toll roads are fully paid.

**(3) Resource Recovery Road Lease-Rental Payments:** Included in the above Road Fund appropriation is \$90,000 in fiscal year 2006-2007 and \$90,000 in fiscal year 2007-2008 for Resource Recovery Road lease-rental payments. The Secretary of the Transportation Cabinet shall use Road Fund resources to meet the lease-rental payments to the Kentucky Turnpike Authority for Resource Recovery Road projects in the amount certified by the Transportation Cabinet, pursuant to KRS 143.090. However, if Road Fund resources are not sufficient to meet lease-

rental payments, the additional amount required to meet the obligation shall be transferred from the proceeds of the tax levied on the severance or processing of coal by KRS 143.020.

**(4) Economic Development Road Lease-Rental Payments:** Included in the above Road Fund appropriation is \$146,119,100 in fiscal year 2006-2007 and \$148,381,200 in fiscal year 2007-2008 for Economic Development Road lease-rental payments relating to projects financed by Economic Development Road Revenue Bonds previously authorized by the General Assembly and issued by the Kentucky Turnpike Authority.

**(5) Economic Development Road Bond Debt Service:** Included in the above Road Fund appropriation is \$16,296,000 in fiscal year 2006-2007 and \$32,592,000 in fiscal year 2007-2008 for Economic Development Road lease-rental payments to the Turnpike Authority of Kentucky relating to projects financed by \$350,000,000 in Economic Development Road Revenue Bonds hereby authorized by the General Assembly to be issued in fiscal year 2006-2007 for payment of the cost of the Economic Development Road Projects.

**(6) Excess Lease-Rental Payments:** Any moneys not required to meet lease-rental payments or to meet the administrative costs of the Kentucky Turnpike Authority shall be transferred to the State Construction account.

**(7) Debt Payment Acceleration Fund Account:** Notwithstanding KRS 175.505, no portion of the revenues to the state Road Fund provided by the adjustments in KRS 138.220(2), excluding KRS 177.320 and 177.365, shall accrue to the Debt Payment Acceleration Fund account during the 2006-2008 fiscal biennium.

#### 4. HIGHWAYS

	2005-06	2006-07	2007-08
Restricted Funds	-0-	361,842,500	72,686,700
Federal Funds	30,085,900	654,147,700	675,013,800
Road Fund	-0-	667,409,400	670,193,200
Highway Bonds	-0-	350,000,000	-0-
TOTAL	30,085,900	2,033,399,600	1,417,893,700

**(1) Debt Service:** Included in the above Federal Funds appropriation is \$15,162,700 in fiscal year 2006-2007 and \$15,126,700 in fiscal year 2007-2008 for debt service on Grant Anticipation Revenue Vehicle (GARVEE) Bonds appropriated for this purpose in 2005 Ky. Acts, ch. 173, Part I, L., 4., (16) (HB 267).

**(2) New Grant Anticipation Revenue Vehicle (GARVEE) Debt Service:** Included in the above Federal Funds appropriation is \$34,963,000 in fiscal year 2006-2007 and \$34,963,000 in fiscal year 2007-2008 for GARVEE Bonds debt service payments relating to projects financed by \$290,000,000 in GARVEE Bonds hereby authorized by the General Assembly to be issued in fiscal year 2006-2007 for payment of the GARVEE Bond road projects.

**(3) State Supported Construction Programs:** Included in the above Road Fund appropriation is \$306,587,500 in fiscal year 2006-2007 and \$300,213,300 in fiscal year 2007-2008 for the State Supported Construction Program.

**(4) State Resurfacing Program:** Included in the State Supported Construction Program is \$80,402,200 in fiscal year 2006-2007 and \$87,320,000 in fiscal year 2007-2008 from the Road Fund for the State Resurfacing Program.

**(5) Biennial Highway Construction Program:** Included in the State Supported Construction Program is \$188,445,300 in fiscal year 2006-2007 and \$175,153,200 in fiscal year 2007-2008 from the Road Fund for state construction projects in the fiscal biennium 2006-2008 Biennial Highway Construction Program. Included in the above Road Fund appropriation is \$2,500,000 in fiscal year 2006-2007 and \$2,500,000 in fiscal year 2007-2008 to support the Kentucky Pride Fund created in KRS 224.43-505.

**(6) Kentucky Pride Fund Program Report:** The Environmental and Public Protection Cabinet shall provide to the Interim Joint Committee on Appropriations and Revenue and the Interim Joint Committee on Transportation a program and financial status report of all expenditures related to the Kentucky Pride Fund. The status report shall be provided to the Interim Joint Committee on Transportation no later than October 1 of each year.

**(7) Highway Construction Contingency Account:** Included in the State Supported Construction Program is \$37,740,000 in fiscal year 2006-2007 and \$37,740,000 in fiscal year 2007-2008 for the Highway Construction

Contingency Account. Included in the above Road Fund appropriation is \$2,500,000 in fiscal year 2006-2007 and \$2,500,000 in fiscal year 2007-2008 to support the Kentucky Pride Fund created in KRS 224.43-505.

**(8) 2006-2008 Biennial Highway Construction Plan:** Projects in the enacted 2004-2006 Biennial Highway Construction Plan are authorized to continue their current authorization into the 2006-2008 fiscal biennium.

**(9) Kentucky Transportation Center:** Notwithstanding KRS 177.320(4), included in the above Road Fund appropriation is \$290,000 in fiscal year 2006-2007 and \$290,000 in fiscal year 2007-2008 for the Kentucky Transportation Center.

**(10) New Highway Equipment Purchases:** Notwithstanding KRS 48.710(3), Restricted Funds are appropriated in the amounts of \$1,500,000 in fiscal year 2006-2007 and \$1,500,000 in fiscal year 2007-2008 from the sale of surplus equipment to purchase new highway equipment.

**(11) State Match Provisions:** The Transportation Cabinet is authorized to utilize state construction moneys or Toll Credits to match federal highway moneys.

**(12) Excess Debt Service/Lease-Rental Appropriations:** Any Road Fund appropriations that are not needed to pay lease-rental payments to the Kentucky Turnpike Authority or debt service on the Transportation Cabinet office building shall be credited to the State Construction Account.

**(13) Federal Aid Highway Funds:** If additional federal highway moneys are made available to Kentucky by the United States Congress, the funds shall be used according to the following priority: (a) Any demonstration-specific or project-specific money shall be used on the project identified; and (b) All other funds shall be used to ensure that projects in the fiscal biennium 2006-2008 Biennial Highway Construction Plan are funded. If additional federal moneys remain after these priorities are met, the Transportation Cabinet may select projects from the Four-Year Preconstruction Program.

**(14) Demonstration Projects:** The Transportation Cabinet is authorized to select up to ten design/build demonstration road related projects. Notwithstanding any conflicting provisions of KRS Chapters 45A, 176, and 177, for procurement purposes, the Transportation Cabinet shall utilize a qualifications-based bidding process within the context of the provisions of KRS Chapter 176. The Secretary of the Transportation Cabinet shall determine the nature and scope of each design/build project.

**(15) Road Fund Cash Management:** The Secretary of the Transportation Cabinet is authorized to continue the Cash Management Plan to address the policy of the General Assembly to expeditiously initiate and complete projects in the fiscal biennium 2006-2008 Biennial Highway Construction Plan. Notwithstanding KRS Chapter 45, specifically including KRS 45.242 and 45.244, the Secretary may concurrently advance projects in the Biennial Highway Construction Plan by employing management techniques that maximize the Cabinet's ability to contract for and effectively administer the project work. Under the approved Cash Management Plan, the Secretary is directed to continuously ensure that the unspent project and Road Fund balances available to the Transportation Cabinet are sufficient to meet expenditures consistent with appropriations provided.

**(16) Biennial Highway Construction Program:** In the event that federally funded projects contained in the enacted fiscal biennium 2006-2008 Biennial Highway Construction Program are delayed due to unforeseen circumstances, or if additional Federal Funds are received in excess of the amounts contemplated in this Act, the Transportation Cabinet may advance projects from the Highway Preconstruction Program Plan only to the extent required to ensure that the Commonwealth makes full use of all available Federal Funds.

**(17) Programmatic Adjustments:** The Secretary of the Transportation Cabinet is authorized to adjust the specific sums comprising the Highways appropriation programs enumerated above for the purposes of enhancing public safety, maximizing available Federal Funds, supporting economic development, and accelerating state construction projects.

**(18) Grant Anticipation Revenue Vehicle (GARVEE) Bonds:** Included in the above Restricted Funds appropriation is \$290,000,000 in fiscal year 2006-2007 for GARVEE Bond Funds.

**(19) Carry Forward of Appropriation Balances:** Notwithstanding KRS 45.229, unexpended Road Fund, Federal Funds, and Restricted Funds appropriations in the Highways budget unit for the Construction program, the Maintenance program, and the Research program in fiscal year 2005-2006 and fiscal year 2006-2007 shall not lapse and shall carry forward.

**(20) Road Fund Support for Aviation:** The Cabinet may utilize an amount not to exceed \$10,000,000 of its annual Road Fund appropriations for the Department of Aviation, including but not limited to providing financial aid

to governmental units and local air boards for the development, construction, reconstruction, maintenance, and repair of airport runways, aprons, and taxiways at public airports and public use airports as defined in KRS 183.011(20) and (21), as identified in Part I, L.2., Aviation, of this Act.

**(21) Paving and Rehabilitation:** The Kentucky Transportation Cabinet is encouraged to provide grading and paving rehabilitation efforts on I-64 from Grayson to the West Virginia border at the level equal to that accomplished on I-64 in Bath County, Rowan County, and the remainder of Carter County.

**(22) Interlocal Agreement:** Any local government may be permitted to enter into a cooperative agreement with the Transportation Cabinet to maintain traffic control devices on state maintained roads within the local government's jurisdiction and shall be reimbursed by the Transportation Cabinet for the actual cost of such maintenance. The agreement may permit local governments to make temporary repairs to state maintained road surfaces within the local government's jurisdiction and shall be reimbursed by the Transportation Cabinet for the actual cost of the temporary repairs.

**(23) Rest Area Closure:** Notwithstanding KRS 177.240, the Transportation Cabinet may close the following five rest area sites:

- (a) Hart County - One site located on I-65 southbound at milepost 55.1;
- (b) Hardin County - Two sites located on I-65 northbound and southbound at milepost 81.0;
- (c) Madison County - Two sites located on I-75 northbound and southbound at milepost 82.3.

**(24) Pavement Management:** The Secretary of the Transportation Cabinet may implement a Pavement Management Program to promote pavement preventive maintenance and maintain a higher level of pavement quality between resurfacing cycles. The Transportation Cabinet may expend an amount not to exceed \$8,000,000 for this purpose for the 2006-2008 biennium.

**(25) Miscellaneous Road Fund Projects:** The Transportation Cabinet may undertake the following miscellaneous road projects, using the suggested Road Fund allocations contained therein:

- (a) Campbell County Street Reconstruction: Reconstruct Chateau Drive in Dayton, Kentucky, for \$100,000 from the Highway Construction Contingency Account in fiscal year 2006-2007;
- (b) Clark County Resurfacing: Resurface KY 15 from milepost 0 to 4.216 near Crow Ridge Road in Clark County for \$280,000 from Road Fund resources in fiscal year 2006-2007;
- (c) Fayette County Traffic Control Device: Add a left turn signal to both sides of the traffic control signal at the intersection of Russell Cave Road and Asbury Lane in Lexington, Fayette County, Kentucky before November 2006, to be paid from Road Fund resources;
- (d) Fayette County Traffic Control Device: Install a traffic light at Helmsdale and Man-O-War for \$20,000 from Road Fund resources in fiscal year 2006-2007;
- (e) Fayette County Traffic Control Device: Install a traffic light at Todds Road and Autumn Ridge for \$20,000 from Road Fund resources in fiscal year 2006-2007;
- (f) Floyd County Traffic Control Device: Install a traffic control device on KY 80 at Duff Elementary School in Floyd County for \$20,000 from Road Fund resources in fiscal year 2006-2007;
- (g) Franklin County Tunnel Maintenance: Implement a tunnel clearance project adjacent to the Kentucky River for \$500,000 from the Highway Construction Contingency Account in fiscal year 2006-2007;
- (h) Hopkins County Sidewalks: Construct sidewalks on US 41, South Main Street in the City of Madisonville for \$390,000 from the Highway Construction Contingency Account in fiscal year 2007-2008;
- (i) Jefferson County, Louisville Kennedy Bridge: ~~[- The Transportation Cabinet shall]~~ (Veto #22) complete the painting of the Kennedy Bridge on Interstate 65 in Louisville, Kentucky within the current biennium;
- (j) Jefferson County Traffic Control Device: Install a traffic control device at the intersection of Rockford Lane and Dover Road in Jefferson County, Shively, Kentucky for \$25,000 from Road Fund resources in fiscal year 2006-2007;
- (k) Jefferson County Sound Barriers: ~~[- A sound barrier shall be]~~ (Veto #23) installed on the north side of I-264/Watterson Expressway from the west side of the Newburg Interchange going west 1,500 feet. ~~[- The cost related to~~

~~the installation of the sound barrier shall be funded for \$650,000 from the Highway Construction Contingency Account in fiscal year 2006-2007] (Veto #23);~~

(l) Jefferson County Bridge Preservation: Restore and reconstruct the historic bridge on Old Taylorsville Road over Chenoweth Run Creek, for \$210,000 from the Municipal Bond Pool;

(m) Jessamine County Resurfacing: Resurface KY 1541 from milepost 6.936 near Sulphur Well Road to KY 39 at milepost 9.668 near Logana Road in Jessamine County for \$136,000 from the Highway Construction Contingency Account in fiscal year 2006-2007;

(n) Kenton County Traffic Control Device: Install a traffic control device at the intersection of Oak and Adella in the City of Ludlow for \$20,000 from Road Fund resources in fiscal year 2006-2007;

(o) Menifee County Resurfacing: Resurface last 0.5 miles of Carrington Green Road at the Bath County line for \$10,000 from Road Fund resources in fiscal year 2006-2007;

(p) Rowan County Street and Parking Improvements: Improve streets and parking in the City of Morehead for \$150,000 from the Highway Construction Contingency Account in fiscal year 2006-2007;

(q) Russell County Guardrail Installation: Install approximately 500 feet of guardrail on KY 1058 between mile marker 2 and 3 in Russell County, to be paid from Road Fund resources;

(r) Russell County Bridge Replacement: Replace the bridge on Payne Road in Russell County for \$100,000 from Road Fund resources in fiscal year 2006-2007;

(s) Simpson County Resurfacing: Resurface Cedar Bluff Road in Simpson County beginning at US 31W to the Warren County line for \$110,000 from the Highway Construction Contingency Account in fiscal year 2006-2007;

(t) Simpson County Widening and Resurfacing: Widen and resurface Rapids-Hickory Flat Road in Simpson County for \$143,000 from the Highway Construction Contingency Account in fiscal year 2006-2007;

(u) Simpson County Widening and Resurfacing: Widen and resurface Neely Road in Simpson County for \$137,000 from the Highway Construction Contingency Account in fiscal year 2006-2007; and

(v) Simpson County Highway Access: Create an access point on the south side of KY 100 at 300 feet east of the intersection with US 31W in Simpson County, to be paid from Road Fund resources.

**(26) Louisville Bridges Project Plan Report:** The Secretary of the Transportation Cabinet shall submit to the Legislative Research Commission by December 1, 2006, a long-term planning report for the Louisville Bridges Project. The planning report shall include project strategy, timeline, projected and actual financial data, construction schedule, total cost and cost to complete, anticipated revenues, revenue sources, and the overall financial impact on state transportation funds of the Louisville Bridges Project with respect to the federally funded component and the state-funded component, over the life of the project. The Transportation Cabinet shall also submit to the Interim Joint Committee on Appropriations and Revenue and the Interim Joint Committee on Transportation a copy of the Initial Financial Plan at the same time as it files the plan with the Federal Highway Administration, but in no event later than December 31, 2006.

## 5. JUDGMENTS

**(1) Payment of Judgments:** Road Fund resources required to pay judgments shall be transferred from the State Construction Account at the time when actual payments must be disbursed from the State Treasury.

**(2) Carry Forward of Road Fund Appropriation Balance:** Notwithstanding KRS 45.229, any funds not expended by June 30, 2007, shall not lapse and shall carry forward.

## 6. PUBLIC TRANSPORTATION

	2006-07	2007-08
General Fund	7,703,400	5,203,400
Restricted Funds	555,700	555,700
Federal Funds	40,204,200	40,233,600
TOTAL	48,463,300	45,992,700

**(1) Toll Credits:** The Transportation Cabinet is authorized to maximize to the extent necessary the use of Toll Credits to match Federal Funds for transit systems capital grants.

(2) **Nonpublic School Transportation:** Included in the above General Fund appropriation is \$2,950,000 in fiscal year 2006-2007 and \$2,950,000 in fiscal year 2007-2008 for nonpublic school transportation.

(3) **State Match Provisions:** Included in the above General Fund appropriation is \$2,500,000 in fiscal year 2006-2007 to provide additional General Fund match resources to support increased grant expenditures related to federal funds for metropolitan public transit system. Notwithstanding KRS 45.229, this appropriation shall not lapse and shall carry forward.

## 7. REVENUE SHARING

	2005-06	2006-07	2007-08
Road Fund	11,858,400	241,886,100	244,276,700

(1) **County Road Aid Program:** (a) Included in the above Road Fund appropriation is \$91,417,600 in fiscal year 2006-2007 and \$92,249,300 in fiscal year 2007-2008 for the County Road Aid Program in accordance with KRS 177.320, 179.410, 179.415, and 179.440. Notwithstanding KRS 177.320(2), the above amounts have been reduced by \$38,000 in fiscal year 2006-2007 and \$38,000 in fiscal year 2007-2008 which has been appropriated to the Highways budget unit for the support of the Kentucky Transportation Center.

(b) Notwithstanding KRS 177.320(2), the above amounts have been reduced by \$6,039,000 in fiscal year 2006-2007 and \$8,784,000 in fiscal year 2007-2008 and appropriated in the Debt Service budget unit for the support of the \$350,000,000 of Highway Bonds authorized in Part I, L. Transportation, 4. Highways of this Act.

(2) **Rural Secondary Program:** (a) Included in the above Road Fund appropriation is \$110,900,200 in fiscal year 2006-2007 and \$111,909,100 in fiscal year 2007-2008 for the Rural Secondary Program in accordance with KRS 177.320, 177.330, 177.340, 177.350, and 177.360. Notwithstanding KRS 177.320(1), the above amounts have been reduced by \$46,000 in fiscal year 2006-2007 and \$46,000 in fiscal year 2007-2008 which has been appropriated to the Highways budget unit for the support of the Kentucky Transportation Center.

(b) Notwithstanding KRS 177.320(2), the above amounts have been reduced by \$7,326,000 in fiscal year 2006-2007 and \$10,656,000 in fiscal year 2007-2008 and appropriated in the Debt Service budget unit for the support of the \$350,000,000 of Highway Bonds authorized in Part I, L. Transportation, 4. Highways of this Act.

(3) **Municipal Road Aid Program:** (a) Included in the above Road Fund appropriation is \$38,465,300 in fiscal year 2006-2007 and \$38,815,300 in fiscal year 2007-2008 for the Municipal Road Aid Program in accordance with KRS 177.365, 177.366, and 177.369. Notwithstanding KRS 177.365(1), the above amounts have been reduced by \$16,000 in fiscal year 2006-2007 and \$16,000 in fiscal year 2007-2008 which has been appropriated to the Highways budget unit for the support of the Kentucky Transportation Center.

(b) Notwithstanding KRS 177.320(2), the above amounts have been reduced by \$2,541,000 in fiscal year 2006-2007 and \$3,696,000 in fiscal year 2007-2008 and appropriated in the Debt Service budget unit for the support of the \$350,000,000 of Highway Bonds authorized in Part I, L. Transportation, 4. Highways of this Act.

(4) **Energy Recovery Road Fund:** Included in the above Road Fund appropriation is \$1,103,000 in fiscal year 2006-2007 and \$1,303,000 in fiscal year 2007-2008 for the Energy Recovery Road Fund in accordance with KRS 177.977, 177.9771, 177.9772, 177.978, 177.979, and 177.981.

## 8. VEHICLE REGULATION

	2005-06	2006-07	2007-08
Restricted Funds	-0-	4,109,900	4,101,900
Federal Funds	-0-	3,285,500	285,500
Road Fund	947,300	17,396,100	18,269,900
TOTAL	947,300	24,791,500	22,657,300

## TOTAL - TRANSPORTATION CABINET

	2005-06	2006-07	2007-08
General Fund	-0-	7,703,400	5,203,400
Restricted Funds	-0-	366,731,100	77,542,300

Federal Funds	30,085,900	697,652,400	715,547,900
Road Fund	12,805,700	1,162,618,900	1,187,955,400
Highway Bonds	-0-	350,000,000	-0-
TOTAL	42,891,600	2,584,705,800	1,986,249,000

## PART II

### CAPITAL PROJECTS BUDGET

**(1) Capital Construction Fund Appropriations and Reauthorizations:** Moneys in the Capital Construction Fund are appropriated for the following capital projects subject to the conditions and procedures in this Act. Items listed without appropriated amounts are previously authorized for which no additional amount is required. These items are listed in order to continue their current authorization into the 2006-2008 fiscal biennium. Unless otherwise specified, reauthorized projects shall conform to the original authorization enacted by the General Assembly.

**(2) Expiration of Existing Line-Item Capital Construction Projects:** All appropriations to existing line-item capital construction projects expire on June 30, 2006, unless reauthorized in this Act with the following exceptions: (a) A construction contract for the project shall have been awarded by June 30, 2006; (b) Permanent financing or a short-term line of credit sufficient to cover the total authorized project scope shall have been obtained in the case of projects authorized for bonds, provided that the authorized project completes an initial draw on the line of credit within the biennium immediately subsequent to the original authorization; (c) Grant or loan agreements, if applicable, shall have been finalized and properly signed by all necessary parties. Notwithstanding the criteria set forth in this section, the disposition of 2004-2006 biennium nonstatutory appropriated maintenance pools funded from Capital Construction Investment Income shall remain subject to the provisions of KRS 45.770(4)(c); and (d) Any capital construction project authorized pursuant to actions approved by the 2005 General Assembly in House Joint Resolution 92 (2005 Ky. Acts ch. 170, Vol. Ia, Part II Coal Severance Tax Projects), unless otherwise provided for in this Act, is deemed to be reauthorized up to the total amount of receipts allocated to the single county account at the end of fiscal year 2005-2006. Notwithstanding the criteria set forth in this section, the disposition of 2004-2006 biennium nonstatutory appropriated maintenance pools funded from Capital Construction Investment Income shall remain subject to the provisions of KRS 45.770(4)(c).

**(3) New Bond Projects:** Bond projects authorized for the first time in this Part which have debt service supported by state General Fund appropriations are authorized in the first year of the biennium. The sale of bonds to finance four projects, Western Kentucky Veterans Center - Alzheimer's/General Care Unit, Acquire Land for Wendell H. Ford Regional Training Center, School Facilities Construction Commission Offers of Assistance, Louisville Arena, and Highway Bonds, shall occur after July 1, 2006.

The sale of bonds to finance the following projects shall occur after January 1, 2007:

- (a) KIA Infrastructure for Economic Development for Coal Producing Counties;
- (b) KIA Infrastructure for Economic Development for Non-Coal Producing Counties;
- (c) Community Development Projects;
- (d) Warren County Fiscal Court Transpark - Rail Spur and Infrastructure Improvements;
- ~~[(e) Animal Shelters;~~
- ~~[(f) Kentucky River Authority Locks and Dams Renovation and Maintenance Pool;~~
- ~~[(g) The Louisville Zoo - Glacier Run] (Veto #4)~~
- (h) New Horse Park Indoor Arena;
- (i) Rockcastle County Vocational and Technical Center;
- (j) Petroleum Underground Storage Tank;
- ~~[(k) CPE Capital Renewal and Maintenance Pool;] (Veto #4)~~
- (l) KCTCS - Franklin Technology Center Project Expansion; and
- (m) All Agency Bond funded projects.



The sale of all other bonds to finance the remaining projects shall occur after July 1, 2007.

**(4) Bond Proceeds Investment Income:** Investment income earned from bond proceeds beyond that which is required to satisfy Internal Revenue Service arbitrage rebates and penalties and excess bond proceeds upon the completion of a bond-financed capital project may be used to pay debt service according to the Internal Revenue Service Code and accompanying regulations. Notwithstanding KRS 48.010(13)(b), 48.720, or any section of this Act, any funds appropriated but not required to pay debt service because of this fund source substitution shall be credited to the Statewide Deferred Maintenance Fund account each year. Unneeded debt service resulting from any other circumstance shall lapse in accordance with KRS 48.010(13)(b), 48.720, and other provisions of this Act except for the following: if the fund balance in the Emergency Repair, Maintenance, and Replacement Fund falls below \$5,000,000 in fiscal year 2006-2007, any debt service lapse necessary to bring the fund balance to \$5,000,000 in that fiscal year shall be credited to the Emergency Repair, Maintenance, and Replacement Fund. No transfer to the Emergency Repair, Maintenance, and Replacement Fund, or the Statewide Deferred Maintenance Pool account, shall be made based on the above provisions if the lapse from other General Fund accounts is insufficient to meet appropriations approved in other Parts of this Act.

**(5) Appropriations for Projects Not Line-Itemized:** Inasmuch as the identification of specific projects in a variety of areas of the state government cannot be ascertained with absolute certainty at this time, amounts are appropriated for specific purposes to projects which are not individually identified in this Act in the following areas: Kentucky Infrastructure Authority Water and Sewer Projects; Kentucky River Authority Locks and Dams Renovation and Maintenance Pool; Repair of State-Owned Dams; Land Acquisition; Property Demolition; Guaranteed Energy Savings projects; Wetland and Stream Mitigation; Phase I Tobacco Settlement Agricultural Development Initiative; Community Development projects; Economic Development projects which shall include authorization for the High-Tech Construction Pool and the High-Tech Investment Pool; Infrastructure projects; ~~the Capital Renewal and Maintenance Bond; (Veto #4)~~ Pool; Heritage Land Conservation projects; Flood Control projects; the Parks Renovation Pool; Parks Development Pool; the Statewide Repair, Maintenance, and Replacement Pool; the Education Technology Pool; ~~the Postsecondary Education Institutions Technology and Equipment Pool; the Postsecondary Education Institutions Research Support/Lab Renovation and Equipment Pool;~~ (Veto #4) the Local District Health Departments Construction Pool; and University Major Items of Equipment Pools. Any projects estimated to cost over \$400,000 and equipment estimated to cost over \$100,000 shall be reported to the Capital Projects and Bond Oversight Committee. All moneys transferred to the Finance and Administration Cabinet for capital construction from any appropriations, including income from investments, shall be expended, accounted for, and otherwise treated in the same manner as funds appropriated directly to the Finance and Administration Cabinet for capital construction.

**(6) Jefferson County Medical Society:** Notwithstanding KRS Chapter 45A or any other statute or provision of the law to the contrary, the Commonwealth releases the Medical Foundation of Jefferson County Medical Society from its Promissory Note dated June 15, 1979, in the principal amount of \$110,000.

**(7) Executive Mansion Restoration:** In accordance with the process involved in previous renovations of the Executive Mansion and notwithstanding KRS 11.027, 41.290, 56.491, and 337.505 to 337.550, KRS Chapter 45A, or any other provision of law to the contrary, the Finance and Administration Cabinet is authorized to enter into an agreement with the Governor's Mansion Preservation Foundation (the foundation) concerning the renovation of the Executive Mansion. All design drawings for the renovation shall be inspected and approved by the Division of Historic Properties for the purpose of ensuring that the work and materials are consistent with the principles of historic preservation and in compliance with all applicable codes and regulations. All work shall be conducted under the supervision of the Finance and Administration Cabinet's Division of Historic Properties, and all such work shall become the property of the Commonwealth. The foundation shall have the authority to select contractors and service providers and to enter into contracts to purchase or receive donations of goods, materials, and services necessary to the renovation; provided, however, that payment and performance bonds in an amount deemed by the Secretary of the Finance and Administration Cabinet to be appropriate for the protection of the Commonwealth's interest therein shall be provided with respect to work performed on the Executive Mansion.

**(8) Bond Issues for Tobacco and Non-Coal Producing Counties:** Any authorized bond project from the Infrastructure for Economic Development Fund for Tobacco Counties, Water and Sewer Resource Development Fund for Tobacco Counties, and Infrastructure for Economic Development Fund for Non-Coal Producing Counties may be financed from any associated bond issue for the Infrastructure for Economic Development Fund for Tobacco Counties, Water and Sewer Resource Development Fund for Tobacco Counties, and Infrastructure for Economic Development Fund for Non-Coal Producing Counties.

## A. GENERAL GOVERNMENT

Budget Units	2006-07	2007-08
<b>1. VETERANS' AFFAIRS</b>		
001. Construct State Veterans Cemetery - Northeast Kentucky (Greenup County)		
General Fund	395,000	-0-
Federal Funds	-0-	8,300,000
TOTAL	395,000	8,300,000
002. Maintenance Pool		
Investment Income	100,000	100,000
003. Construct State Veterans Cemetery - Southeast Kentucky (Leslie County)		
General Fund	-0-	200,000
Federal Funds	-0-	6,000,000
TOTAL	-0-	6,200,000
004. Western Kentucky Veterans' Center - Alzheimer's/General Care Unit		
Bond Funds	1,757,000	-0-
<b>2. KENTUCKY INFRASTRUCTURE AUTHORITY</b>		
001. KIA Fund F - Drinking Water Revolving Loan Program		
Federal Funds	20,000,000	-0-
Bond Funds	4,000,000	-0-
TOTAL	24,000,000	-0-
002. KIA Fund A - Federally Assisted Wastewater Program		
Federal Funds	20,000,000	-0-
Bond Funds	4,000,000	-0-
TOTAL	24,000,000	-0-
003. Infrastructure for Economic Development Fund for Non-Coal Producing Counties		
Bond Funds	150,000,000	-0-
004. Infrastructure for Economic Development Fund for Coal-Producing Counties		
Bond Funds	100,000,000	-0-

**(1) Expenditure of Loan Repayments Cash Balances:** The Kentucky Infrastructure Authority is authorized to expend the cash balances from loan repayments on deposit at the trustee bank for financial assistance, in the form of low-interest loans, to governmental agencies for professional planning and preliminary engineering design work required for eligible Fund A wastewater projects.

005. City of Hindman - Water Line Improvements  
Reauthorization and Reallocation (\$88,888)

The above project is authorized from a reallocation from the Knott County Water and Sewer District - Ball Creek Water Project and Others in 2005 HJR 92 (2005 Ky. Acts ch. 170, Vol. Ia, Part II, Infrastructure for Economic Development Fund for Coal-Producing Counties, p. 1830).

### **3. MILITARY AFFAIRS**

001. Construct Joint Use Readiness Center Paducah

	Federal Funds	11,400,000	-0-
002.	Bluegrass Station Facility Maintenance Pool		
	Restricted Funds	2,500,000	2,500,000
003.	Acquire Land for Wendell H. Ford Regional Training Center		
	Bond Funds	4,500,000	-0-
004.	Upgrade DMA Statewide Radio System - Additional		
	Federal Funds	3,000,000	-0-
005.	Maintenance Pool		
	Investment Income	860,000	860,000
006.	Construct Warehouse - Bluegrass Station		
	Restricted Funds	375,000	-0-
	Federal Funds	1,125,000	-0-
	TOTAL	1,500,000	-0-
007.	Aircraft Maintenance Pool		
	Investment Income	500,000	500,000
<b>4.</b>	<b>GOVERNOR'S OFFICE FOR LOCAL DEVELOPMENT</b>		
001.	Owenton/Owen County Natural Gas Line Project		
	Bond Funds	5,000,000	-0-
002.	Flood Control Matching Fund/State Owned Dam Repair		
	General Fund	800,000	800,000
	Restricted Funds	700,000	700,000
	Investment Income	500,000	500,000
	TOTAL	2,000,000	2,000,000
003.	Warren County Fiscal Court - Transpark - Rail Spur		
	Bond Funds	4,500,000	-0-
004.	Leslie County Fiscal Court - Leslie County Six Volunteer Fire		
	Departments - Equipment and Operations		
	Reauthorization and Reallocation (\$120,000 Restricted Funds)		
The above project is authorized from a reallocation from the Leslie County Fiscal Court - Equipment and Operations project in 2005 Ky. Acts ch., 173, Part I, A., 9.,b.			
005.	Community Development Fund Projects		
	General Fund	20,650,800	8,453,000
	Bond Funds	75,658,000	-0-
	TOTAL	96,308,000	8,453,000
<del>006.</del>	<del>Louisville Zoo - Glacier Run</del>		
	<del>Bond Funds</del>	<del>6,000,000</del>	<del>0-</del> (Veto #4)
007.	Franklin County - Lease		
<b>5.</b>	<b>ATTORNEY GENERAL</b>		

001. Franklin County - Lease

**6. UNIFIED PROSECUTORIAL SYSTEM - COMMONWEALTH'S ATTORNEYS**

001. Jefferson County - Lease

**7. TREASURY**

001. Lease-Purchase of Xerox Laser Printers - Additional

Capital Construction Surplus	141,000	141,000
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**8. AGRICULTURE**

001. PACE - Agriculture Enhancement Fund - Additional

Federal Funds	3,600,000	3,600,000
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002. Large Scale Test Truck

Capital Construction Surplus	175,000	-0-
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003. Forage Testing Van

Capital Construction Surplus	115,000	-0-
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004. Fuels/Pesticides Testing Lab

General Fund	-0-	1,650,000
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~~[ 005. Animal Shelters~~

<del>Bond Funds</del>	<del>2,500,000</del>	<del>0-</del> (Veto #4)
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006. Franklin County - Lease

**9. KENTUCKY RETIREMENT SYSTEMS**

001. Kentucky Retirement Systems Line of Business Project

Restricted Funds	19,300,000	-0-
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002. Franklin County - Lease - Perimeter Park West

**10. BOARD OF NURSING**

001. Jefferson County - Lease

**11. KENTUCKY RIVER AUTHORITY**

001. Kentucky River Locks and Dams Maintenance and Renovations Pool

<del>Bond Funds</del>	<del>17,500,000</del>	<del>0-</del> (Veto #4)
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Agency Bond Funds	33,200,000	-0-
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Restricted Funds	4,600,000	-0-
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TOTAL	55,300,000	-0-
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**12. SCHOOL FACILITIES CONSTRUCTION COMMISSION**

001. Offers of Assistance

Bond Funds	100,000,000	-0-
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002. Additional Offers of Assistance

Bond Funds	50,000,000	-0-
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003. Urgent Needs School Trust Fund

Reauthorization (\$91,536,000 Bond Funds)

004. School Facilities Construction Commission

Reauthorization (\$73,300,000 Bond Funds)

005. Category 5 School Buildings  
 Reauthorization (\$24,071,600 Bond Funds)

### 13. TEACHERS' RETIREMENT SYSTEM

001. KTRS Pension Management System  
 Reauthorization (\$2,000,000 Restricted Funds)

## B. COMMERCE CABINET

Budget Units	2006-07	2007-08
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### 1. PARKS

~~[ 001. Parks Renovation Pool~~

<del>Bond Funds</del>	<del>8,000,000</del>	<del>0-</del>
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~~(1) Permitted Use of Funds: These Bond Funds may be used for any Department of Parks or Kentucky Horse Park Commission facility owned, leased, or maintained by the Commonwealth.] (Veto #4)~~

- |   |            |           |
|---|------------|-----------|
| 002. Parks Development Pool                         |            |           |
| Bond Funds  | 60,000,000 | -0-       |
| 003. Construct Convention Center E. P. "Tom" Sawyer |            |           |
| Other Funds   | 1,000,000  | -0-       |
| 004. Maintenance Pool                               |            |           |
| Investment Income                                   | 2,740,000  | 3,990,000 |

### 2. HORSE PARK COMMISSION

- |  |            |         |
|--|------------|---------|
| 001. Construct New Indoor Arena                    |            |         |
| Bond Funds   | 36,500,000 | -0-     |
| Other Funds  | 6,180,000  | -0-     |
| TOTAL  | 42,680,000 | -0-     |
| 002. Construct Hotel/Conference Center             |            |         |
| Other Funds  | 27,500,000 | -0-     |
| 003. Maintenance Pool                              |            |         |
| Investment Income                                  | 575,000    | 575,000 |
| 004. Construct Permanent Seating Stadium Jump Area |            |         |
| Reauthorization (\$1,000,000 Other Funds)          |            |         |

### 3. STATE FAIR BOARD

- |  |                      |                          |
|--|----------------------|--------------------------|
| 001. Replace Roof for the Pavilion           |                      |                          |
| Bond Funds                                   | 1,250,000            | -0-                      |
| 002. Maintenance Pool                        |                      |                          |
| Restricted Funds                             | 1,500,000            | 1,500,000                |
| <del>[ 003. Upgrade HVAC Systems</del>       |                      |                          |
| <del>Bond Funds</del>                        | <del>2,000,000</del> | <del>0-] (Veto #4)</del> |
| 004. Replace Paving from Gate 1 to Gate 2    |                      |                          |
| Reauthorization (\$900,000 Restricted Funds) |                      |                          |

005. Renovate KICC Pedway System  
Reauthorization (\$1,000,000 Restricted Funds)
006. Repave Parking Lots E, J, and Ashton - Adair  
Reauthorization (\$1,330,000 Restricted Funds)

#### 4. FISH AND WILDLIFE RESOURCES

001. Fees-in-Lieu-of Stream Mitigation Projects Pool		
Restricted Funds	5,000,000	5,000,000
002. Bullock Pen Lake Dam/Spillway Upgrade		
Restricted Funds	-0-	3,000,000
003. Land Acquisition Pool		
Restricted Funds	7,700,000	1,000,000
004. Water & Drain Line Replacement		
Restricted Funds	250,000	-0-
Federal Funds	750,000	-0-
TOTAL	1,000,000	-0-
005. Maintenance Pool		
Restricted Funds	400,000	400,000
006. Camp Currie Dining Hall Replacement		
Restricted Funds	720,000	-0-
007. Camp Webb Swimming Pool		
Restricted Funds	700,000	-0-
008. Boating/Fishing Access Pool		
Restricted Funds	300,000	300,000

#### 5. HISTORICAL SOCIETY

001. Kentucky History Center Security Upgrades		
Capital Construction Surplus	238,000	-0-
002. Perryville Battlefield		
Bond Funds	617,000	-0-

#### 6. KENTUCKY CENTER FOR THE ARTS

001. Maintenance Pool		
Investment Income	160,000	160,000

### C. ECONOMIC DEVELOPMENT CABINET

(1) **Economic Development Bond Issues:** Before any economic development bonds are issued, the proposed bond issue shall be approved by the Secretary of the Finance and Administration Cabinet and the State Property and Buildings Commission under KRS 56.440 to 56.590. In addition to the terms and conditions of KRS 154.12-100, administration of the Economic Development Bond Program by the Secretary of the Cabinet for Economic Development is subject to the following guideline: project selection shall be documented when presented to the Secretary of the Finance and Administration Cabinet. Included in the documentation shall be the rationale for selection and expected economic development impact.

Budget Units	2006-07	2007-08
1. SECRETARY		

## 001. New Economy High-Tech Construction/Investment Pool

Bond Funds	20,000,000	-0-
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**2. FINANCIAL INCENTIVES**

## 001. Economic Development Bond Pool

Bond Funds	17,500,000	-0-
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(1) **Purchase Regional Industrial Park:** Included in the above appropriation is \$2,500,000 for the Purchase Regional Industrial Park Authority to support land use and development at the Purchase Regional Industrial Park as approved by the Kentucky Economic Development Finance Authority.

**D. DEPARTMENT OF EDUCATION**

<b>Budget Unit</b>	<b>2006-07</b>	<b>2007-08</b>
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**1. OPERATION AND SUPPORT SERVICES**

## 001. Kentucky Education Network

Bond Funds	8,900,000	-0-
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The Secretary of the Education Cabinet, the Commissioner of the Department of Education, the President of the Council on Postsecondary Education, the Secretary of the Finance and Administration Cabinet, and the Executive Director of the Education Professional Standards Board shall submit a coordinated implementation plan with timelines and regular progress reports to the Interim Joint Committee on Appropriations and Revenue. All expenditures shall require the prior approval of the Secretary of the Finance and Administration Cabinet.

~~002. On Line Assessment~~

<del>Bond Funds</del>	<del>15,000,000</del>	<del>0-</del>
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~~003. Knowledge Management Portal~~

<del>Bond Funds</del>	<del>3,250,000</del>	<del>0- (Veto #4)</del>
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## 004. Student Information System

Bond Funds	10,000,000	-0-
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## 005. Maintenance Pool

Investment Income	675,000	675,000
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## 006. Rockcastle County Vocational and Technical Center

Bond Funds	1,500,000	-0-
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## 007. Education Technology Pool

Bond Funds	50,000,000	-0-
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## 008. Letcher County Central Vocational Center

Bond Funds	2,000,000	-0-
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**E. EDUCATION CABINET**

<b>Budget Units</b>	<b>2006-07</b>	<b>2007-08</b>
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**1. GENERAL ADMINISTRATION AND PROGRAM SUPPORT**

## 001. Maintenance Pool

Investment Income	300,000	300,000
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**2. KENTUCKY EDUCATIONAL TELEVISION**

## 001. Maintenance Pool

Investment Income	100,000	100,000
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002.	Replace Master Control and Production Infrastructure		
	Bond Funds	15,707,000	-0-
<b>3.</b>	<b>EMPLOYMENT AND TRAINING</b>		
001.	KEWES - Seibel Upgrade		
	Restricted Funds	550,000	-0-
	Federal Funds	600,000	-0-
	TOTAL	1,150,000	-0-
002.	KEWES - Appeals Upgrade		
	Restricted Funds	250,000	-0-
	Federal Funds	250,000	-0-
	TOTAL	500,000	-0-
003.	Replace HVAC System - Winchester Office of Employment and Training		
	Capital Construction Surplus	335,000	-0-
<b>4.</b>	<b>VOCATIONAL REHABILITATION</b>		
001.	Franklin County - Lease		
002.	Fayette County - Lease		

#### F. ENVIRONMENTAL AND PUBLIC PROTECTION CABINET

Budget Units	2006-07	2007-08
<b>1. GENERAL ADMINISTRATION AND PROGRAM SUPPORT</b>		
001. Kentucky Heritage Land Conservation Fund - Additional		
Restricted Funds	3,000,000	3,000,000
Federal Funds	1,000,000	1,000,000
TOTAL	4,000,000	4,000,000
002. Maintenance Pool		
Investment Income	200,000	200,000
<b>2. ENVIRONMENTAL PROTECTION</b>		
001. Hazardous Waste Management Fund - Additional		
Restricted Funds	2,100,000	2,100,000
002. State Funded Leaking Underground Storage Tanks - Additional		
Restricted Funds	500,000	500,000
003. Maxey Flats Construct Deep Well Monitoring		
Restricted Funds	500,000	-0-
004. Franklin County - Lease - Ash Building		
005. Franklin County - Lease - Schenkel Lane		
<b>3. MINE RECLAMATION AND ENFORCEMENT</b>		
001. Franklin County - Lease		
<b>4. PETROLEUM STORAGE TANK ENVIRONMENTAL ASSURANCE FUND</b>		
001. Petroleum Storage Tank Environmental Assurance Fund		
Bond Funds	25,000,000	-0-



**5. HOUSING, BUILDINGS AND CONSTRUCTION**

001. Franklin County - Lease

**6. INSURANCE**

001. Franklin County - Lease

**7. LABOR**

001. Franklin County - Lease - 657 Chamberlin Ave

002. Franklin County - Lease - U. S. 127

**G. FINANCE AND ADMINISTRATION CABINET**

<b>Budget Units</b>	<b>2006-07</b>	<b>2007-08</b>
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**1. GENERAL ADMINISTRATION**

001. Louisville Arena

Bond Funds	75,000,000	-0-
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(a) The \$75,000,000 of state-supported Bond Funds shall pay a portion of the cost to construct the Louisville Arena, a public project intended for multiple uses as a public, recreational, cultural, and sports facility. Bond funds authorized under this paragraph shall be conditioned upon the Louisville Arena Authority, Inc. conducting all business in accordance with the applicable provisions of KRS Chapter 45A, and with the provisions of the Kentucky Open Records Act (KRS 61.870 to 61.884) and the Kentucky Open Meetings Act (KRS 61.800 to 61.850). The provisions of KRS Chapter 11A shall apply to the Authority's directors, officers, and management and policymaking employees. All decisions regarding the issuance of bonds and whether bonds should be competitively bid or negotiated shall be made by the Authority in an open meeting.

(b) Bond Funds authorized under paragraph (a) shall be conditioned upon the execution of contracts or memorandum of understanding by the Louisville Arena Authority, Inc. and applicable parties to ensure the following:

1. Kentucky State Fair Board - Except as provided in subparagraph 2. below, the Kentucky State Fair Board shall be the sole, independent managing agent for the Louisville Arena and shall have complete authority over day-to-day operations, including but not limited to event attractions, scheduling, and coordination between the Arena and other facilities operated by the Fair Board, in accordance with general guidelines established or mutually modified by the Fair Board and the Authority. Any net-negative financial impact to the Kentucky State Fair Board operations resulting from the movement of existing events from current facilities to the new arena shall be reimbursed to the Kentucky State Fair Board during the life of the state bonds authorized herein; and

2. University of Louisville - The Authority shall agree to acceptable arrangements with the University for scheduling priorities for men's and women's basketball games and practices, sharing of catering and concession revenue, allocation and pricing of parking spaces, marketing and allocation of revenues from suites and premium seats, arena advertising, signage, banners and branding, ticket prices and surcharges, arena development team membership, other events and uses of the arena, rental rates, merchandise revenue sharing and such other matters as the Authority and the University deem appropriate. The contract or memorandum of understanding referred to in this subparagraph shall include any term or condition recommended by the Louisville Arena Task Force and may address any other term or condition mutually agreed upon by the University and the Authority.

(c) If the Arena is constructed at the location commonly known as the "LG&E site," it is not anticipated that a significant portion of the arena project costs will be borne by Louisville Gas & Electric. However, for purposes of transparency, if the Arena is constructed at the LG&E site, any portion of the costs associated with the purchase, relocation, demolition, or construction of buildings, structures, and equipment assumed by Louisville Gas & Electric shall be clearly delineated in the contractual agreement between Louisville Gas & Electric and the Arena Authority, its successor, or any other entity organized for the purpose of developing, financing, and constructing the Arena.

(d) If construction of the Arena is dependent upon construction of a floodwall or other flood control structures, the costs associated with such construction shall not be borne by Metropolitan Sewer District ratepayers.

(e) The conditions and contingencies imposed by paragraphs (a) through (d) above shall not be construed in any manner which may negatively impact the Louisville Arena Authority, Inc.'s ability to seek and receive tax-exempt status pursuant to 26 U.S.C. Section 501(c) and Treas. Reg. Section 1.501(c)(3)-1(d)(2).

(f) Any additional debt issued by any other entity other than the Commonwealth shall not constitute a debt of the Commonwealth or a pledge of the faith and credit of the Commonwealth. Nor shall any debt issued by any other entity other than the Commonwealth be deemed, directly or indirectly, to be a moral obligation of the Commonwealth. In no case shall the Commonwealth pay for any construction cost overruns or operating costs associated with the Louisville Arena.

## 2. FACILITIES AND SUPPORT SERVICES

001. Renovate Kentucky State Office Building - Additional		
Bond Funds	13,600,000	-0-
002. Capital Plaza Complex - Renovation and Design		
Bond Funds	4,942,000	-0-
003. Statewide Repair, Maintenance, and Replacement		
Bond Funds	10,000,000	-0-

(1) **Statewide Repair, Maintenance, and Replacement Pool Fund:** Included in the above Statewide Repair, Maintenance, and Replacement Pool Fund are the following Bond Funds supported projects and related appropriations in fiscal year 2006-2007:

(a) Facilities and Support Services Maintenance Pool, \$7,500,000;		
(b) Parks, Maintenance Pool, \$1,250,000; and		
(c) Justice and Public Safety Cabinet, Corrections Management, Maintenance		Pool,
\$1,250,000.		
004. Acquire Land/Demolish Structures Statewide - Additional		
Capital Construction Surplus	903,000	904,000
005. Governor's Mansion HVAC and Window Replacement - Additional		
Investment Income	90,000	-0-
006. Guaranteed Energy Savings Performance Contracts		

## 3. COMMONWEALTH OFFICE OF TECHNOLOGY

(1) **Transfer of Restricted Funds from Operating Budget:** For the major equipment purchases displayed in this section funded from Restricted Funds, it is anticipated that these funds shall be transferred from the Operating Budget as funds are available and needed.

001. Public Safety Commission Infrastructure - KEWS - Additional		
Federal Funds	16,166,000	-0-
Bond Funds	13,000,000	-0-
TOTAL	29,166,000	-0-
002. Data Center Readiness		
Bond Funds	1,400,000	-0-
003. KY Information Highway Expansion 06-08		
Restricted Funds	1,975,000	1,975,000
004. Enterprise Server (z/OS) Upgrade/Replacement		
Restricted Funds	800,000	400,000
005. Statewide Digital Orthoimagery Basemap Update 06-08		
Restricted Funds	500,000	500,000
006. Enterprise Applications Upgrade		
Restricted Funds	500,000	500,000

007.	Enterprise Project Management Information System		
	Restricted Funds	425,000	425,000
008.	Franklin County - Lease - Genesco Building Warehouse		
009.	Franklin County - Lease - 100 Fair Oaks		
010.	Disk Storage Upgrade		
	Reauthorization (\$800,000 Restricted Funds)		
011.	Enterprise Storage Solution		
	Reauthorization (\$2,000,000 Restricted Funds)		
012.	Enterprise Server Complex Upgrade		
	Reauthorization (\$2,500,000 Restricted Funds)		
013.	Enterprise UNIX Server(s) Consolidation		
	Reauthorization (\$3,300,000 Restricted Funds)		
014.	Statewide Digital Orthoimagery Basemap Update		
	Reauthorization (\$200,000 Restricted Funds, \$300,000 Federal Funds)		
015.	Enterprise Messaging		
	Reauthorization (\$660,000 Restricted Funds)		
016.	Kentucky Information Highway Upgrade Expansion		
	Reauthorization (\$3,500,000 Restricted Funds)		
017.	Enterprise Infrastructure Security		
	Reauthorization (\$1,000,000 Restricted Funds)		
018.	Disaster Recovery Phase I & II		
	Reauthorization (\$1,200,000 Restricted Funds)		

#### 4. REVENUE

001.	Implement a Comprehensive Tax System - Phase I		
	Bond Funds	23,250,000	-0-
002.	Motor Fuels Tax Automation		
	Federal Funds	1,250,000	-0-
	Road Fund	1,250,000	-0-
	TOTAL	2,500,000	-0-
003.	Franklin County - Lease - Perimeter Park West		
004.	Franklin County - Lease - 200 Fair Oaks		
005.	Franklin County - Lease - 100 Fair Oaks		

#### 5. KENTUCKY LOTTERY CORPORATION

001.	Potential Buyout of On-line Gaming System		
	Other Funds	12,250,000	-0-
002.	Data Processing, Telecomm., and Related Equipment		
	Other Funds	3,000,000	3,000,000
003.	Contingency on Property Adjacent to New Headquarters		

	Other Funds	4,000,000	-0-
004.	iSeries System Upgrades		
	Other Funds	1,000,000	-0-
005.	Network Storage and Associated Infrastructure		
	Other Funds	500,000	-0-

**H. HEALTH AND FAMILY SERVICES CABINET**

<b>Budget Units</b>	<b>2006-07</b>	<b>2007-08</b>
<b>1. GENERAL ADMINISTRATION AND PROGRAM SUPPORT</b>		
001. Safeguarding Children at Risk (TWIST Re-Write II) - Additional		
	Federal Funds	3,134,000 -0-
	Bond Funds	3,134,000 -0-
	TOTAL	6,268,000 -0-
<b>2. MENTAL HEALTH AND MENTAL RETARDATION SERVICES</b>		
001. Oakwood - Replace Chillers, Heating & Cooling Lines		
	Bond Funds	2,131,000 -0-
002. Maintenance Pool		
	Investment Income	1,500,000 1,500,000
003. Roof Pool		
	Capital Construction Surplus	700,000 -0-
004. Chiller Pool		
	Restricted Funds	400,000 -0-
005. Fayette County - Lease		
006. Franklin County - Lease		
007. Hazelwood Intermediate Care Facility		
	for the Mentally Retarded/Developmentally Disabled - Lease	
008. Eastern State Hospital - Lease		
<b>3. DISABILITY DETERMINATION SERVICES</b>		
001. Franklin County - Lease		
<b>4. COMMUNITY BASED SERVICES</b>		
001. Boone County - Lease		
002. Boyd County - Lease		
003. Johnson County - Lease		
004. Fayette County - Lease - Centre Parkway		
005. Shelby County - Lease		
006. Jefferson County - Lease		
007. Fayette County - Lease		
008. Kenton County - Lease - Madison Avenue		
009. Hardin County - Lease		
010. Campbell County - Lease		

011. Warren County - Lease

012. Kenton County - Lease

013. Home of the Innocents - Phase II Children's Village

Bond Funds	8,250,000	-0-
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(1) **Bond Issuance Contingency:** The amount of bond issuance shall be contingent upon equalizing matching funds being provided from other fund sources.

~~[ 014. Brooklawn Child and Family Services~~

<del>Bond Funds</del>	<del>2,000,000</del>	<del>0-</del>
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~~(2) **Brooklawn Child and Family Services:** The above appropriation shall be used to purchase houses and an apartment building for Brooklawn residents who have completed residential treatment.] (Veto #4)~~

## 5. PUBLIC HEALTH

001. Health Departments Infrastructure Pool

Bond Funds	10,000,000	-0-
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(1) **Health Departments Infrastructure Pool:** In order to address a portion of the construction and renovation needs of Local and District Health Departments, the Health Departments Infrastructure Pool is established. The Department for Public Health shall establish an application process to participate in this pool that shall require in-kind or matching funds from the local agency of not less than 25 percent of the grant requested. No individual grant from this pool shall exceed \$500,000. If the amount of bond funds available from the pool is not sufficient to cover all applications, the Department shall determine the distribution of pool assets.

## I. JUSTICE AND PUBLIC SAFETY CABINET

Budget Units	2006-07	2007-08
<b>1. CRIMINAL JUSTICE TRAINING</b>		
001. Maintenance Pool		
Restricted Funds	300,000	300,000
002. Thompson Hall HVAC		
Restricted Funds	400,000	-0-
<b>2. JUVENILE JUSTICE</b>		
001. Upgrade Safety and Repair Exterior NKYDC		
Emergency, Repair, Maintenance,		
and Replacement	1,700,000	-0-
002. Upgrade Fire Safety/Repair Morehead YDC		
Capital Construction Surplus	1,500,000	-0-
003. Maintenance Pool		
Investment Income	450,000	450,000
<b>3. STATE POLICE</b>		
001. Maintenance Pool		
Investment Income	300,000	300,000
<b>4. ADULT CORRECTIONAL INSTITUTIONS</b>		
001. Renovate Lonnie Watson Building - KCIW		
Bond Funds	1,697,000	-0-

## 002. Maintenance Pool

Investment Income	1,850,000	600,000
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**5. PUBLIC ADVOCACY**

## 001. Franklin County - Lease

**J. PERSONNEL CABINET****Budget Unit****1. GENERAL OPERATIONS**

## 001. Franklin County - Lease

**K. POSTSECONDARY EDUCATION**

~~[(1) — **Postsecondary Education Capital Renewal and Maintenance Pool Match:** The Capital Renewal and Maintenance Pool provides funding for individual projects at Kentucky's public postsecondary institutions to upgrade and replace building systems and infrastructure in education and general facilities. The individual projects funded from this pool shall be recommended by the Council on Postsecondary Education to the Secretary of the Finance and Administration Cabinet from the project listings previously identified by the Council. The Council shall determine the allocation of the Capital Renewal and Maintenance Pool among the postsecondary education institutions and report that allocation to the Secretary of the Finance and Administration Cabinet and the Legislative Research Commission's Capital Projects and Bond Oversight Committee. The Bond Funds in this pool shall be matched with the institutions' Restricted Funds at varying levels as determined by the Council on Postsecondary Education.] (Veto #4)~~

Budget Units	2005-06	2006-07	2007-08
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**1. COUNCIL ON POSTSECONDARY EDUCATION**~~[ — 001. Capital Renewal and Maintenance Pool~~

<del>Bond Funds</del>	<del>0</del>	<del>13,927,000</del>	<del>0</del> ] (Veto #4)
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## 002. Purchase KYVU/KYVL Electronic Data Bases

Restricted Funds	-0-	7,000,000	-0-
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## 003. Purchase KYVL Integrated Library System

Restricted Funds	-0-	4,000,000	-0-
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## 004. Purchase Interactive Television (ITV) System

Restricted Funds	-0-	800,000	-0-
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## 005. Purchase KYVU Centralized Hosting License

Restricted Funds	-0-	750,000	-0-
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## 006. Purchase KYVL Interlibrary Loan System

Restricted Funds	-0-	700,000	-0-
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## 007. Purchase KYVL Reference Desk Software

Restricted Funds	-0-	600,000	-0-
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## 008. KYVU/KYVL Statewide Software Licenses Pool

Restricted Funds	-0-	500,000	-0-
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## 009. Purchase Postsecondary Education Video Conference System

Restricted Funds	-0-	500,000	-0-
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## 010. Install Website ADA Compliance Restructuring

Restricted Funds	-0-	500,000	-0-
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## 011. Franklin County - Lease

<del>{ 012. Information Technology and Equipment Acquisitions</del>			
<del>Bond Funds</del>	<del>0</del>	<del>10,000,000</del>	<del>0</del>
<del>013. Research Support/Lab Renovation and Equipment</del>			
<del>Bond Funds</del>	<del>0</del>	<del>6,000,000</del>	<del>0 } (Veto #4)</del>
<b>2. KENTUCKY HIGHER EDUCATION STUDENT LOAN CORPORATION</b>			
001. Upgrade Information Technology Systems			
Federal Funds	-0-	671,000	-0-
002. Jefferson County - Lease			
<b>3. EASTERN KENTUCKY UNIVERSITY</b>			
<del>{ 001. Construct New Student Housing</del>			
<del>Agency Bonds</del>	<del>0</del>	<del>10,520,000</del>	<del>0</del>
<del>002. EKU UK Dairy Research Project (Meadowbrook Farm)</del>			
<del>Bond Funds</del>	<del>0</del>	<del>5,300,000</del>	<del>0 } (Veto #4)</del>
003. Arlington Renovation and Addition			
Other Funds	-0-	4,000,000	-0-
004. Library Studio for Academic Creativity			
Restricted Funds	-0-	-0-	1,500,000
005. Expand and Renovate Presnell Building - Additional Reauthorization (\$1,000,000 Restricted Funds)			
Restricted Funds	-0-	1,200,000	-0-
006. Expand Indoor Tennis Facility - Additional Reauthorization (\$1,000,000 Restricted Funds)			
Restricted Funds	-0-	100,000	-0-
007. Construct E & G Life Safety Begley Elevator Reauthorization (\$750,000 Restricted Funds)			
008. Guaranteed Energy Savings Performance Contracts			
009. Construct Science Building			
Bond Funds	-0-	54,108,000	-0-
010. Construct Manchester Postsecondary Education Center			
Bond Funds	-0-	3,500,000	-0-
<b>4. KENTUCKY STATE UNIVERSITY</b>			
001. Construct New Young Hall - Phase II			
Other Funds	-0-	-0-	6,500,000
002. Construct Center for Training & Learning			
Federal Funds	-0-	2,755,000	-0-
003. Upgrade Online Infrastructure			
Restricted Funds	-0-	2,190,000	-0-
004. Create Center for Families and Children			

## ACTS OF THE GENERAL ASSEMBLY

	Federal Funds	-0-	2,022,000	-0-
005.	Acquire Property Related to Master Plan			
	Restricted Funds	-0-	1,000,000	-0-
	Federal Funds	-0-	1,000,000	-0-
	TOTAL	-0-	2,000,000	-0-
006.	Roof Repair & Replacement Pool			
	Restricted Funds	-0-	1,520,000	-0-
	Federal Funds	-0-	400,000	-0-
	TOTAL	-0-	1,920,000	-0-
007.	Capital Renewal Pool			
	Restricted Funds	-0-	1,899,000	-0-
008.	Renovate Jackson Hall			
	Restricted Funds	-0-	140,000	-0-
	Federal Funds	-0-	1,488,000	-0-
	TOTAL	-0-	1,628,000	-0-
009.	Upgrade Online Security			
	Restricted Funds	-0-	1,500,000	-0-
010.	Expand Aquaculture Pond Facilities			
	Federal Funds	-0-	1,430,000	-0-
011.	Construct Aquaculture Production Tech Lab			
	Restricted Funds	-0-	1,000,000	-0-
	Federal Funds	-0-	200,000	-0-
	TOTAL	-0-	1,200,000	-0-
012.	Life Safety Upgrade Pool			
	Restricted Funds	-0-	1,040,000	-0-
013.	Replace Online Voice - Centrex			
	Restricted Funds	-0-	587,000	-0-
014.	Guaranteed Energy Savings Performance Contracts			
<del>015.</del>	<del>Expand and Renovate Betty White Nursing Building</del>			
	<del>Bond Funds</del>	<del>0</del>	<del>4,900,000</del>	<del>0</del> (Veto #4)
016.	Construct New Residence Hall			
	Other Funds	-0-	20,000,000	-0-
017.	Renovate Hathaway Hall, Phase II			
	Bond Funds	-0-	4,920,000	-0-
<del>018.</del>	<del>Construct Parking Structure</del>			
	<del>Agency Bonds</del>	<del>0</del>	<del>7,000,000</del>	<del>0</del> (Veto #4)

**5. MOREHEAD STATE UNIVERSITY**

001. Construct Center for Health, Education, and Research



	Bond Funds	-0-	23,000,000	-0-
002.	Renovate Jayne Stadium			
	Restricted Funds	-0-	8,400,000	-0-
003.	Construct East Kentucky Animal Science Center			
	Federal Funds	-0-	8,000,000	-0-
004.	Major Item of Equipment Pool			
	Restricted Funds	-0-	2,752,000	3,400,000
005.	Construct Kentucky Mountain Crafts Center			
	Restricted Funds	-0-	5,434,000	-0-
006.	Construct Law Enforcement Complex			
	Federal Funds	-0-	5,215,000	-0-
007.	Upgrade Instructional PCs/LANS/Peripherals			
	Restricted Funds	-0-	5,000,000	-0-
008.	Enhance Network/Infrastructure Resources			
	Restricted Funds	-0-	4,750,000	-0-
009.	Renovate McClure Pool Area			
	Restricted Funds	-0-	4,715,000	-0-
010.	Renovate John Sonny Allen Field			
	Restricted Funds	-0-	4,166,000	-0-
011.	Replace Power Plant Pollution Control System			
	Restricted Funds	-0-	3,540,000	-0-
012.	Capital Renewal Pool - E&G			
	Restricted Funds	-0-	3,480,000	-0-
013.	Renovate Button Auditorium			
	Restricted Funds	-0-	3,000,000	-0-
014.	Upgrade Administrative Office Systems			
	Restricted Funds	-0-	2,500,000	-0-
015.	Acquire Land Related to Master Plan			
	Restricted Funds	-0-	2,000,000	-0-
016.	Construct Softball Facility/Lighting Project			
	Restricted Funds	-0-	1,700,000	-0-
017.	Comply with ADA - E&G			
	Restricted Funds	-0-	850,000	850,000
018.	Capital Renewal Pool -Auxiliary			
	Restricted Funds	-0-	1,618,000	-0-
019.	Upgrade and Expand Distance Learning			
	Restricted Funds	-0-	1,500,000	-0-
020.	Expand Student Wellness Center			

	Restricted Funds	-0-	1,200,000	-0-
021.	Comply with ADA - Auxiliary			
	Restricted Funds	-0-	600,000	600,000
022.	Replace Boiler Tubes			
	Restricted Funds	-0-	800,000	-0-
023.	Reconstruct Central Campus			
	Restricted Funds	-0-	780,000	-0-
024.	Enhance Library Automation Resources			
	Restricted Funds	-0-	670,000	-0-
025.	Expand Life Safety Claypool-Young Building			
	Restricted Funds	-0-	600,000	-0-
026.	Renovate Molecular Biology Student Lab			
	Restricted Funds	-0-	474,000	-0-
027.	Guaranteed Energy Savings Performance Contracts			
028.	Construct Equine Hospital			
	Restricted		1,069,000	-0-
<del>029.</del>	<del>Construct Student Recreation Center</del>			
	<del>Agency Bonds</del>	<del>0</del>	<del>17,000,000</del>	<del>0</del>
<del>030.</del>	<del>Renovate Student Housing Facilities</del>			
	<del>Agency Bonds</del>	<del>0</del>	<del>10,000,000</del>	<del>0</del> ] (Veto #4)
031.	Space Science Center - Completion			
	Bond Funds	-0-	3,400,000	-0-
<del>032.</del>	<del>Construct Business Continuance Datacenter</del>			
	<del>Bond Funds</del>	<del>0</del>	<del>2,500,000</del>	<del>0</del> ] (Veto #4)

**6. MURRAY STATE UNIVERSITY**

001.	New Residential College - Richmond Hall			
	Agency Bonds	-0-	13,077,000	-0-
002.	Capital Renewal E&G Pool			
	Restricted Funds	-0-	12,457,000	-0-
003.	Administrative Enterprise Resource Planning System			
	Restricted Funds	-0-	8,000,000	-0-
004.	Capital Renewal H&D Pool			
	Restricted Funds	-0-	5,445,000	-0-
005.	Renovate Pogue Library			
	Restricted Funds	-0-	4,000,000	-0-
006.	Renovate Ordway Hall			
	Restricted Funds	-0-	3,962,000	-0-
007.	ADA Compliance E&G Pool			

	Restricted Funds	-0-	3,092,000	-0-
008.	Centralized Technology Refresh Program			
	Restricted Funds	-0-	2,600,000	-0-
009.	Telephone Switching System - Additional			
	Reauthorization (\$1,525,000 Restricted Funds)			
	Restricted Funds	-0-	1,975,000	-0-
010.	Renovate White Hall HVAC System			
	Restricted Funds	-0-	1,000,000	-0-
011.	Campus Backbone 10 GigE Upgrade			
	Restricted Funds	-0-	775,000	-0-
012.	Construct Open-Sided Stall Barn at Expo Center			
	Restricted Funds	-0-	770,000	-0-
013.	ADA Compliance H&D Pool			
	Restricted Funds	-0-	615,000	-0-
014.	Life Safety Projects E&G Pool			
	Restricted Funds	-0-	590,000	-0-
015.	Central Processing Computer System Upgrade			
	Restricted Funds	-0-	522,000	-0-
016.	Online Centralized Data Access/Warehouse			
	Restricted Funds	-0-	520,000	-0-
017.	Acquire Land			
	Restricted Funds	-0-	501,000	-0-
018.	Renovate A. Carman Pavilion - Phase II			
	Restricted Funds	-0-	500,000	-0-
019.	Renovate Wells Hall Interior			
	Restricted Funds	-0-	500,000	-0-
020.	Construct Public Safety Building- Additional			
	Reauthorization (\$1,500,000 Restricted Funds)			
	Restricted Funds	-0-	500,000	-0-
021.	Life Safety Projects H&D Pool			
	Restricted Funds	-0-	300,000	-0-
022.	Abate Asbestos H&D Pool			
	Restricted Funds	-0-	276,000	-0-
023.	Guaranteed Energy Savings Performance Contracts			
024.	Construct New Science Complex - Phase III			
	Bond Funds	-0-	15,000,000	-0-
<del>025.</del>	<del>Replace Franklin Hall</del>			
	<del>Agency Bonds</del>	<del>0</del>	<del>13,077,000</del>	<del>0</del>

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<del>026. Renovate Curris Center T Room</del>			
<del>Agency Bonds</del>	<del>0</del>	<del>750,000</del>	<del>0-1 (Veto #4)</del>

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**7. NORTHERN KENTUCKY UNIVERSITY**

## 001. Construct New Student Union

Agency Bonds	-0-	17,360,000	-0-
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## 002. Acquire New Residence Hall

Restricted Funds	-0-	10,000,000	-0-
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## 003. Construct Alumni Welcome Center

Other Funds	-0-	7,800,000	-0-
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## 004. Relocate Master Plan Infrastructure

Restricted Funds	-0-	6,130,000	-0-
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## 005. Acquire Land/Campus Master Plan

Restricted Funds	-0-	6,000,000	-0-
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## 006. Construct Track and Field Stadium

Other Funds	-0-	5,500,000	-0-
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## 007. Construct Soccer Stadium

Restricted Funds	-0-	5,500,000	-0-
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## 008. Major Item of Equipment Pool

Restricted Funds	-0-	5,410,000	-0-
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## 009. Construct Central Plaza Phase II

Restricted Funds	-0-	4,900,000	-0-
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## 010. Replace Power Distribution Infrastructure

Restricted Funds	-0-	4,800,000	-0-
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## 011. Repair Structural Floor Heaving/E&amp;G Buildings

Restricted Funds	-0-	4,000,000	-0-
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## 012. Enhance Instructional Information Technology

Restricted Funds	-0-	3,800,000	-0-
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## 013. E&amp;G Minor Projects Pool

Restricted Funds	-0-	3,200,000	-0-
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## 014. Enhance Information Technology Infrastructure

Restricted Funds	-0-	2,900,000	-0-
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## 015. Housing/Minor Projects Pool

Restricted Funds	-0-	2,200,000	-0-
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## 016. Replace Administrative Application System Phase II

Restricted Funds	-0-	2,000,000	-0-
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## 017. Construct Intramural Fields

Restricted Funds	-0-	1,900,000	-0-
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## 018. Replace E&amp;G Fire Alarm Systems

	Restricted Funds	-0-	1,400,000	-0-
019.	Relocate Early Childcare Center			
	Restricted Funds	-0-	1,000,000	-0-
020.	Replace Elevators Landrum Hall/Lucas Administrative Center			
	Restricted Funds	-0-	990,000	-0-
021.	Replace Air Handlers			
	Restricted Funds	-0-	980,000	-0-
022.	Restore Albright Health Center Roof			
	Restricted Funds	-0-	680,000	-0-
023.	Replace Business, Education, and Psychology Center Roof			
	Restricted Funds	-0-	680,000	-0-
024.	Enhance Softball Field			
	Restricted Funds	-0-	600,000	-0-
025.	Renovate University Center			
	Restricted Funds	-0-	600,000	-0-
026.	Kenton County - Lease			
027.	Guaranteed Energy Savings Performance Contracts			
028.	Construct Center for Informatics			
	Bond Funds	-0-	35,500,000	-0-
029.	Construct Parking Garage #3			
	Agency Bonds	-0-	15,400,000	-0-
<del>030.</del>	<del>Construct Student Housing</del>			
	<del>Agency Bonds</del>	<del>0</del>	<del>23,000,000</del>	<del>0</del>
<del>031.</del>	<del>Expand Norse Commons</del>			
	<del>Agency Bonds</del>	<del>0</del>	<del>1,400,000</del>	<del>0</del> (Veto #4)

**8. UNIVERSITY OF KENTUCKY**

001.	Construct Patient Care Facility Phase II - Hospital			
	Restricted Funds	-0-	25,000,000	-0-
	Agency Bonds	-0-	150,000,000	-0-
	TOTAL	-0-	175,000,000	-0-
002.	Construct Biological/Pharmaceutical Complex - Phase II			
	Bond Funds	-0-	79,892,000	-0-
003.	Major Item of Equipment Pool			
	Restricted Funds	-0-	195,164,000	-0-
	Federal Funds	-0-	3,100,000	-0-
	TOTAL	-0-	198,264,000	-0-
004.	Capital Renewal Pool Phase I			
	Restricted Funds	-0-	31,607,000	-0-

005.	Construct Outpatient Diagnostic/Treatment Facility II - Hospital			
	Restricted Funds	-0-	24,271,000	-0-
006.	Lease-Purchase ERP System - Phase II			
	Restricted Funds	-0-	20,000,000	-0-
007.	Expand Ambulatory Care Facilities - Hospital			
	Restricted Funds	-0-	20,000,000	-0-
008.	Construct Primary Care Center II - Hospital			
	Restricted Funds	-0-	17,237,000	-0-
009.	Replace Air Handling Unit I - Hospital			
	Restricted Funds	-0-	16,165,000	-0-
010.	Construct Patient Care Facility II - Hospital			
	Restricted Funds	-0-	15,909,000	-0-
011.	Acquire Land			
	Restricted Funds	-0-	15,000,000	-0-
012.	Construct Facilities Support Building - Hospital			
	Restricted Funds	-0-	14,728,000	-0-
013.	Medicine/Dentistry Building - Design			
	Restricted Funds	-0-	14,000,000	-0-
<del>014.</del>	<del>Expand and Upgrade LDDC Phase II</del>			
	<del>Bond Funds</del>	<del>0</del>	<del>13,500,000</del>	<del>0</del> (Veto #4)
015.	Construct Remote Cancer Clinic - Hospital			
	Restricted Funds	-0-	12,880,000	-0-
016.	Construct Cancer Urgent Treatment Facility - Hospital			
	Restricted Funds	-0-	12,728,000	-0-
017.	Lease-Purchase Telephone Switch Convergence			
	Restricted Funds	-0-	12,000,000	-0-
018.	Construct Outpatient Care Facility II - Hospital			
	Restricted Funds	-0-	11,157,000	-0-
019.	Construct Outpatient Services III - Hospital			
	Restricted Funds	-0-	10,775,000	-0-
020.	Construct Cancer Infusion Suites - Hospital			
	Restricted Funds	-0-	10,688,000	-0-
021.	Construct Imaging Facility - Hospital			
	Restricted Funds	-0-	10,079,000	-0-
022.	Upgrade/Modify Coldstream Facilities			
	Restricted Funds	-0-	10,000,000	-0-
023.	Renovate Lab & Support Space in Medical Science			
	Restricted Funds	-0-	9,500,000	-0-

024.	Renovate Lab for Coatings & Surface Inspection			
	Restricted Funds	-0-	8,000,000	-0-
025.	Upgrade Critical Care Center HVAC - Hospital			
	Restricted Funds	-0-	7,649,000	-0-
026.	Install Steam Line BBSRB - Old Main Gate Pit			
	Restricted Funds	-0-	6,865,000	-0-
027.	Install Steam Line - Taylor to Transportation Building			
	Restricted Funds	-0-	6,725,000	-0-
028.	Upgrade the Vivarium in Sanders Brown Building			
	Restricted Funds	-0-	3,360,000	-0-
	Federal Funds	-0-	3,360,000	-0-
	TOTAL	-0-	6,720,000	-0-
029.	Lease-Purchase High Performance Research Computer			
	Restricted Funds	-0-	6,500,000	-0-
030.	Construct Library Depository Facility			
	Restricted Funds	-0-	2,915,000	-0-
	Federal Funds	-0-	3,500,000	-0-
	TOTAL	-0-	6,415,000	-0-
031.	Expand Emergency Services - Hospital			
	Restricted Funds	-0-	6,100,000	-0-
032.	Renovate Facade - Agriculture Building North			
	Restricted Funds	-0-	6,100,000	-0-
033.	Construct Radiation Medicine Facility - Hospital			
	Restricted Funds	-0-	6,069,000	-0-
034.	Lease-Purchase UK/UofL/Frankfort Research Network			
	Restricted Funds	-0-	6,000,000	-0-
035.	Renovate Dietetics - Hospital			
	Restricted Funds	-0-	6,000,000	-0-
036.	Upgrade Cancer Center Radiologic Facility - Hospital			
	Restricted Funds	-0-	6,000,000	-0-
037.	Install Chilled Water Pipe to South Campus			
	Restricted Funds	-0-	6,000,000	-0-
038.	Replace Cooling Plant Chillers			
	Restricted Funds	-0-	6,000,000	-0-
039.	Purchase Clinical System Enterprise			
	Restricted Funds	-0-	5,800,000	-0-
040.	Add Centralized Emergency Generator			
	Restricted Funds	-0-	5,542,000	-0-

041.	Replace Steam and Condensate Pipe			
	Restricted Funds	-0-	5,500,000	-0-
042.	Install Steam Line Blazer to Singletary Center			
	Restricted Funds	-0-	5,275,000	-0-
043.	Construct Cancer Hospice Facility - Hospital			
	Restricted Funds	-0-	5,145,000	-0-
044.	Upgrade Pharmacy Fume Hood I - Life Safety			
	Restricted Funds	-0-	5,040,000	-0-
045.	Data Center - Design			
	Restricted Funds	-0-	5,000,000	-0-
046.	Renovate Research Space in Medical Science			
	Restricted Funds	-0-	5,000,000	-0-
047.	University Student Center - Design			
	Restricted Funds	-0-	5,000,000	-0-
048.	Expand Chemistry-Physics Building - Design			
	Restricted Funds	-0-	5,000,000	-0-
049.	Improve Central Heating Plant			
	Restricted Funds	-0-	4,860,000	-0-
050.	Modify Nursing Unit XII - Hospital			
	Restricted Funds	-0-	4,806,000	-0-
051.	Improve Life Safety Project Pool			
	Restricted Funds	-0-	4,650,000	-0-
052.	Purchase Patient System Enterprise			
	Restricted Funds	-0-	4,640,000	-0-
053.	Purchase Diagnostic Medical Record Expansion			
	Restricted Funds	-0-	4,640,000	-0-
054.	Renovate Imaging Center in Kentucky Clinic			
	Restricted Funds	-0-	4,590,000	-0-
055.	Expand Surgical Services - Hospital			
	Restricted Funds	-0-	4,545,000	-0-
056.	Expand Kastle Hall Vivarium			
	Restricted Funds	-0-	4,505,000	-0-
057.	Upgrade Surgical Services - Hospital			
	Restricted Funds	-0-	4,500,000	-0-
058.	Upgrade Electrical Substation			
	Restricted Funds	-0-	4,500,000	-0-
059.	Replace Fine Arts HVAC			
	Restricted Funds	-0-	4,500,000	-0-



060.	Expand CAER Laboratories			
	Restricted Funds	-0-	4,450,000	-0-
061.	Expand KGS Well Sample & Core Repository			
	Restricted Funds	-0-	4,310,000	-0-
062.	Upgrade Information Systems Services - Hospital			
	Restricted Funds	-0-	4,206,000	-0-
063.	Renovate Carnahan House			
	Restricted Funds	-0-	4,000,000	-0-
064.	Extend Virginia Avenue			
	Restricted Funds	-0-	4,000,000	-0-
065.	Renovate Labs in Pharmacy Building			
	Restricted Funds	-0-	2,000,000	-0-
	Federal Funds	-0-	2,000,000	-0-
	TOTAL	-0-	4,000,000	-0-
066.	Expand Operating Room Suites - Hospital			
	Restricted Funds	-0-	3,559,000	-0-
067.	Upgrade Diagnostic Radiology - Hospital			
	Restricted Funds	-0-	3,530,000	-0-
068.	Replace McVey Hall HVAC			
	Restricted Funds	-0-	3,520,000	-0-
069.	Lease-Purchase Campus Infrastructure Upgrade			
	Restricted Funds	-0-	3,500,000	-0-
070.	Lease-Purchase Large Scale Computing			
	Restricted Funds	-0-	3,500,000	-0-
071.	Upgrade HVAC II - Hospital			
	Restricted Funds	-0-	3,500,000	-0-
072.	Expand/Renovate CPST Facility			
	Restricted Funds	-0-	3,500,000	-0-
073.	Replace Central Facilities Management System			
	Restricted Funds	-0-	3,500,000	-0-
074.	Upgrade Fume Hoods TH Morgan - Life Safety			
	Restricted Funds	-0-	3,188,000	-0-
075.	Expand Ophthalmology Clinic - Hospital			
	Restricted Funds	-0-	3,100,000	-0-
076.	Replace Steam Line Lime Tunnel - Main Gate			
	Restricted Funds	-0-	3,100,000	-0-
077.	Replace HVAC Kastle Hall			
	Restricted Funds	-0-	3,100,000	-0-

078.	Construct Building Connectors III - Hospital			
	Restricted Funds	-0-	3,059,000	-0-
079.	Purchase Dentistry Patient Management System - Phase II			
	Restricted Funds	-0-	3,000,000	-0-
080.	Upgrade Global Ventilation Controls - Hospital			
	Restricted Funds	-0-	3,000,000	-0-
081.	Renovate Central Vivarium			
	Restricted Funds	-0-	1,500,000	-0-
	Federal Funds	-0-	1,500,000	-0-
	TOTAL	-0-	3,000,000	-0-
082.	Renovate Sections of Funkhouser			
	Restricted Funds	-0-	3,000,000	-0-
083.	Renovate Research Space Medical Center I			
	Restricted Funds	-0-	3,000,000	-0-
084.	Construct Radiation Medicine Facility II - Hospital			
	Restricted Funds	-0-	2,955,000	-0-
085.	Construct University Press Facility			
	Restricted Funds	-0-	2,950,000	-0-
086.	Upgrade Surgical Suite - Hospital			
	Restricted Funds	-0-	2,945,000	-0-
087.	Renovate Outpatient Clinic in Kentucky Clinic			
	Restricted Funds	-0-	2,930,000	-0-
088.	Replace HVAC Slone Building			
	Restricted Funds	-0-	2,917,000	-0-
089.	Purchase Upgrade - HIS Computing Facility			
	Restricted Funds	-0-	2,900,000	-0-
090.	Renovate Central Computing Facility			
	Restricted Funds	-0-	2,811,000	-0-
091.	Install Cooling Secondary Pumping			
	Restricted Funds	-0-	2,800,000	-0-
092.	Replace Steam Line Main Gate Pit and Anderson Pit			
	Restricted Funds	-0-	2,750,000	-0-
093.	Renovate DLAR Quarantine Facility at Spindletop			
	Restricted Funds	-0-	2,720,000	-0-
094.	Renovate Koinonia House			
	Restricted Funds	-0-	2,715,000	-0-
095.	Construct Alumni Drive Roundabouts			
	Restricted Funds	-0-	2,630,000	-0-

096.	Upgrade Fume Hood in Sanders Brown - Life Safety			
	Restricted Funds	-0-	2,600,000	-0-
097.	Purchase Computing Infrastructure Update			
	Restricted Funds	-0-	2,500,000	-0-
098.	Upgrade Outpatient Surgical Suite - Hospital			
	Restricted Funds	-0-	2,500,000	-0-
099.	Implement Land Use Plan IV - Hospital			
	Restricted Funds	-0-	2,500,000	-0-
100.	Renovate Parking Structure #3			
	Restricted Funds	-0-	2,500,000	-0-
101.	Renovate 3rd Floor Little Library			
	Restricted Funds	-0-	2,500,000	-0-
102.	Renovate Research Labs in Medical Center IV			
	Restricted Funds	-0-	2,500,000	-0-
103.	Replace Central Fire Alarm System			
	Restricted Funds	-0-	2,500,000	-0-
104.	Improve Spindletop Hall Facility Capital Renewal			
	Restricted Funds	-0-	2,450,000	-0-
105.	Multi-Care Clinic Building - Design			
	Restricted Funds	-0-	2,200,000	-0-
106.	Replace Chemistry Physics Ductwork			
	Restricted Funds	-0-	2,200,000	-0-
107.	Expand Animal Science Research Center Phase II - Design			
	Restricted Funds	-0-	2,200,000	-0-
108.	Replace Steam Line MC Htg - Hospital Drive Pit 2			
	Restricted Funds	-0-	2,114,000	-0-
109.	Expand Plant Capacity Infrastructure - Design			
	Restricted Funds	-0-	2,040,000	-0-
110.	Upgrade PACS System			
	Restricted Funds	-0-	2,000,000	-0-
111.	Replace Radiology Information System			
	Restricted Funds	-0-	2,000,000	-0-
112.	Upgrade Outpatient Services - Hospital			
	Restricted Funds	-0-	2,000,000	-0-
113.	Upgrade Clinical Services - Hospital			
	Restricted Funds	-0-	2,000,000	-0-
114.	Renovate Hospital Nursing Unit			
	Restricted Funds	-0-	2,000,000	-0-

115.	Expand Outpatient Radiology - Hospital			
	Restricted Funds	-0-	2,000,000	-0-
116.	Construct Physicians Services Facilities - Hospital			
	Restricted Funds	-0-	2,000,000	-0-
117.	Construct Cancer Education Facility - Hospital			
	Restricted Funds	-0-	2,000,000	-0-
118.	Upgrade Air Handling Units - Medical Center Campus			
	Restricted Funds	-0-	2,000,000	-0-
119.	Renovate Research Labs in Medical Center III			
	Restricted Funds	-0-	2,000,000	-0-
120.	Construct New Housing			
	Restricted Funds	-0-	2,000,000	-0-
121.	Renovate Taylor Education Building - Design			
	Restricted Funds	-0-	2,000,000	-0-
122.	Expand Cancer Infusion Suites			
	Restricted Funds	-0-	1,964,000	-0-
123.	Replace Air Handling Units in Research #1			
	Restricted Funds	-0-	1,935,000	-0-
124.	Construct University Conference Center			
	Restricted Funds	-0-	1,900,000	-0-
125.	Expand/Renovate Art Museum Singletary Center - Design			
	Restricted Funds	-0-	1,900,000	-0-
126.	Install Pollution Controls			
	Restricted Funds	-0-	1,900,000	-0-
127.	Implement Medication Bar Coding System			
	Restricted Funds	-0-	1,750,000	-0-
128.	Replace Master Clock and Bell System			
	Restricted Funds	-0-	1,750,000	-0-
129.	Renovate King Library South - 1962 Section			
	Restricted Funds	-0-	1,700,000	-0-
130.	Renovate Graduate Education & Research Space in Nursing			
	Restricted Funds	-0-	1,700,000	-0-
131.	Replace Steam Line Lime Tunnel - POT Tunnel			
	Restricted Funds	-0-	1,606,000	-0-
132.	Renovate Cooper House			
	Restricted Funds	-0-	1,600,000	-0-
133.	Improve Oswald Building			
	Restricted Funds	-0-	1,600,000	-0-

134.	Construct Horticultural Research & Education Facility			
	Restricted Funds	-0-	1,600,000	-0-
135.	Lease-Purchase Network Security Hardware			
	Restricted Funds	-0-	1,500,000	-0-
136.	Upgrade Utility Systems VI - Hospital			
	Restricted Funds	-0-	1,500,000	-0-
137.	Upgrade Diagnostic Services XI - Hospital			
	Restricted Funds	-0-	1,500,000	-0-
138.	Install Chilled Water Pipe - Cooling Plant 2 to Pit			
	Restricted Funds	-0-	1,500,000	-0-
139.	Renovate Research Labs in Medical Center I			
	Restricted Funds	-0-	1,500,000	-0-
140.	Renovate Dentistry Class Lab			
	Restricted Funds	-0-	1,475,000	-0-
141.	Replace Mathew's Building HVAC			
	Restricted Funds	-0-	1,438,000	-0-
142.	Renovate King Library South - 1930 Section Design			
	Restricted Funds	-0-	1,400,000	-0-
143.	Environmental Institute - Design			
	Restricted Funds	-0-	1,392,000	-0-
144.	Modify Nursing Unit XI - Hospital			
	Restricted Funds	-0-	1,390,000	-0-
145.	Upgrade Nutrition Services II - Hospital			
	Restricted Funds	-0-	1,278,000	-0-
146.	Renovate Imaging Center II			
	Restricted Funds	-0-	1,257,000	-0-
147.	Fit-up Gill Building Ground Floor - Hospital			
	Restricted Funds	-0-	1,250,000	-0-
148.	Construct UK Paducah Engineering Research Center			
	Restricted Funds	-0-	1,230,000	-0-
149.	Improve Storm Sewer Funkhouser			
	Restricted Funds	-0-	1,225,000	-0-
150.	Renovate Clinical Teaching Space in Nursing Building			
	Restricted Funds	-0-	1,220,000	-0-
151.	Install Fetal Monitoring Information System			
	Restricted Funds	-0-	1,200,000	-0-
152.	Lease-Purchase Enterprise Storage System			
	Restricted Funds	-0-	1,200,000	-0-

153.	Replace Air Handling Unit II - Roach			
	Restricted Funds	-0-	1,200,000	-0-
154.	Replace Air Handling Unit I - Roach			
	Restricted Funds	-0-	1,200,000	-0-
155.	Renovate COM Administrative Offices			
	Restricted Funds	-0-	1,200,000	-0-
156.	Improve Exterior Lighting Phase I			
	Restricted Funds	-0-	1,200,000	-0-
157.	Create Universal Nursing Unit - Hospital			
	Restricted Funds	-0-	1,180,000	-0-
158.	Purchase Managed Care Enterprise			
	Restricted Funds	-0-	1,160,000	-0-
159.	Replace Three Elevators MI King South			
	Restricted Funds	-0-	1,130,000	-0-
160.	Upgrade Communications Services - Hospital			
	Restricted Funds	-0-	1,126,000	-0-
161.	Upgrade Building Entrances Safety & Security			
	Restricted Funds	-0-	1,100,000	-0-
162.	Install Chilled Water Additions General Campus			
	Restricted Funds	-0-	1,100,000	-0-
163.	Purchase Communications Infrastructure in Young Library			
	Restricted Funds	-0-	1,014,000	-0-
164.	Implement Automated Bed Management System			
	Restricted Funds	-0-	1,000,000	-0-
165.	Upgrade Support Services II - Hospital			
	Restricted Funds	-0-	1,000,000	-0-
166.	Upgrade Diagnostic Services XII - Hospital			
	Restricted Funds	-0-	1,000,000	-0-
167.	Upgrade Transport Systems - Medical Center Campus			
	Restricted Funds	-0-	1,000,000	-0-
168.	Replace Agr. North Primary Electrical Service			
	Restricted Funds	-0-	1,000,000	-0-
169.	Lease-Purchase Fire Suppression Upgrade			
	Restricted Funds	-0-	1,000,000	-0-
170.	Construct Parking Structure - Central Campus			
	Restricted Funds	-0-	1,000,000	-0-
171.	Expand West KY Research & Education Center - Design			
	Restricted Funds	-0-	1,000,000	-0-

172.	Renovate College of Public Health Building - Design			
	Restricted Funds	-0-	1,000,000	-0-
173.	Renovate Reynolds Building - Design			
	Restricted Funds	-0-	1,000,000	-0-
174.	Parking Structure - North Campus - Design			
	Restricted Funds	-0-	1,000,000	-0-
175.	Renovate Barker Hall - Design			
	Restricted Funds	-0-	1,000,000	-0-
176.	Renovate Slone Building - Design			
	Restricted Funds	-0-	1,000,000	-0-
177.	Upgrade Sound System for the Singletary Center			
	Restricted Funds	-0-	1,000,000	-0-
178.	Fit-up Education Space in Health Science Building			
	Restricted Funds	-0-	1,000,000	-0-
179.	Renovate Bowman Hall - Design			
	Restricted Funds	-0-	1,000,000	-0-
180.	Lease-Purchase UPS System			
	Restricted Funds	-0-	941,000	-0-
181.	Replace Law Building Marble Facade			
	Restricted Funds	-0-	930,000	-0-
182.	Upgrade HVAC - CAER Phase III - Life Safety			
	Restricted Funds	-0-	910,000	-0-
183.	Upgrade Hospital Data Network			
	Restricted Funds	-0-	826,000	-0-
184.	Replace Hospital Mainframe Computer			
	Restricted Funds	-0-	800,000	-0-
185.	Implement PACS System in Hospital O. R.			
	Restricted Funds	-0-	800,000	-0-
186.	Expand Kentucky Clinic Network			
	Restricted Funds	-0-	800,000	-0-
187.	Purchase Upgrade for Servers			
	Restricted Funds	-0-	800,000	-0-
188.	Upgrade Building/Site IV - Hospital			
	Restricted Funds	-0-	800,000	-0-
189.	Upgrade Transport Systems V - Hospital			
	Restricted Funds	-0-	800,000	-0-
190.	Lease-Purchase UPS Upgrade for Communications			
	Restricted Funds	-0-	800,000	-0-

191.	Replace Steam Line Kastle - Chem/Phys Pit 28			
	Restricted Funds	-0-	775,000	-0-
192.	Replace High Voltage Wiring			
	Restricted Funds	-0-	775,000	-0-
193.	Purchase Data Storage Facility Upgrade			
	Restricted Funds	-0-	750,000	-0-
194.	Renovate Public Service Commission Building			
	Restricted Funds	-0-	750,000	-0-
195.	Repair Concrete Phase I General Campus			
	Restricted Funds	-0-	750,000	-0-
196.	Repair Blacktop Phase I General Campus			
	Restricted Funds	-0-	750,000	-0-
197.	Renovate Faculty Office Space in Medical Center			
	Restricted Funds	-0-	742,000	-0-
198.	Replace Holmes Elevator			
	Restricted Funds	-0-	740,000	-0-
199.	Upgrade Elevator Controls in Nursing Building			
	Restricted Funds	-0-	740,000	-0-
200.	Renovate Imaging Center I			
	Restricted Funds	-0-	706,000	-0-
201.	Implement On-Site Digital Radiology Archive			
	Restricted Funds	-0-	700,000	-0-
202.	Purchase Upgraded Integrated Library System			
	Restricted Funds	-0-	700,000	-0-
203.	Renovate Medical Records Suite I - Hospital			
	Restricted Funds	-0-	700,000	-0-
204.	Expand Data Systems III - Hospital			
	Restricted Funds	-0-	700,000	-0-
205.	Install Medical Center Chilled Water Loop			
	Restricted Funds	-0-	700,000	-0-
206.	Renovate Hospital Cafeteria			
	Restricted Funds	-0-	631,000	-0-
207.	Expand Hospital Data Storage			
	Restricted Funds	-0-	600,000	-0-
208.	Purchase Police Communications Equipment			
	Restricted Funds	-0-	600,000	-0-
209.	Lease-Purchase Unix Cluster			
	Restricted Funds	-0-	600,000	-0-



210.	Lease-Purchase Data Warehouse			
	Restricted Funds	-0-	600,000	-0-
211.	Replace Air Handling Unit Central Computing Facility			
	Restricted Funds	-0-	600,000	-0-
212.	Upgrade Pilot-Scale Mineral Process Facility			
	Restricted Funds	-0-	600,000	-0-
213.	Purchase PACS Data Storage Equipment & Software			
	Restricted Funds	-0-	500,000	-0-
214.	Purchase Data Storage Equipment & Software I			
	Restricted Funds	-0-	500,000	-0-
215.	Lease-Purchase Tape Library			
	Restricted Funds	-0-	500,000	-0-
216.	Install Emergency Generator Computing Facility			
	Restricted Funds	-0-	500,000	-0-
217.	Lab Security Systems Project Pool			
	Restricted Funds	-0-	500,000	-0-
218.	Improve Indoor Air Quality Phase I - Life Safety			
	Restricted Funds	-0-	500,000	-0-
219.	Abate Asbestos LC II - Life Safety			
	Restricted Funds	-0-	500,000	-0-
220.	Purchase Knowledge-Based Transcription			
	Restricted Funds	-0-	450,000	-0-
221.	Improve Accessibility Project Pool			
	Restricted Funds	-0-	437,000	-0-
222.	Purchase Consumer Web Interaction System			
	Restricted Funds	-0-	400,000	-0-
223.	Purchase Knowledge-Based Charting System			
	Restricted Funds	-0-	400,000	-0-
224.	Purchase Mainframe Computer			
	Restricted Funds	-0-	400,000	-0-
225.	Purchase Data Center Printers I			
	Restricted Funds	-0-	350,000	-0-
226.	Purchase Data Center Printers II			
	Restricted Funds	-0-	300,000	-0-
227.	Purchase Patient Classification Equipment			
	Restricted Funds	-0-	260,000	-0-
228.	Purchase Data Storage Equipment & Software II			
	Restricted Funds	-0-	250,000	-0-

229.	Purchase Telecommunications Equipment I			
	Restricted Funds	-0-	250,000	-0-
230.	Purchase Shared Desktop Environment			
	Restricted Funds	-0-	250,000	-0-
231.	Lease-Purchase Video Switch Expansion			
	Restricted Funds	-0-	250,000	-0-
232.	Purchase Telecommunications Equipment II			
	Restricted Funds	-0-	200,000	-0-
233.	Purchase Fiber Channel Network System			
	Restricted Funds	-0-	200,000	-0-
234.	Purchase Digital Media Distribution System			
	Restricted Funds	-0-	186,000	-0-
235.	Purchase Redundant Disk Server System			
	Restricted Funds	-0-	170,000	-0-
236.	Purchase GIS Remote Sensing Teaching Lab			
	Restricted Funds	-0-	160,000	-0-
237.	Purchase Network Infrastructure Restructuring			
	Restricted Funds	-0-	160,000	-0-
238.	Purchase Telecommunications Equipment III			
	Restricted Funds	-0-	150,000	-0-
239.	Purchase Data Storage Equipment & Software III			
	Restricted Funds	-0-	150,000	-0-
240.	Purchase IT Security Equipment II			
	Restricted Funds	-0-	150,000	-0-
241.	Purchase IT Security Equipment I			
	Restricted Funds	-0-	150,000	-0-
242.	Purchase Compressed Video - Hazard			
	Restricted Funds	-0-	141,000	-0-
243.	Purchase Integrated Imaging System			
	Restricted Funds	-0-	130,000	-0-
244.	Law School Building – Design			
	Other Funds	-0-	14,920,000	-0-
	Restricted Funds	-0-	6,000,000	-0-
	TOTAL	-0-	20,920,000	-0-
245.	Digital Technologies Building – Design			
	Other Funds	-0-	6,410,000	-0-
	Restricted Funds	-0-	4,200,000	-0-
	TOTAL	-0-	10,610,000	-0-

246.	Expand Pence Hall			
	Other Funds	-0-	4,300,000	-0-
247.	Construct Track and Field Facility			
	Other Funds	-0-	7,139,000	-0-
248.	Construct Hagan Baseball Stadium Clubhouse			
	Other Funds	-0-	4,000,000	-0-
249.	Renovate/Expand Boone Faculty Center			
	Other Funds	-0-	6,200,000	-0-
250.	Seal/Waterproof Commonwealth Stadium Concrete			
	Other Funds	-0-	2,500,000	-0-
251.	Install Scoreboards Memorial Coliseum/Hagan Stadium			
	Other Funds	-0-	1,500,000	-0-
252.	Replace Memorial Coliseum Playing Surface			
	Other Funds	-0-	725,000	-0-
253.	Paint Commonwealth Stadium Steel			
	Other Funds	-0-	750,000	-0-
254.	Renovate Soccer/Softball Facilities			
	Other Funds	-0-	1,400,000	-0-
255.	Renovate Practice Instruction Space in Pharmacy			
	Other Funds	-0-	1,000,000	-0-
	Restricted Funds	-0-	3,310,000	-0-
	TOTAL	-0-	4,310,000	-0-
256.	Renovate Memorial Coliseum			
	Other Funds	-0-	4,731,000	-0-
257.	Construct Commonwealth Stadium Suite Addition			
	Other Funds	-0-	2,300,000	-0-
258.	Construct New Alumni Center			
	Other Funds	-0-	17,344,000	-0-
259.	Gluck Equine Research Center – Phase II – Design			
	Other Funds	-0-	1,500,000	-0-
	Restricted Funds	-0-	2,000,000	-0-
	TOTAL	-0-	3,500,000	-0-
260.	KY Transportation Center Building – Phase I – Design			
	Other Funds	-0-	1,500,000	-0-
	Federal Funds	-0-	2,500,000	-0-
	TOTAL	-0-	4,000,000	-0-
261.	Expand Arboretum Visitor Center			
	Other Funds	-0-	2,870,000	-0-

262.	Biomedical Research Building – Design			
	Restricted Funds	-0-	7,600,000	-0-
263.	Renovate Student Center Food Court			
	Restricted Funds	-0-	1,643,000	-0-
264.	Renovate K-Lair Building			
	Restricted Funds	-0-	4,650,000	-0-
265.	Renovate SECAT Building at Coldstream			
	Restricted Funds	-0-	2,000,000	-0-
266.	Purchase Furniture and Equipment – Patient Care Facility			
	Restricted Funds	-0-	27,000,000	-0-
<del>267.</del>	<del>Install HVAC Keeneland Hall</del>			
	<del>Agency Bonds</del>	<del>0</del>	<del>7,013,000</del>	<del>0</del>
<del>268.</del>	<del>Renovate Blazer Hall Cafeteria</del>			
	<del>Agency Bonds</del>	<del>0</del>	<del>3,010,000</del>	<del>0</del> (Veto #4)
269.	Fayette County - Administrative - Office Lease			
270.	Fayette County - Health Affairs - Office Lease 2			
271.	Fayette County – Health Affairs - Office Lease 3			
272.	Fayette County - Health Affairs - Office Lease			
273.	Fayette County - Lease - Blazer Parkway			
274.	Fayette County - Lease - Med Center Contract			
275.	Fayette County - Lease - Med Center Off-Campus Facility			
276.	Fayette County - Lease - Med Center Grant Projects			
277.	Fayette County - Lease - Pharmacy Contracted Program			
278.	Fayette County - Lease - Med College Off - Campus Clinic			
279.	Fayette County - Lease - Kentucky Utilities Building			
280.	Guaranteed Energy Savings Performance Contracts			
<b>9.</b>	<b>UNIVERSITY OF LOUISVILLE</b>			
001.	Construct HSC Research Facility Phase III - Additional			
	Bond Funds	-0-	69,680,000	-0-
002.	Construct Center for Predictive Medicine			
	Federal Funds	-0-	22,200,000	-0-
	Agency Bonds	-0-	13,000,000	-0-
	TOTAL	-0-	35,200,000	-0-
003.	Renovate Ekstrom Library			
	Restricted Funds	-0-	22,081,000	-0-
004.	Capital Renewal Pool			
	Restricted Funds	-0-	22,000,000	-0-
005.	Major Item of Equipment Pool			

	Restricted Funds	-0-	100,000	1,700,000
	Federal Funds	-0-	7,501,000	3,290,000
	Other Funds	-0-	6,250,000	2,470,000
	TOTAL	-0-	13,851,000	7,460,000
006.	Expand & Renovate - Founders Union Building			
	Restricted Funds	-0-	12,190,000	-0-
007.	Utility Distribution - South Belknap Campus			
	Restricted Funds	-0-	6,821,000	-0-
008.	Construct Student Health Facility			
	Restricted Funds	-0-	6,650,000	-0-
009.	Renovate Kersey Library			
	Restricted Funds	-0-	4,630,000	-0-
010.	Renovate Medical School Tower - 55A, Phase II			
	Restricted Funds	-0-	4,225,000	-0-
011.	Purchase Digital Communications System			
	Restricted Funds	-0-	4,000,000	-0-
012.	Purchase Real Estate Near Health Sciences Campus - Parcel II			
	Restricted Funds	-0-	3,875,000	-0-
013.	Renovate Code Improvement Pool			
	Restricted Funds	-0-	3,191,000	-0-
014.	Purchase Networking System			
	Restricted Funds	-0-	3,000,000	-0-
015.	Purchase Enterprise Application System			
	Restricted Funds	-0-	2,000,000	-0-
016.	Purchase Computer Processing System			
	Restricted Funds	-0-	2,000,000	-0-
017.	Expand & Renovate Oppenheimer Hall - Additional Reauthorization (\$6,276,000 Restricted Funds)			
	Restricted Funds	-0-	1,654,000	-0-
018.	Purchase Electronic Research Information System			
	Restricted Funds	-0-	1,080,000	-0-
019.	Purchase Robotic Telescope System			
	Federal Funds	-0-	1,000,000	-0-
020.	Purchase Storage System			
	Restricted Funds	-0-	1,000,000	-0-
021.	Lease Digital Output System			
	Restricted Funds	-0-	1,000,000	-0-
022.	Lease-Purchase Visualization System			

	Restricted Funds	-0-	1,000,000	-0-
023.	Purchase Artificial Turf Practice Field Facility			
	Restricted Funds	-0-	750,000	-0-
024.	Housing Capital Renewal Pool			
	Restricted Funds	-0-	710,000	-0-
025.	Purchase Health Research Data System			
	Restricted Funds	-0-	700,000	-0-
026.	Renovate Natural Science Building - Additional Reauthorization (\$12,840,000 Restricted Funds)			
	Restricted Funds	-0-	540,000	-0-
027.	Shelby Campus Dormitories Demolition			
	Restricted Funds	-0-	436,000	-0-
028.	Purchase New Computers for CBPA			
	Restricted Funds	-0-	300,000	-0-
029.	Purchase PCs, Printers, Scanners			
	Restricted Funds	-0-	200,000	-0-
030.	Purchase Linux Cluster Computer System			
	Restricted Funds	-0-	125,000	-0-
031.	Renovate Chemistry Fume Hood Redesign, Phase II - Additional Reauthorization (\$4,534,000 Restricted Funds)			
	Restricted Funds	-0-	76,000	-0-
032.	Construct Athletic Academic Support Facility			
	Other Funds	-0-	5,000,000	-0-
033.	Construct Boathouse for Women's Rowing Program			
	Other Funds	-0-	2,947,000	-0-
034.	Construct Cardinal Club Golf Practice Facility			
	Other Funds	-0-	685,000	-0-
035.	Construct Diversity Center for Excellence			
	Other Funds	-0-	-0-	5,898,000
036.	Construct Executive MBA/Business Program			
	Other Funds	-0-	6,040,000	-0-
	Restricted Funds	-0-	20,500,000	-0-
	TOTAL	-0-	26,540,000	-0-
037.	Construct Glass and Visual Arts Research Center			
	Other Funds	-0-	3,015,000	-0-
038.	Construct Eastern Parkway Improvement			
	Restricted Funds	-0-	2,200,000	-0-
039.	Expand Tragar Field Hockey Stadium			

	Other Funds	-0-	3,200,000	-0-
040.	Expand and Renovate Dental School			
	Other Funds	-0-	2,000,000	-0-
	Restricted Funds	-0-	35,170,000	-0-
	TOTAL	-0-	37,170,000	-0-
041.	Purchase Support Service Land (Northeast Quad)			
	Restricted Funds	-0-	5,095,000	-0-
042.	Renovate PJCS Scoreboard/Video Replacement			
	Other Funds	-0-	1,800,000	-0-
043.	Renovate Life Sciences Building			
	Restricted Funds	-0-	18,240,000	-0-
<del>044.</del>	<del>Construct Basketball Practice Facility, Phase II</del>			
	<del>Agency Bonds</del>	<del>0</del>	<del>16,140,000</del>	<del>0</del>
<del>045.</del>	<del>Construct HSC Parking Structure II</del>			
	<del>Agency Bonds</del>	<del>0</del>	<del>26,113,000</del>	<del>0</del>
<del>046.</del>	<del>Renovate Miller Hall</del>			
	<del>Agency Bonds</del>	<del>0</del>	<del>11,541,000</del>	<del>0</del>
<del>047.</del>	<del>Renovate Medical/Dental Research Building, Phase IV</del>			
	<del>Agency Bonds</del>	<del>0</del>	<del>19,800,000</del>	<del>0</del> ] (Veto #4)
048.	Construct Utilities, Remove Overhead Lines			
	Reauthorization (\$3,194,000 Restricted Funds)			
049.	Expand Ambulatory Care Building Academic Addition			
	Reauthorization (\$43,061,800 Restricted Funds)			
050.	Purchase Real Estate Near HSC and Renovate Offices			
	Reauthorization (\$20,500,000 Restricted Funds)			
051.	Renovate Shelby Campus Infrastructure			
	Reauthorization (\$8,740,000 Restricted Funds)			
052.	Jefferson County - Lease			
053.	Medical Center One - Lease			
054.	Guaranteed Energy Savings Performance Contracts			
<b>10.</b>	<b>WESTERN KENTUCKY UNIVERSITY</b>			
001.	Renovate Academic/Athletic #2			
	Restricted Funds	-0-	2,000,000	-0-
	Agency Bonds	-0-	25,500,000	-0-
	Other Funds	-0-	1,000,000	-0-
	TOTAL	-0-	28,500,000	-0-
<del>002.</del>	<del>Renovate Science Campus Phase III</del>			
	<del>Bond Funds</del>	<del>0</del>	<del>9,000,000</del>	<del>0</del>

<del>003. Construct Materials Characterization/ICSET Phase II</del>			
<del>Bond Funds</del>	<del>0</del>	<del>4,500,000</del>	<del>0-] (Veto #4)</del>
004. Construct Agriculture Research Services Lab			
Federal Funds	-0-	22,825,000	-0-
005. Capital Projects Pool			
Restricted Funds	-0-	10,195,000	-0-
<del>006. Replace Building Ford College Business - Grise Hall, Phase I</del>			
<del>Bond Funds</del>	<del>0</del>	<del>5,800,000</del>	<del>0-] (Veto #4)</del>
007. Renovate Electrical Distribution - Phase V			
Restricted Funds	-0-	4,500,000	-0-
008. Renovate Downing University Center			
Restricted Funds	4,320,000	-0-	-0-
009. Renovation & Expansion of Carroll Knicely Center			
Restricted Funds	-0-	3,500,000	-0-
010. Replace Steam Line			
Restricted Funds	-0-	3,000,000	-0-
011. Purchase Property for Campus Expansion			
Restricted Funds	-0-	3,000,000	-0-
012. Upgrade IT Infrastructure			
Restricted Funds	-0-	2,000,000	-0-
013. Construct Central Reg. Postsecondary Education Center Phase II			
Restricted Funds	-0-	2,000,000	-0-
014. Renovate Environmental Science & Technology HVAC & Electrical System			
Restricted Funds	-0-	2,000,000	-0-
015. Renovate Academic Complex Phase I			
Restricted Funds	-0-	1,323,000	-0-
016. Renovate Agriculture Expo Center HVAC System			
Restricted Funds	-0-	930,000	-0-
017. Convert WKYU-NPR-and WKYU-PS to Digital			
Restricted Funds	-0-	500,000	-0-
018. Renovation of Faculty House			
Restricted Funds	-0-	500,000	-0-
019. Replace College of Education Building - Tate Page Hall			
Bond Funds	-0-	35,000,000	-0-
<del>020. Acquire Property and Construct Parking Lots</del>			
<del>Agency Bonds</del>	<del>0</del>	<del>4,000,000</del>	<del>0-</del>
<del>021. Expand Preston Center</del>			
<del>Agency Bonds</del>	<del>0</del>	<del>10,000,000</del>	<del>0-] (Veto #4)</del>



022.	Construct Mesonet Weather Monitoring System			
	Federal Funds	-0-	3,000,000	-0-
<del>[ 023.</del>	<del>Van Meter Hall Renovation</del>			
	<del>Agency Bonds</del>	<del>0</del>	<del>16,000,000</del>	<del>0</del>
<del>024.</del>	<del>Ivan Wilson Fine Arts Center Expansion</del>			
	<del>Agency Bonds</del>	<del>0</del>	<del>8,000,000</del>	<del>0 ] (Veto #4)</del>
025.	Guaranteed Energy Savings Performance Contracts			
<b>11.</b>	<b>KENTUCKY COMMUNITY AND TECHNICAL COLLEGE SYSTEM</b>			
001.	Advanced Manufacturing Technology Center - Gateway			
	Community and Technical College - Design			
	Bond Funds	-0-	28,000,000	-0-
002.	Construct Emerging Technology Center - West KY CTC			
	Bond Funds	-0-	16,518,000	-0-
003.	Construct Allied Health/Technical Education Building - Laurel Campus			
	Bond Funds	-0-	14,015,000	-0-
004.	Major Item of Equipment Pool			
	Restricted Funds	-0-	22,717,000	-0-
005.	Capital Renewal Pool			
	Restricted Funds	-0-	15,000,000	-0-
006.	Complete Acquisition of System Office & Expansion			
	Restricted Funds	-0-	10,000,000	-0-
007.	Land Acquisition Pool			
	Restricted Funds	-0-	5,500,000	-0-
008.	Construct Administration Building, Phase I - Maysville CC			
	Bond Funds	-0-	5,008,000	-0-
009.	Construct Licking Valley Center Phase II - Maysville CTC - Additional			
	Restricted Funds	-0-	3,459,000	-0-
<del>[</del>	<del>Bond Funds</del>	<del>0</del>	<del>1,000,000</del>	<del>0 ] (Veto #4)</del>
	Other Funds	-0-	1,500,000	-0-
	TOTAL	-0-	5,959,000	-0-
010.	Renovate Gray Building - Madisonville CC			
	Restricted Funds	-0-	3,600,000	-0-
011.	Renovate KY School of Craft - Hazard CTC			
	Restricted Funds	-0-	2,649,000	-0-
	Federal Funds	-0-	250,000	-0-
	TOTAL	-0-	2,899,000	-0-
012.	Construct Child Development Center - Henderson CC			
	Federal Funds	-0-	250,000	-0-

## ACTS OF THE GENERAL ASSEMBLY

	Other Funds	-0-	2,385,000	-0-
	TOTAL	-0-	2,635,000	-0-
013.	Renovate Anderson Building - West KY CTC			
	Restricted Funds	-0-	1,395,000	-0-
014.	Renovate Simulated Mine - Harlan Campus			
	Restricted Funds	-0-	1,380,000	-0-
015.	Greenspace Development - Big Sandy CTC Mayo Campus			
	Restricted Funds	-0-	1,083,000	-0-
016.	Renovate Administrative Building - Whitesburg Campus SEKYCTC			
	Restricted Funds	-0-	898,000	-0-
017.	Renovate Administrative Building - Elizabethtown CTC			
	Restricted Funds	-0-	850,000	-0-
018.	Master Plan Development & Upgrade Pool			
	Restricted Funds	-0-	850,000	-0-
019.	Pedestrian/Vehicular Connector - Somerset Community College - Additional			
	Restricted Funds	-0-	649,000	-0-
020.	Bluegrass CTC - Winchester Facility			
	Other Funds	-0-	500,000	-0-
021.	KCTCS Information Technology Infrastructure Upgrade Reauthorization (\$12,000,000 Restricted Funds)			
022.	Scott County - Lease			
023.	Woodford County -City of Versailles - Lease-Purchase			
024.	Jefferson County - Lease			
025.	Henderson County - Lease			
026.	Guaranteed Energy Savings Performance Contracts			
027.	Construct Science/Allied Health Building - Jefferson CTC			
	Bond Funds	-0-	25,557,000	-0-
028.	Construct Central Regional Postsecondary Education Center Phase II - Elizabethtown CTC			
	Bond Funds	-0-	20,000,000	-0-
029.	Madisonville Postsecondary Education Center - Design			
	General Fund	-0-	300,000	-0-
030.	Advance Manufacturing Center - Design - Bluegrass CTC			
	Bond Funds	-0-	1,500,000	-0-
031.	Franklin Technology Center - Expansion			
	Bond Funds	-0-	2,700,000	-0-
<del>032.</del>	<del>Construct Carrollton Campus - Jefferson CTC</del>			
	<del>Bond Funds</del>	<del>0</del>	<del>12,000,000</del>	<del>0</del> (Veto #4)

033.	Construct Tech Drive Campus, Phase III - Ashland CTC			
	Bond Funds	-0-	17,600,000	-0-
<del>034.</del>	<del>Energy and Advanced Technology Center - Madisonville CTC</del>			
	<del>Bond Funds</del>	<del>0</del>	<del>4,000,000</del>	<del>0</del> ] (Veto #4)
035.	Springfield Community and Technical College			
	Bond Funds	-0-	14,500,000	-0-
036.	McCreary Center - Somerset CC			
	Bond Funds	-0-	6,500,000	-0-
037.	Mercer County Technical Center			
	Bond Funds	-0-	4,000,000	-0-
<del>038.</del>	<del>Advanced Technology Center - Owensboro CTC</del>			
	<del>Bond Funds</del>	<del>0</del>	<del>14,055,000</del>	<del>0</del>
<del>039.</del>	<del>Rowan County Campus - Maysville CTC - Design</del>			
	<del>Bond Funds</del>	<del>0</del>	<del>1,500,000</del>	<del>0</del> ] (Veto #4)

#### L. TRANSPORTATION CABINET

Budget Unit	2006-07	2007-08
<b>1. GENERAL ADMINISTRATION AND SUPPORT</b>		
001. Kentucky State Parks Road Maintenance		
Road Fund	1,500,000	1,500,000
002. Horse Park Roads		
Road Fund	2,300,000	-0-
003. Various Environmental Compliance		
Road Fund	1,000,000	1,000,000
004. Repair Loadometer & Rest Areas		
Road Fund	900,000	600,000
005. Building Renovations & Emergency Repairs		
Road Fund	500,000	500,000
006. Construct Spencer County Maintenance Facility & Salt Storage Structure		
Road Fund	-0-	910,000
007. Construct Larue County Maintenance Facility & Salt Storage Structure		
Road Fund	-0-	910,000
008. Videologging Roadway Features System		
Federal Funds	640,000	-0-
Road Fund	160,000	-0-
TOTAL	800,000	-0-
009. Replace HVAC - Flemingsburg District Office		
Road Fund	800,000	-0-
010. HVAC Maintenance & Repair		

	Road Fund	400,000	400,000
011.	Construct or Repair Salt Storage Structures		
	Road Fund	225,000	225,000
012.	Purchase Lab Equipment		
	Road Fund	400,000	-0-
013.	Replace Overhead Doors and Emergency Repairs		
	Road Fund	200,000	200,000
014.	Construct Various Maintenance Facilities - Secondary Structures		
	Road Fund	150,000	150,000
015.	Painting & Roof Repair or Replacement		
	Road Fund	150,000	150,000
016.	Conduct Paving and Landscaping		
	Road Fund	100,000	100,000
017.	Water and Wastewater Projects		
	Road Fund	100,000	100,000
018.	Building Demolition & Disposal		
	Road Fund	100,000	-0-
019.	Remove Hazardous Materials		
	Road Fund	50,000	50,000

#### **M. COAL SEVERANCE TAX PROJECTS**

~~(1) — Projects Authorization and Appropriation:~~ Notwithstanding KRS 42.4588(2) and (4), the following projects are authorized and appropriated from Local Government Economic Development Fund moneys from the respective single county fund pursuant to KRS 42.4592 for public purposes in the following coal producing counties in the manner and amounts enumerated. These projects are determined by the General Assembly to be important to the furtherance of the public policy objectives and economic development purposes for which the Local Government Economic Development Program was established. The amounts appropriated are estimates. Actual expenditures and encumbrances shall be limited to the actual receipts realized and available in the respective single county fund. These amounts are comprised of estimated receipts for fiscal year 2006-2007 and fiscal year 2007-2008 in combination with prior unobligated balances in the respective single county funds. To the extent that a county that is authorized to proceed with a project enumerated below receives more single county Local Government Economic Development Fund moneys than are appropriated in this Act, the county may direct those funds to offset a cost overrun on any of the projects enumerated below upon approval of the Commissioner of the Governor's Office for Local Development.

~~(2) — Water and Sewer Projects:~~ The following projects that are related to water and sewer shall be administered by the Kentucky Infrastructure Authority.

#### **1. GENERAL GOVERNMENT**

~~a. — Budget Unit — Governor's Office for Local Development — 2006-07 — 2007-08~~

#### **Bell County**

<del>001.</del>	<del>Bell County Board of Education — Bell County</del>		
	<del>High School — Agriculture Advancement Council</del>		
	<del>for a No-Till Seeder</del>		
	<del>Restricted Funds</del>	<del>5,000</del>	<del>0-</del>
<del>002.</del>	<del>Bell County Board of Education — Projects</del>		
	<del>Restricted Funds</del>	<del>5,000</del>	<del>10,000</del>

003.	Bell County Fiscal Court – Bell County Homeless and Housing Council – Land and/or Supplies		
	Restricted Funds	10,000	10,000
004.	Bell County Fiscal Court – Bell County Industrial Foundation – Completion of Infrastructure		
	Restricted Funds	125,000	125,000
005.	Bell County Fiscal Court – Bell County Little League – Equipment and/or Field Improvements		
	Restricted Funds	5,000	5,000
006.	Bell County Fiscal Court – Bell County Public Library – Furnishing and Equipment		
	Restricted Funds	20,000	20,000
007.	Bell County Fiscal Court – Bell County Rescue Squad – Operations		
	Restricted Funds	10,000	10,000
008.	Bell County Fiscal Court – Bell County Senior Citizens – Operations		
	Restricted Funds	5,000	5,000
009.	Bell County Fiscal Court – Bell County Sheriff Department – Vehicles and/or Equipment		
	Restricted Funds	25,000	35,000
010.	Bell County Fiscal Court – Bell County Volunteer Fire Department – Construction of New Fire Station at Arjay		
	Restricted Funds	25,000	25,000
011.	Bell County Fiscal Court – County Clerk – Equipment		
	Restricted Funds	5,000	5,000
012.	Bell County Fiscal Court – Frakes Senior Citizens – Operations		
	Restricted Funds	2,500	2,500
013.	Bell County Fiscal Court – Middlesboro Little League and Tee Ball – Equipment and/or Field Improvement		
	Restricted Funds	5,000	5,000
014.	Bell County Fiscal Court – Projects and/or Equipment		
	Restricted Funds	325,000	390,000
015.	Bell County Fiscal Court – Red Bird Senior Citizens – Operations		

	<del>Restricted Funds</del>	<del>2,500</del>	<del>2,500</del>
<del>016.</del>	<del>Bell County Fiscal Court – The Lighthouse</del>		
	<del>Mission – Operations and/or Equipment</del>		
	<del>Restricted Funds</del>	<del>20,000</del>	<del>20,000</del>
<del>017.</del>	<del>Bell County Fiscal Court – Two New Ambulances</del>		
	<del>Restricted Funds</del>	<del>80,000</del>	<del>80,000</del>
<del>018.</del>	<del>City of Middlesboro – Fire Department – Turn</del>		
	<del>Out Gear</del>		
	<del>Restricted Funds</del>	<del>25,000</del>	<del>0</del>
<del>019.</del>	<del>City of Middlesboro – Police Department</del>		
	<del>and/or Equipment</del>		
	<del>Restricted Funds</del>	<del>25,000</del>	<del>0</del>
<del>020.</del>	<del>City of Middlesboro – Project and/or Equipment</del>		
	<del>Restricted Funds</del>	<del>25,000</del>	<del>25,000</del>
<del>021.</del>	<del>City of Pineville – Fire Department – Equipment</del>		
	<del>Restricted Funds</del>	<del>0</del>	<del>10,000</del>
<del>022.</del>	<del>City of Pineville – Projects and/or Equipment</del>		
	<del>Restricted Funds</del>	<del>30,000</del>	<del>0</del>
<del>023.</del>	<del>Middlesboro Board of Education – Projects</del>		
	<del>Restricted Funds</del>	<del>20,000</del>	<del>0</del>
<del>024.</del>	<del>Pineville Board of Education – Projects</del>		
	<del>Restricted Funds</del>	<del>20,000</del>	<del>0</del>
<del>025.</del>	<del>Bell County Board of Education – K-6 Little</del>		
	<del>League Football Equipment</del>		
	<del>Restricted Funds</del>	<del>5,000</del>	<del>0</del>
<del>026.</del>	<del>Pineville Independent School Board – Pineville</del>		
	<del>City Schools – K-6 Little League Football Equipment</del>		
	<del>Restricted Funds</del>	<del>5,000</del>	<del>0</del>
<del>027.</del>	<del>Middlesboro Independent School Board –</del>		
	<del>Middlesboro City Schools – K-6 Little League</del>		
	<del>Football Equipment</del>		
	<del>Restricted Funds</del>	<del>5,000</del>	<del>0</del>
<del>028.</del>	<del>Bell County Fiscal Court – Cemetery Fund –</del>		
	<del>Operations and/or Equipment</del>		
	<del>Restricted Funds</del>	<del>0</del>	<del>10,000</del>
<del>029.</del>	<del>Bell County Fiscal Court – PVA – Equipment</del>		
	<del>Restricted Funds</del>	<del>5,000</del>	<del>5,000</del>
<del>030.</del>	<del>Bell County Fiscal Court – Dewey Guy Post –</del>		

<del>Expense for Conducting Military Funerals</del>		
<del>Restricted Funds</del>	<del>5,000</del>	<del>0</del>
<del>031. Bell County Health Department – Equipment</del>		
<del>and/or Supplies</del>		
<del>Restricted Funds</del>	<del>5,000</del>	<del>5,000</del>
<del>032. Bell County Fiscal Court – The KY Homeplace –</del>		
<del>Equipment and/or Supplies</del>		
<del>Restricted Funds</del>	<del>5,000</del>	<del>5,000</del>
<del>033. Bell County Fiscal Court – Frakes Volunteer Fire</del>		
<del>Department – Operations and/or Equipment</del>		
<del>Restricted Funds</del>	<del>5,000</del>	<del>5,000</del>
<del>034. Bell County Fiscal Court – Airport Improvements</del>		
<del>Restricted Funds</del>	<del>0</del>	<del>10,000</del>
<del>035. Bell County Fiscal Court – Bell County Veterans</del>		
<del>Park – Construction of Restrooms</del>		
<del>Restricted Funds</del>	<del>5,000</del>	<del>0</del>
<del>036. City of Pineville – Police Department –</del>		
<del>Equipment / Vehicles</del>		
<del>Restricted Funds</del>	<del>0</del>	<del>20,000</del>

**Boyd County**

<del>001. Ashland Independent Board of Education –</del>		
<del>Facility Upgrades and Improvements</del>		
<del>Restricted Funds</del>	<del>40,000</del>	<del>40,000</del>
<del>002. Boyd County Board of Education – Facility</del>		
<del>Improvements and Upgrades – Boyd County</del>		
<del>Soccer Complex – Lights, Fencing and Other</del>		
<del>Related Enhancements and Improvements</del>		
<del>Restricted Funds</del>	<del>80,000</del>	<del>0</del>
<del>003. Boyd County Fiscal Court – Fair – Building and</del>		
<del>Ground Improvements</del>		
<del>Restricted Funds</del>	<del>0</del>	<del>10,000</del>
<del>004. Boyd County Fiscal Court – Fannin Park – Improvements</del>		
<del>Restricted Funds</del>	<del>0</del>	<del>10,000</del>
<del>005. Boyd County Fiscal Court – Fraley Fields – Improvements</del>		
<del>Restricted Funds</del>	<del>0</del>	<del>10,000</del>
<del>006. City of Catlettsburg – Infrastructure and Other Improvements</del>		
<del>Restricted Funds</del>	<del>0</del>	<del>26,004</del>
<del>007. Fairview Board of Education – Facility Upgrades</del>		

<del>and Improvements</del>		
<del>Restricted Funds</del>	<del>40,000</del>	<del>40,000</del>

**Breathitt County**

<del>001. Breathitt County Board of Education – Drain Tile</del>		
<del>for Landfill Between Breathitt County High School</del>		
<del>and Highway 15</del>		
<del>Restricted Funds</del>	<del>0</del>	<del>200,000</del>
<del>002. Breathitt County Board of Education – Purchasing,</del>		
<del>Remodeling and Improving Property of Montessori</del>		
<del>School Currently Owned by Buckhorn Childrens Home</del>		
<del>Restricted Funds</del>	<del>300,000</del>	<del>0</del>
<del>003. Breathitt County Fiscal Court – Hazard Community</del>		
<del>College/Lees College Campus – Breathitt County</del>		
<del>Intergenerational Center</del>		
<del>Restricted Funds</del>	<del>0</del>	<del>500,000</del>
<del>004. Breathitt County Water District – Canoe Water Line</del>		
<del>Restricted Funds</del>	<del>241,050</del>	<del>0</del>
<del>005. Buckhorn Water District – Water Line Extensions</del>		
<del>on Bowlings Creek Road and Bushes Branch Road</del>		
<del>Restricted Funds</del>	<del>241,050</del>	<del>0</del>
<del>006. City of Jackson – Doughitt Park</del>		
<del>Restricted Funds</del>	<del>50,000</del>	<del>0</del>
<del>007. Breathitt County Fiscal Court – Breathitt County</del>		
<del>Court Clerk's Office – Equipment</del>		
<del>Restricted Funds</del>	<del>25,000</del>	<del>0</del>
<del>008. Jackson Independent Board of Education – Jackson</del>		
<del>City School System – Science Lab, PE Lockers, and</del>		
<del>Other School Equipment</del>		
<del>Restricted Funds</del>	<del>100,000</del>	<del>0</del>
<del>009. UK Center for Rural Health – KY Homeplace / SKYCAP</del>		
<del>Restricted Funds</del>	<del>15,000</del>	<del>0</del>
<del>010. Breathitt County Fiscal Court – Hazard Community</del>		
<del>College – Lees College Campus – Family Life Skills Center</del>		
<del>Restricted Funds</del>	<del>0</del>	<del>26,500</del>

**Butler County**

<del>001. Butler County Fiscal Court – Audio Speaker</del>		
<del>System for Butler County Courthouse</del>		
<del>Restricted Funds</del>	<del>4,000</del>	<del>0</del>



<del>002.</del>	<del>Butler County Fiscal Court</del>	<del>Boys and Girls</del>		
	<del>Youth Program</del>			
	<del>Restricted Funds</del>		<del>3,500</del>	<del>0</del>
<b>Carter County</b>				
<del>001.</del>	<del>Carter County Board of Education</del>	<del>East Carter High</del>		
	<del>School</del>	<del>Tennis Courts</del>		
	<del>Restricted Funds</del>		<del>0</del>	<del>40,000</del>
<del>002.</del>	<del>Carter County Board of Education</del>	<del>West Carter</del>		
	<del>Middle School</del>	<del>Soccer Field Lights</del>		
	<del>Restricted Funds</del>		<del>15,000</del>	<del>0</del>
<del>003.</del>	<del>Carter County Fiscal Court</del>	<del>Carter City Fire</del>		
	<del>Department</del>	<del>Equipment and Operations</del>		
	<del>Restricted Funds</del>		<del>10,000</del>	<del>10,000</del>
<del>004.</del>	<del>Carter County Fiscal Court</del>	<del>Carter County</del>		
	<del>Recreation</del>	<del>Park Development</del>		
	<del>Restricted Funds</del>		<del>20,000</del>	<del>10,000</del>
<del>005.</del>	<del>Carter County Fiscal Court</del>	<del>First Response Unit</del>	<del>EMS</del>	
	<del>Restricted Funds</del>		<del>50,000</del>	<del>0</del>
<del>006.</del>	<del>Carter County Fiscal Court</del>	<del>Grahn Community</del>		
	<del>Center</del>	<del>Operating Costs</del>		
	<del>Restricted Funds</del>		<del>3,000</del>	<del>3,000</del>
<del>007.</del>	<del>Carter County Fiscal Court</del>	<del>Grahn Fire Department</del>		
	<del>Equipment and Operations</del>			
	<del>Restricted Funds</del>		<del>10,000</del>	<del>10,000</del>
<del>008.</del>	<del>Carter County Fiscal Court</del>	<del>Grayson Fire Department</del>		
	<del>Equipment and Operations</del>			
	<del>Restricted Funds</del>		<del>10,000</del>	<del>10,000</del>
<del>009.</del>	<del>Carter County Fiscal Court</del>	<del>Hitchins Fire Department</del>		
	<del>Equipment and Operations</del>			
	<del>Restricted Funds</del>		<del>10,000</del>	<del>10,000</del>
<del>010.</del>	<del>Carter County Fiscal Court</del>	<del>Olive Hill Fire Department</del>		
	<del>Equipment and Operations</del>			
	<del>Restricted Funds</del>		<del>25,000</del>	<del>25,000</del>
<del>011.</del>	<del>Carter County Fiscal Court</del>	<del>Repair Affair Grayson</del>		
	<del>Equipment and Supplies</del>			
	<del>Restricted Funds</del>		<del>3,000</del>	<del>3,000</del>
<del>012.</del>	<del>Carter County Fiscal Court</del>	<del>Search and Rescue</del>		
	<del>Operations and Equipment</del>			

<del>Restricted Funds</del>	<del>2,500</del>	<del>2,500</del>
<del>013. Carter County Fiscal Court Veterans Association</del>		
<del>Main Street Park Project</del>		
<del>Restricted Funds</del>	<del>30,000</del>	<del>30,000</del>
<del>014. Carter County Fiscal Court Webbville Fire Department</del>		
<del>Operations and Equipment</del>		
<del>Restricted Funds</del>	<del>3,000</del>	<del>3,000</del>
<del>015. City of Grayson Downtown Beautification Sidewalk</del>		
<del>and Lighting Improvements</del>		
<del>Restricted Funds</del>	<del>15,000</del>	<del>15,000</del>
<del>016. City of Olive Hill Downtown Beautification</del>		
<del>Brown Park Sidewalk and Lighting Improvements</del>		
<del>Restricted Funds</del>	<del>25,000</del>	<del>25,000</del>
<del>017. City of Olive Hill Olive Hill Historical Society</del>		
<del>High School Restoration Project</del>		
<del>Restricted Funds</del>	<del>25,000</del>	<del>25,000</del>

**~~Christian County~~**

<del>001. Christian County Fiscal Court New Salvation</del>		
<del>Army Building</del>		
<del>Restricted Funds</del>	<del>151,841</del>	<del>0</del>

**~~Clay County~~**

<del>001. City of Manchester Street Scape</del>		
<del>Restricted Funds</del>	<del>280,000</del>	<del>280,000</del>
<del>002. Clay County Fiscal Court B School</del>		
<del>Renovations and Park</del>		
<del>Restricted Funds</del>	<del>40,000</del>	<del>0</del>
<del>003. Clay County Fiscal Court Community Wellness</del>		
<del>Program Laurel Creek</del>		
<del>Restricted Funds</del>	<del>12,000</del>	<del>0</del>
<del>004. Clay County Board of Education Renovation of Pinhook School</del>		
<del>Restricted Funds</del>	<del>15,000</del>	<del>0</del>

**~~Crittenden County~~**

<del>001. Crittenden County Fiscal Court Clement Mineral</del>		
<del>Museum Renovation and Repair</del>		
<del>Restricted Funds</del>	<del>20,000</del>	<del>0</del>
<del>002. Crittenden County Fiscal Court Crittenden</del>		
<del>County Animal Shelter Construction</del>		
<del>Restricted Funds</del>	<del>40,000</del>	<del>0</del>

<del>003. Crittenden County Fiscal Court Crittenden</del>		
<del>County Emergency Services Building Property</del>		
<del>Purchase and Construction</del>		
<del>Restricted Funds</del>	<del>375,000</del>	<del>0</del>
<del>004. Crittenden County Fiscal Court Senior Citizens</del>		
<del>Center Expansion</del>		
<del>Restricted Funds</del>	<del>65,000</del>	<del>0</del>
<b>Daviess County</b>		
<del>001. Daviess County Fiscal Court Broadband Initiatives</del>		
<del>Restricted Funds</del>	<del>100,000</del>	<del>0</del>
<del>002. Daviess County Fiscal Court Economic</del>		
<del>Development Incentives</del>		
<del>Restricted Funds</del>	<del>50,000</del>	<del>0</del>
<del>003. Daviess County Fiscal Court Highway 144</del>		
<del>Road Project</del>		
<del>Restricted Funds</del>	<del>300,000</del>	<del>0</del>
<b>Elliott County</b>		
<del>001. City of Sandy Hook Downtown Beautification,</del>		
<del>Building Purchase, Sidewalk, Street Repairs</del>		
<del>and other Upgrades and Improvements</del>		
<del>Restricted Funds</del>	<del>25,000</del>	<del>25,000</del>
<del>002. Elliott County Board of Education Athletic</del>		
<del>Facility Improvements and Upgrades, Ground</del>		
<del>Improvements, Wellness Equipment and other</del>		
<del>Related Athletic Department Enhancements</del>		
<del>Restricted Funds</del>	<del>20,000</del>	<del>20,000</del>
<del>003. Elliott County Board of Education Building and</del>		
<del>Ground Improvements, Program, Curriculum,</del>		
<del>Enhancements and other Upgrades</del>		
<del>Restricted Funds</del>	<del>20,000</del>	<del>25,000</del>
<del>004. Elliott County Board of Education Elliott County</del>		
<del>Public Library Equipment, Materials, Program</del>		
<del>Enhancements, Operations and other Library</del>		
<del>Improvements</del>		
<del>Restricted Funds</del>	<del>20,000</del>	<del>20,000</del>
<del>005. Elliott County Board of Education Isonville</del>		
<del>Elementary Facility and Ground Improvements,</del>		
<del>Technology Upgrades, Curriculum, Program and</del>		

<del>other Enhancements, Physical Fitness and</del>		
<del>Playground Equipment Upgrades</del>		
<del>Restricted Funds</del>	<del>10,000</del>	<del>10,000</del>
<del>006. Elliott County Board of Education Lakeside</del>		
<del>Elementary Facility and Ground Improvements,</del>		
<del>Technology Upgrades, Curriculum, Program and</del>		
<del>other Enhancements, Physical Fitness and Playground</del>		
<del>Equipment Upgrades</del>		
<del>Restricted Funds</del>	<del>10,000</del>	<del>10,000</del>
<del>007. Elliott County Board of Education Sandy Hook</del>		
<del>Elementary Facility and Ground Improvements,</del>		
<del>Technology Upgrades, Curriculum, Program and</del>		
<del>other Enhancements, Physical Fitness and</del>		
<del>Playground Equipment Upgrades</del>		
<del>Restricted Funds</del>	<del>10,000</del>	<del>10,000</del>
<del>008. Elliott County Fiscal Court 504 Volunteer Fire</del>		
<del>Department Equipment, Building and Ground</del>		
<del>Improvements, and Other Enhancements</del>		
<del>Restricted Funds</del>	<del>10,000</del>	<del>15,000</del>
<del>009. Elliott County Fiscal Court Elliott County Fire</del>		
<del>and Rescue Equipment, Building and Ground</del>		
<del>Improvements, and Other Enhancements</del>		
<del>Restricted Funds</del>	<del>10,000</del>	<del>15,000</del>
<del>010. Elliott County Fiscal Court Isonville Volunteer</del>		
<del>Fire Department Equipment, Building and Ground</del>		
<del>Improvements, and other Enhancements</del>		
<del>Restricted Funds</del>	<del>10,000</del>	<del>15,000</del>
<del>011. Elliott County Fiscal Court Laurel Gorge Cultural</del>		
<del>and Heritage Center Facility and Ground</del>		
<del>Improvements, Equipment, Materials, Operations</del>		
<del>and other Upgrades</del>		
<del>Restricted Funds</del>	<del>20,000</del>	<del>20,000</del>
<del>012. Elliott County Fiscal Court New Ambulance</del>		
<del>Elliott County Ambulance Service</del>		
<del>Restricted Funds</del>	<del>30,000</del>	<del>0</del>
<b>Floyd County</b>		
<del>001. City of Allen Ball Park Improvements</del>		
<del>Restricted Funds</del>	<del>20,000</del>	<del>0</del>

002.	Floyd County Board of Education – Allen Central		
	High School – Academic and Athletic Program/Athletic		
	Teams – Equipment and Educational Support		
	Restricted Funds	0	50,000
003.	Floyd County Board of Education – Betsy Layne High		
	School – Academic and Athletic Program/Athletic		
	Teams – Equipment and Educational Support		
	Restricted Funds	0	50,000
004.	Floyd County Board of Education – Prestonsburg		
	High School – Academic and Athletic Program/		
	Athletic Teams – Equipment and Educational Support		
	Restricted Funds	0	50,000
005.	Floyd County Board of Education – South Floyd High		
	School – Academic and Athletic Program/Athletic		
	Teams – Equipment and Educational Support		
	Restricted Funds	0	50,000
006.	Floyd County Fiscal Court – Allen Fire Department –		
	Equipment/Operations		
	Restricted Funds	2,600	2,600
007.	Floyd County Fiscal Court – Appalachian Regional		
	Health Care – Facility Upgrades and Construction –		
	Regional, Technology and Business Center		
	Restricted Funds	100,000	0
008.	Floyd County Fiscal Court – Auxier Fire		
	Department – Equipment/Operations		
	Restricted Funds	2,600	2,600
009.	Floyd County Fiscal Court – Betsy Layne		
	Fire Department – Equipment/Operations		
	Restricted Funds	2,600	2,600
010.	Floyd County Fiscal Court – Book Mobile – Vehicle		
	Restricted Funds	0	75,000
011.	Floyd County Fiscal Court – Comb's Airport –		
	Runway and Safety Improvements		
	Restricted Funds	50,000	0
012.	Floyd County Fiscal Court – Coroner – Vehicle		
	Restricted Funds	0	30,000
013.	Floyd County Fiscal Court – Cow Creek		
	Fire Department – Equipment/Operations		

	<del>Restricted Funds</del>	<del>2,600</del>	<del>2,600</del>
<del>014.</del>	<del>Floyd County Fiscal Court – David Area</del>		
	<del>Fire Department – Equipment/Operations</del>		
	<del>Restricted Funds</del>	<del>2,600</del>	<del>2,600</del>
<del>015.</del>	<del>Floyd County Fiscal Court – Disabled American</del>		
	<del>Veterans Post 169 – Equipment and Improvements</del>		
	<del>Restricted Funds</del>	<del>6,666</del>	<del>6,666</del>
<del>016.</del>	<del>Floyd County Fiscal Court – Disabled American</del>		
	<del>Veterans Post 18 – Equipment and Improvements</del>		
	<del>Restricted Funds</del>	<del>6,666</del>	<del>6,666</del>
<del>017.</del>	<del>Floyd County Fiscal Court – Disabled American</del>		
	<del>Veterans Post 5839 – Equipment and Improvements</del>		
	<del>Restricted Funds</del>	<del>6,666</del>	<del>6,666</del>
<del>018.</del>	<del>Floyd County Fiscal Court – Drift Park – Improvements</del>		
	<del>Restricted Funds</del>	<del>30,000</del>	<del>70,000</del>
<del>019.</del>	<del>Floyd County Fiscal Court – Elkhorn Park –</del>		
	<del>Educational Program</del>		
	<del>Restricted Funds</del>	<del>10,000</del>	<del>20,000</del>
<del>020.</del>	<del>Floyd County Fiscal Court – Floyd County Head</del>		
	<del>Start Program – Computers and Technical Support</del>		
	<del>Restricted Funds</del>	<del>50,000</del>	<del>0</del>
<del>021.</del>	<del>Floyd County Fiscal Court – Garrett Fire Department –</del>		
	<del>Equipment/Operations</del>		
	<del>Restricted Funds</del>	<del>2,600</del>	<del>2,600</del>
<del>022.</del>	<del>Floyd County Fiscal Court – Jailer – Vehicle</del>		
	<del>Restricted Funds</del>	<del>0</del>	<del>30,000</del>
<del>023.</del>	<del>Floyd County Fiscal Court – Jenny Wiley Outdoor</del>		
	<del>Theatre – Upgrades and Improvements</del>		
	<del>Restricted Funds</del>	<del>20,000</del>	<del>0</del>
<del>024.</del>	<del>Floyd County Fiscal Court – Left Beaver</del>		
	<del>Fire Department – Equipment/Operations</del>		
	<del>Restricted Funds</del>	<del>2,600</del>	<del>2,600</del>
<del>025.</del>	<del>Floyd County Fiscal Court – LINKS – Housing and</del>		
	<del>Facility Construction</del>		
	<del>Restricted Funds</del>	<del>25,000</del>	<del>0</del>
<del>026.</del>	<del>Floyd County Fiscal Court – Martin Fire Department –</del>		
	<del>Equipment/Operations</del>		
	<del>Restricted Funds</del>	<del>2,600</del>	<del>2,600</del>

<del>027.</del>	<del>Floyd County Fiscal Court</del>	<del>Middle Creek</del>		
	<del>Fire Department</del>	<del>Equipment/Operations</del>		
	<del>Restricted Funds</del>		<del>2,600</del>	<del>2,600</del>
<del>028.</del>	<del>Floyd County Fiscal Court</del>	<del>Mountain Arts</del>		
	<del>Center</del>	<del>Equipment Upgrades/Projects</del>		
	<del>Restricted Funds</del>		<del>0</del>	<del>50,000</del>
<del>029.</del>	<del>Floyd County Fiscal Court</del>	<del>Mountain</del>		
	<del>Comprehensive Care</del>	<del>Lane House</del>		
	<del>and Drug Abuse Education</del>			
	<del>Restricted Funds</del>		<del>25,000</del>	<del>0</del>
<del>030.</del>	<del>Floyd County Fiscal Court</del>	<del>Mountain Top</del>		
	<del>Recreational</del>	<del>Construction</del>		
	<del>Restricted Funds</del>		<del>0</del>	<del>100,000</del>
<del>031.</del>	<del>Floyd County Fiscal Court</del>	<del>Mud Creek</del>		
	<del>Fire Department</del>	<del>Equipment/Operations</del>		
	<del>Restricted Funds</del>		<del>2,600</del>	<del>2,600</del>
<del>032.</del>	<del>Floyd County Fiscal Court</del>	<del>Prestonsburg</del>		
	<del>Fire Department</del>	<del>Equipment/Operations</del>		
	<del>Restricted Funds</del>		<del>2,600</del>	<del>2,600</del>
<del>033.</del>	<del>Floyd County Fiscal Court</del>	<del>Senior Citizens</del>		
	<del>Center</del>	<del>Operating</del>		
	<del>Restricted Funds</del>		<del>70,000</del>	<del>70,000</del>
<del>034.</del>	<del>Floyd County Fiscal Court</del>	<del>Sheriff's</del>		
	<del>Department</del>	<del>Vehicle</del>		
	<del>Restricted Funds</del>		<del>0</del>	<del>30,000</del>
<del>035.</del>	<del>Floyd County Fiscal Court</del>	<del>Southeast Floyd</del>		
	<del>Fire Department</del>	<del>Equipment/Operations</del>		
	<del>Restricted Funds</del>		<del>2,600</del>	<del>2,600</del>
<del>036.</del>	<del>Floyd County Fiscal Court</del>	<del>Toler Creek</del>		
	<del>Fire Department</del>	<del>Equipment/Operations</del>		
	<del>Restricted Funds</del>		<del>2,600</del>	<del>2,600</del>
<del>037.</del>	<del>Floyd County Fiscal Court</del>	<del>Vehicle for Drug</del>		
	<del>Enforcement</del>			
	<del>Restricted Funds</del>		<del>0</del>	<del>30,000</del>
<del>038.</del>	<del>Floyd County Fiscal Court</del>	<del>Wayland Area</del>		
	<del>Fire Department</del>	<del>Equipment/Operations</del>		
	<del>Restricted Funds</del>		<del>2,600</del>	<del>2,600</del>
<del>039.</del>	<del>Floyd County Fiscal Court</del>	<del>Wayland Historical</del>		

<del>040.</del>	<del>Society Land Purchase East Kentucky</del>		
	<del>Hall of Fame</del>		
	<del>Restricted Funds</del>	<del>100,000</del>	<del>0</del>
<del>041.</del>	<del>Floyd County Fiscal Court Wheelwright</del>		
	<del>Fire Department Equipment/Operations</del>		
	<del>Restricted Funds</del>	<del>2,600</del>	<del>2,600</del>
<del>042.</del>	<del>Floyd County Fiscal Court Hope in the</del>		
	<del>Mountains Drug Rehabilitation</del>		
	<del>Restricted Funds</del>	<del>25,000</del>	<del>10,000</del>
<del>043.</del>	<del>Floyd County Fiscal Court Maytown</del>		
	<del>Fire Department Equipment/Operations</del>		
	<del>Restricted Funds</del>	<del>2,600</del>	<del>2,600</del>
<del>044.</del>	<del>KCTCS Big Sandy Community and Technical</del>		
	<del>College Scholarship Fund for Students and Textbooks</del>		
	<del>Restricted Funds</del>	<del>0</del>	<del>40,000</del>
<del>045.</del>	<del>KCTCS Prestonsburg Community College</del>		
	<del>Kentucky Coal Academy Program</del>		
	<del>Restricted Funds</del>	<del>125,000</del>	<del>125,000</del>
<del>046.</del>	<del>Floyd County Fiscal Court East Kentucky</del>		
	<del>Science Center</del>		
	<del>Restricted Funds</del>	<del>0</del>	<del>50,000</del>
<del>047.</del>	<del>Floyd County Fiscal Court American Legion</del>		
	<del>Post 283 Martin</del>		
	<del>Restricted Funds</del>	<del>0</del>	<del>3,000</del>

**Greenup County**

<del>001.</del>	<del>City of Bellefonte Storm/Sanitary Sewer/</del>		
	<del>Runoff Remediation</del>		
	<del>Restricted Funds</del>	<del>20,000</del>	<del>0</del>
<del>002.</del>	<del>City of Flatwoods Babe Ruth League Equipment</del>		
	<del>Restricted Funds</del>	<del>1,000</del>	<del>0</del>
<del>003.</del>	<del>City of Flatwoods Espy Lane Project Upgrade</del>		
	<del>Espy Lane Pump Station and Lines</del>		
	<del>Restricted Funds</del>	<del>20,000</del>	<del>0</del>
<del>004.</del>	<del>City of Flatwoods Senior/Community Center</del>		
	<del>Equipment</del>		
	<del>Restricted Funds</del>	<del>1,000</del>	<del>0</del>
<del>005.</del>	<del>City of Greenup Bathrooms in Greenup Park</del>		
	<del>Improvements</del>		



	Restricted Funds	0	15,000
006.	City of Raceland Park Improvements, Community/ Senior Center, Technology Center, Water and Sewer Improvements		
	Restricted Funds	20,000	0
007.	City of Russell (SX21089014) Manhole Rehab Project		
	Restricted Funds	7,000	0
008.	City of Russell Sidewalks on Seaton Drive (to be used for local match)		
	Restricted Funds	13,000	0
009.	City of South Shore Quilt Festival Promotion and Marketing Materials and Equipment		
	Restricted Funds	1,000	0
010.	City of South Shore Resurface Tennis Courts and Basketball Courts Renovate Park and Bathrooms		
	Restricted Funds	20,000	0
011.	City of Worthington (SX21089004) Sulfur Dioxide Drive Drain for Sewer Treatment Plant		
	Restricted Funds	2,000	0
012.	City of Worthington Parks, Sidewalk and Water/ Sewer Improvements		
	Restricted Funds	18,000	0
013.	City of Wurtland Walking/Running Track at Wurtland Elementary and Wurtland Middle School and Chinn Street Lift Station Rehab		
	Restricted Funds	20,000	0
014.	Greenup County Fiscal Court U.S. 23 Fullerton/ South Portsmouth Country Music Highway		
	Restricted Funds	19,000	0
015.	Greenup County Board of Education Argillite Elementary School Interactive White Boards, LCD Projector, and Stand		
	Restricted Funds	3,000	0
016.	Greenup County Board of Education Greenup County Area Technology Center Interactive White Boards and Projectors		
	Restricted Funds	3,000	0
017.	Greenup County Board of Education Greenup		

<del>County High School</del>	<del>Software, Printed Material and</del>		
<del>Equipment for Remediation in Reading and Math</del>			
<del>Restricted Funds</del>	<del>3,000</del>	<del>0</del>	
<del>018. Greenup County Board of Education</del>	<del>Greysbranch</del>		
<del>Elementary School</del>	<del>Interactive White Boards for</del>		
<del>Every Grade Level</del>			
<del>Restricted Funds</del>	<del>3,000</del>	<del>0</del>	
<del>019. Greenup County Board of Education</del>	<del>McKell</del>		
<del>Elementary School</del>	<del>Audio Equipment for Stage/</del>		
<del>Gym for Arts and Humanities</del>			
<del>Restricted Funds</del>	<del>3,000</del>	<del>0</del>	
<del>020. Greenup County Board of Education</del>	<del>McKell Middle</del>		
<del>School</del>	<del>Calculators, Math Manipulators and Hardware</del>		
<del>Restricted Funds</del>	<del>3,000</del>	<del>0</del>	
<del>021. Greenup County Board of Education</del>	<del>Wurtland</del>		
<del>Elementary School</del>	<del>Walking/Running Track</del>		
<del>Restricted Funds</del>	<del>3,000</del>	<del>0</del>	
<del>022. Greenup County Fiscal Court</del>	<del>Engineering Study</del>		
<del>of Poplar Highlands Sewer Upgrades</del>			
<del>Restricted Funds</del>	<del>0</del>	<del>25,000</del>	
<del>023. Greenup County Fiscal Court</del>	<del>North Fork Radio</del>		
<del>Tower Extension</del>			
<del>Restricted Funds</del>	<del>8,000</del>	<del>0</del>	
<del>024. Greenup County Fiscal Court</del>	<del>Greenup County</del>		
<del>Humane Society</del>			
<del>Restricted Funds</del>	<del>1,000</del>	<del>0</del>	
<del>025. Greenup County Fiscal Court</del>	<del>Greenup Senior Citizens</del>		
<del>Center</del>	<del>Improvements and Operating Expenses</del>		
<del>Restricted Funds</del>	<del>10,000</del>	<del>0</del>	
<del>026. Greenup County Fiscal Court</del>	<del>Guardrail for Route 7</del>		
<del>Restricted Funds</del>	<del>20,000</del>	<del>0</del>	
<del>027. Greenup County Fiscal Court</del>	<del>Old Fashioned Days</del>		
<del>Promotion and Marketing Materials and Equipment</del>			
<del>Restricted Funds</del>	<del>1,000</del>	<del>0</del>	
<del>028. Greenup County Fiscal Court</del>	<del>South Shore</del>		
<del>Meals on Wheels</del>			
<del>Restricted Funds</del>	<del>1,000</del>	<del>0</del>	
<del>029. Greenup County Fiscal Court</del>	<del>Welcome Area</del>		

<del>US 23 Near Grant Bridge at Fullerton/South</del>		
<del>Portsmouth Construction</del>		
<del>Restricted Funds</del>	<del>0</del>	<del>35,000</del>
<del>030. Russell Independent Board of Education Russell</del>		
<del>McDowell Intermediate School Physical Fitness</del>		
<del>Equipment/Mats and Hand Holds</del>		
<del>Restricted Funds</del>	<del>3,000</del>	<del>0</del>
<del>031. Russell Independent Board of Education Russell</del>		
<del>Area Technology Center Instructor Monitoring Software</del>		
<del>Restricted Funds</del>	<del>3,000</del>	<del>0</del>
<del>032. Russell Independent Board of Education Russell High</del>		
<del>School Graphic Calculators, Digital Cameras, Data</del>		
<del>Projector and Digital Micro Pipets</del>		
<del>Restricted Funds</del>	<del>3,000</del>	<del>0</del>
<del>033. Russell Independent Board of Education Russell</del>		
<del>Middle School Audiovisual Equipment</del>		
<del>Restricted Funds</del>	<del>3,000</del>	<del>0</del>
<del>034. Russell Independent Board of Education Russell</del>		
<del>Primary School Poster Machine, Cold Laminator</del>		
<del>and Risograph</del>		
<del>Restricted Funds</del>	<del>3,000</del>	<del>0</del>
<del>035. City of Greenup Pump Station (Route 1) and</del>		
<del>Water System Improvements</del>		
<del>Restricted Funds</del>	<del>71,000</del>	<del>0 ;</del>
<del>036. Greenup County Fiscal Court Greenup County</del>		
<del>Park and Fairgrounds Improvements</del>		
<del>Restricted Funds</del>	<del>10,000</del>	<del>0</del>
<del>037. Greenup County Fiscal Court Worthington</del>		
<del>Meals on Wheels</del>		
<del>Restricted Funds</del>	<del>1,000</del>	<del>0</del>
<del>038. Greenup County Fiscal Court Russell / Raceland /</del>		
<del>Flatwoods Meals on Wheels</del>		
<del>Restricted Funds</del>	<del>1,000</del>	<del>0</del>
<del>039. Greenup County Fiscal Court Greenup</del>		
<del>Riverfront Improvements</del>		
<del>Restricted Funds</del>	<del>15,000</del>	<del>0</del>
<del>040. City of Raceland Lost Canyon and Caroline Road</del>		
<del>Sewer Extension SX 21089018</del>		

<del>Restricted Funds</del>	<del>48,000</del>	<del>0</del>
<b>Hancock County</b>		
<del>001. City of Hawesville Fire Truck</del>		
<del>Restricted Funds</del>	<del>175,000</del>	<del>0</del>
<del>002. City of Lewisport Lewisport Fire Department</del>		
<del>Equipment</del>		
<del>Restricted Funds</del>	<del>60,000</del>	<del>0</del>
<del>003. Hancock County Fiscal Court Highway 657</del>		
<del>(4th Street) Sewer Line Extension</del>		
<del>Restricted Funds</del>	<del>0</del>	<del>75,000</del>
<del>004. Hancock County Fiscal Court Repair Affair</del>		
<del>Restricted Funds</del>	<del>15,000</del>	<del>0</del>
<b>Harlan County</b>		
<del>001. City of Benham Operations, Projects and Equipment</del>		
<del>Restricted Funds</del>	<del>20,000</del>	<del>20,000</del>
<del>002. City of Benham Water Tank</del>		
<del>Restricted Funds</del>	<del>250,000</del>	<del>0</del>
<del>003. City of Cumberland Projects and Equipment</del>		
<del>Restricted Funds</del>	<del>20,000</del>	<del>20,000</del>
<del>004. City of Cumberland Tri-City Heritage Development</del>		
<del>Corporation Operations</del>		
<del>Restricted Funds</del>	<del>0</del>	<del>15,000</del>
<del>005. City of Cumberland Water Line Extension</del>		
<del>Cumberland to Letcher County Line</del>		
<del>Restricted Funds</del>	<del>500,000</del>	<del>0</del>
<del>006. City of Evarts Land Acquisition and Building for</del>		
<del>Fire Department Construction</del>		
<del>Restricted Funds</del>	<del>25,000</del>	<del>0</del>
<del>007. City of Evarts Land Acquisition and Building for</del>		
<del>RV Park Construction</del>		
<del>Restricted Funds</del>	<del>0</del>	<del>50,000</del>
<del>008. City of Evarts Projects and/or Equipment</del>		
<del>Restricted Funds</del>	<del>20,000</del>	<del>20,000</del>
<del>009. City of Evarts Safety Equipment for ATV Park</del>		
<del>Restricted Funds</del>	<del>90,000</del>	<del>0</del>
<del>010. City of Harlan Harlan City Fire Department</del>		
<del>Operations and Equipment</del>		
<del>Restricted Funds</del>	<del>7,500</del>	<del>7,500</del>

011.	City of Harlan — Harlan Revitalization		
	Restricted Funds	50,000	25,000
012.	City of Loyall — Projects and Equipment		
	Restricted Funds	20,000	20,000
013.	City of Lynch — Projects and Equipment		
	Restricted Funds	20,000	20,000
014.	City of Lynch — Sewer Line Replacement Project		
	Restricted Funds	0	70,000
015.	City of Lynch — Water Plant Rehabilitation		
	Restricted Funds	100,000	0
016.	City of Wallins — Projects and Equipment		
	Restricted Funds	20,000	20,000
017.	Green Hills Water District — Water System		
	Improvements and Extensions		
	Restricted Funds	200,000	125,000
018.	Green Hills Water District — Equipment and Water		
	Line Extension		
	Restricted Funds	75,000	0
019.	Harlan County Fiscal Court — Benham Fire		
	Department — Operations and Equipment		
	Restricted Funds	7,500	7,500
020.	Harlan County Fiscal Court — Black Mountain		
	Utilities — Water Line Extension		
	Restricted Funds	300,000	700,000
021.	Harlan County Fiscal Court — Bledsoe Volunteer		
	Fire Department — Operations and Equipment		
	Restricted Funds	7,500	7,500
022.	Harlan County Fiscal Court — Camp Blanton		
	Renovation		
	Restricted Funds	84,000	0
023.	Harlan County Fiscal Court — Cawood Ledford Boys		
	and Girls Club — Operations and Equipment		
	Restricted Funds	25,000	25,000
024.	Harlan County Fiscal Court — Cawood Water		
	District Water Line — Expansion to Smith Area		
	Restricted Funds	400,000	600,000
025.	Harlan County Fiscal Court — Cloverfork Rescue		
	Squad — Operations and Equipment		

<del>Restricted Funds</del>	<del>0</del>	<del>10,000</del>
<del>026. Harlan County Fiscal Court – Cloverfork Volunteer</del>		
<del>Fire Department – Operations and Equipment</del>		
<del>Restricted Funds</del>	<del>7,500</del>	<del>7,500</del>
<del>027. Harlan County Fiscal Court – Coldiron Volunteer Fire</del>		
<del>Department – Operations and Equipment</del>		
<del>Restricted Funds</del>	<del>7,500</del>	<del>7,500</del>
<del>028. Harlan County Fiscal Court – Coxton Park –</del>		
<del>Renovation and Improvements</del>		
<del>Restricted Funds</del>	<del>10,000</del>	<del>0</del>
<del>029. Harlan County Fiscal Court – Cumberland Fire</del>		
<del>Department – Operations and Equipment</del>		
<del>Restricted Funds</del>	<del>7,500</del>	<del>7,500</del>
<del>030. Harlan County Fiscal Court – Detention Center –</del>		
<del>Bond Department – Principal</del>		
<del>Restricted Funds</del>	<del>250,000</del>	<del>250,000</del>
<del>031. Harlan County Fiscal Court – Evarts Depot – Restoration</del>		
<del>Restricted Funds</del>	<del>0</del>	<del>57,000</del>
<del>032. Harlan County Fiscal Court – Evarts Fire</del>		
<del>Department – Operations and Equipment</del>		
<del>Restricted Funds</del>	<del>7,500</del>	<del>7,500</del>
<del>033. Harlan County Fiscal Court – Four Wheeler Park for</del>		
<del>Promotional Costs and Ancillary</del>		
<del>Restricted Funds</del>	<del>0</del>	<del>100,000</del>
<del>034. Harlan County Fiscal Court – Green Hills</del>		
<del>Community Center and Park – Improvements</del>		
<del>Restricted Funds</del>	<del>20,000</del>	<del>0</del>
<del>035. Harlan County Fiscal Court – Harlan Rescue</del>		
<del>Squad – Operations and Equipment</del>		
<del>Restricted Funds</del>	<del>0</del>	<del>10,000</del>
<del>036. Harlan County Fiscal Court – Harlan County Committee</del>		
<del>on Aging, Inc. – Renovation / Equipment</del>		
<del>Restricted Funds</del>	<del>0</del>	<del>125,000</del>
<del>037. Harlan County Fiscal Court – Harlan County Road</del>		
<del>Department – Equipment</del>		
<del>Restricted Funds</del>	<del>0</del>	<del>50,000</del>
<del>038. Harlan County Fiscal Court – Harlan Fire</del>		
<del>Department – Operations and Equipment</del>		

<del>Restricted Funds</del>	<del>7,500</del>	<del>7,500</del>
<del>039. Harlan County Fiscal Court – Harlan Little League –</del>		
<del>Operations and Maintenance</del>		
<del>Restricted Funds</del>	<del>5,000</del>	<del>10,000</del>
<del>040. Harlan County Fiscal Court – Harlan Shriners' –</del>		
<del>Park Improvements</del>		
<del>Restricted Funds</del>	<del>0</del>	<del>10,000</del>
<del>041. Harlan County Fiscal Court – Hope Drug</del>		
<del>Center – Operations and Equipment</del>		
<del>Restricted Funds</del>	<del>220,000</del>	<del>29,000</del>
<del>042. Harlan County Fiscal Court – Lower Cloverfork</del>		
<del>Volunteer Fire Department – Operations and Equipment</del>		
<del>Restricted Funds</del>	<del>7,500</del>	<del>7,500</del>
<del>043. Harlan County Fiscal Court – Loyall Fire</del>		
<del>Department – Operations and Equipment</del>		
<del>Restricted Funds</del>	<del>7,500</del>	<del>7,500</del>
<del>044. Harlan County Fiscal Court – Lynch Fire</del>		
<del>Department – Operations and Equipment</del>		
<del>Restricted Funds</del>	<del>7,500</del>	<del>7,500</del>
<del>045. Harlan County Fiscal Court – Martins Fork</del>		
<del>Volunteer Fire Department – Operations and Equipment</del>		
<del>Restricted Funds</del>	<del>7,500</del>	<del>7,500</del>
<del>046. Harlan County Fiscal Court – Mountain</del>		
<del>Comprehensive Health Corporation – Improvements</del>		
<del>Restricted Funds</del>	<del>250,000</del>	<del>0</del>
<del>047. Harlan County Fiscal Court – Pathfork Park – Improvements</del>		
<del>Restricted Funds</del>	<del>10,000</del>	<del>0</del>
<del>048. Harlan County Fiscal Court – Putney Volunteer</del>		
<del>Fire Department – Operations and Equipment</del>		
<del>Restricted Funds</del>	<del>7,500</del>	<del>7,500</del>
<del>049. Harlan County Fiscal Court – Sheriff's Department –</del>		
<del>Cops in School</del>		
<del>Restricted Funds</del>	<del>25,000</del>	<del>25,000</del>
<del>050. Harlan County Fiscal Court – Smith Park – Improvements</del>		
<del>Restricted Funds</del>	<del>0</del>	<del>10,000</del>
<del>051. Harlan County Fiscal Court – Southeast Education</del>		
<del>Foundation – Benham Inn, Portal 31, Coal Mine</del>		
<del>Museum – Pay off Debt</del>		

	<del>Restricted Funds</del>	<del>325,000</del>	<del>0</del>
<del>052.</del>	<del>Harlan County Fiscal Court — Southeast Kentucky</del>		
	<del>Rehabilitation Industry — Building and Roof Repair</del>		
	<del>Restricted Funds</del>	<del>250,000</del>	<del>0</del>
<del>053.</del>	<del>Harlan County Fiscal Court — Sunshine Volunteer</del>		
	<del>Fire Department — Operations and Equipment</del>		
	<del>Restricted Funds</del>	<del>7,500</del>	<del>7,500</del>
<del>054.</del>	<del>Harlan County Fiscal Court — Tri City Little League</del>		
	<del>Operations and Equipment</del>		
	<del>Restricted Funds</del>	<del>0</del>	<del>15,000</del>
<del>055.</del>	<del>Harlan County Fiscal Court — Upper Cloverfork</del>		
	<del>Volunteer Fire Department — Operations and Equipment</del>		
	<del>Restricted Funds</del>	<del>7,500</del>	<del>7,500</del>
<del>056.</del>	<del>Harlan County Fiscal Court — Veterans Honor Guard</del>		
	<del>Restricted Funds</del>	<del>0</del>	<del>15,000</del>
<del>057.</del>	<del>Harlan County Fiscal Court — Wallins Volunteer Fire</del>		
	<del>Department — Operations and Equipment</del>		
	<del>Restricted Funds</del>	<del>7,500</del>	<del>7,500</del>
<del>058.</del>	<del>Harlan County Fiscal Court — Yocum Creek Volunteer</del>		
	<del>Fire Department — Operations and Equipment</del>		
	<del>Restricted Funds</del>	<del>7,500</del>	<del>7,500</del>
<del>059.</del>	<del>KCTCS — Southeast Community College</del>		
	<del>Kentucky Coal Academy Program</del>		
	<del>Restricted Funds</del>	<del>125,000</del>	<del>125,000</del>
<del>060.</del>	<del>Kentucky Fish and Wildlife — Two ATV Safety</del>		
	<del>Vehicles and Operations for Harlan County ATV Trails</del>		
	<del>Restricted Funds</del>	<del>75,000</del>	<del>75,000</del>
<del>061.</del>	<del>City of Lynch — Splash Pad Project</del>		
	<del>Restricted Funds</del>	<del>0</del>	<del>60,000</del>
<b><del>Henderson County</del></b>			
<del>001.</del>	<del>City of Corydon — Demolish and Removal of</del>		
	<del>Buildings — Health and Safety Reasons</del>		
	<del>Restricted Funds</del>	<del>25,000</del>	<del>0</del>
<del>002.</del>	<del>City of Robards — Infrastructure Needs</del>		
	<del>Restricted Funds</del>	<del>20,000</del>	<del>0</del>
<del>003.</del>	<del>Henderson County Fiscal Court — Baskett Volunteer</del>		
	<del>Fire Department — Fire Fighting Equipment</del>		
	<del>Restricted Funds</del>	<del>10,000</del>	<del>0</del>



<del>004.</del>	<del>Henderson County Fiscal Court</del>	<del>Cairo Volunteer</del>		
	<del>Fire Department</del>	<del>Fire Fighting Equipment</del>		
	<del>Restricted Funds</del>		<del>10,000</del>	<del>0</del>
<del>005.</del>	<del>Henderson County Fiscal Court</del>	<del>Corydon Civil</del>		
	<del>Defense Fire Department</del>	<del>Fire Fighting Equipment</del>		
	<del>Restricted Funds</del>		<del>10,000</del>	<del>0</del>
<del>006.</del>	<del>Henderson County Fiscal Court</del>	<del>Hebbardsville</del>		
	<del>Area Volunteer Fire Department</del>	<del>Fire Fighting Equipment</del>		
	<del>Restricted Funds</del>		<del>10,000</del>	<del>0</del>
<del>007.</del>	<del>Henderson County Fiscal Court</del>	<del>Henderson City</del>		
	<del>County Rescue Volunteer Fire Department</del>	<del>Fire</del>		
	<del>Fighting Equipment</del>			
	<del>Restricted Funds</del>		<del>10,000</del>	<del>0</del>
<del>008.</del>	<del>Henderson County Fiscal Court</del>	<del>Henderson County</del>		
	<del>Fair Grounds</del>	<del>Concrete Areas Around</del>		
	<del>Buildings/Bathrooms</del>			
	<del>Restricted Funds</del>		<del>20,000</del>	<del>0</del>
<del>009.</del>	<del>Henderson County Fiscal Court</del>	<del>Henderson</del>		
	<del>County Fair Grounds</del>	<del>Infrastructure for Walking</del>		
	<del>Track and Paving</del>			
	<del>Restricted Funds</del>		<del>55,000</del>	<del>0</del>
<del>010.</del>	<del>Henderson County Fiscal Court</del>	<del>Henderson</del>		
	<del>County Fair Grounds</del>	<del>Park Equipment and Improvements</del>		
	<del>Restricted Funds</del>		<del>45,000</del>	<del>0</del>
<del>011.</del>	<del>Henderson County Fiscal Court</del>	<del>Niagara Volunteer</del>		
	<del>Fire Department</del>	<del>Fire Fighting Equipment</del>		
	<del>Restricted Funds</del>		<del>10,000</del>	<del>0</del>
<del>012.</del>	<del>Henderson County Fiscal Court</del>	<del>Paving of Newly</del>		
	<del>Constructed Connector Road at Riverport</del>			
	<del>Restricted Funds</del>		<del>40,000</del>	<del>0</del>
<del>013.</del>	<del>Henderson County Fiscal Court</del>	<del>Poole Volunteer</del>		
	<del>Fire Department</del>	<del>Fire Fighting Equipment</del>		
	<del>Restricted Funds</del>		<del>10,000</del>	<del>0</del>
<del>014.</del>	<del>Henderson County Fiscal Court</del>	<del>Public Library</del>		
	<del>Repair and Renovation</del>			
	<del>Restricted Funds</del>		<del>250,000</del>	<del>0</del>
<del>015.</del>	<del>Henderson County Fiscal Court</del>	<del>Reed Volunteer</del>		
	<del>Fire Department</del>	<del>Fire Fighting Equipment</del>		

	<del>Restricted Funds</del>	<del>10,000</del>	<del>0</del>
<del>016.</del>	<del>Henderson County Fiscal Court Robards Volunteer</del>		
	<del>Fire Department Fire Fighting Equipment</del>		
	<del>Restricted Funds</del>	<del>10,000</del>	<del>0</del>
<del>017.</del>	<del>Henderson County Fiscal Court Smith Mills</del>		
	<del>Volunteer Fire Department Fire Fighting Equipment</del>		
	<del>Restricted Funds</del>	<del>10,000</del>	<del>0</del>
<del>018.</del>	<del>Henderson County Fiscal Court Spottsville Volunteer</del>		
	<del>Fire Department Fire Fighting Equipment</del>		
	<del>Restricted Funds</del>	<del>10,000</del>	<del>0</del>
<del>019.</del>	<del>Henderson County Fiscal Court Star Industrial</del>		
	<del>Park Site Adjacent to Columbia Sportswear</del>		
	<del>Grading and Site Work for Entrance</del>		
	<del>Restricted Funds</del>	<del>45,000</del>	<del>0</del>
<del>020.</del>	<del>Henderson County Fiscal Court Star Industrial Park</del>		
	<del>Entrance and Site Work Clearing of Trees</del>		
	<del>and Reseeding</del>		
	<del>Restricted Funds</del>	<del>40,000</del>	<del>0</del>
<del>021.</del>	<del>Henderson County Fiscal Court Zion Volunteer</del>		
	<del>Fire Department Fire Fighting Equipment</del>		
	<del>Restricted Funds</del>	<del>10,000</del>	<del>0</del>
<del>022.</del>	<del>Henderson County Water District Cheatham</del>		
	<del>Road/William Keene Road Extension</del>		
	<del>Restricted Funds</del>	<del>26,000</del>	<del>0</del>
<del>023.</del>	<del>Henderson County Water District Henderson</del>		
	<del>and West Daviess Interconnection</del>		
	<del>Restricted Funds</del>	<del>75,000</del>	<del>0</del>
<del>024.</del>	<del>Henderson County Water District Henderson</del>		
	<del>County Water Old US 60 Main Replacement</del>		
	<del>Restricted Funds</del>	<del>125,000</del>	<del>0</del>
<del>025.</del>	<del>Henderson County Water District J. Gibson Hugh</del>		
	<del>Sights Rock Springs Roads Water Line Extension</del>		
	<del>Restricted Funds</del>	<del>136,000</del>	<del>0</del>
<del>026.</del>	<del>Henderson County Fiscal Court Henderson</del>		
	<del>City/County Rescue Squad Fire Fighting</del>		
	<del>Support Equipment</del>		
	<del>Restricted Funds</del>	<del>10,000</del>	<del>0</del>

**Hopkins County**

001.	City of Dawson Springs	Warning Sirens	Equipment		
	Restricted Funds			14,000	0
002.	City of Earlington	Warning Sirens	Equipment		
	Restricted Funds			14,000	0
003.	City of Hanson	Warning Sirens	Equipment		
	Restricted Funds			14,000	0
004.	City of Madisonville	Hopkins County Public			
	Library	Renovation Project			
	Restricted Funds			100,000	0
005.	City of Madisonville	Warning Sirens	Equipment		
	Restricted Funds			14,000	0
006.	City of Madisonville	Warning Sirens	Equipment		
	Restricted Funds			14,000	0
007.	City of Madisonville Community College				
	Technology Upgrades and Workforce				
	Development Programs				
	Restricted Funds			200,000	0
008.	City of Mortons Gap	Warning Sirens	Equipment		
	Restricted Funds			14,000	0
009.	City of Nebo	Warning Sirens	Equipment		
	Restricted Funds			14,000	0
010.	City of Nortonville	Warning Sirens	Equipment		
	Restricted Funds			14,000	0
011.	City of St. Charles	Warning Sirens	Equipment		
	Restricted Funds			14,000	0
012.	City of White Plains	Warning Sirens	Equipment		
	Restricted Funds			14,000	0
013.	Hopkins County Board of Education	School			
	Resource Officer				
	Restricted Funds			70,000	0
014.	Hopkins County Fiscal Court	Anton Volunteer			
	Fire Department	Equipment			
	Restricted Funds			10,000	0
015.	Hopkins County Fiscal Court	Area Two Dive			
	Search, Rescue and Recovery Team	Equipment			
	and Upgrades				
	Restricted Funds			90,000	0
016.	Hopkins County Fiscal Court	Center for			

<del>Cultural and Professional Development</del>		
<del>Construction and Maintenance</del>		
<del>Restricted Funds</del>	<del>40,000</del>	<del>0</del>
<del>017. Hopkins County Fiscal Court – Charleston</del>		
<del>Volunteer Fire Department – Equipment</del>		
<del>Restricted Funds</del>	<del>10,000</del>	<del>0</del>
<del>018. Hopkins County Fiscal Court – Dawson Springs</del>		
<del>Volunteer Fire Department – Equipment</del>		
<del>Restricted Funds</del>	<del>10,000</del>	<del>0</del>
<del>019. Hopkins County Fiscal Court – Earlington</del>		
<del>Volunteer Fire Department – Equipment</del>		
<del>Restricted Funds</del>	<del>10,000</del>	<del>0</del>
<del>020. Hopkins County Fiscal Court – Economic</del>		
<del>Development/Land Acquisition &amp; Infrastructure</del>		
<del>Restricted Funds</del>	<del>394,450</del>	<del>0</del>
<del>021. Hopkins County Fiscal Court – Grapevine</del>		
<del>Volunteer Fire Department – Equipment</del>		
<del>Restricted Funds</del>	<del>10,000</del>	<del>0</del>
<del>022. Hopkins County Fiscal Court – Hanson</del>		
<del>Volunteer Fire Department – Equipment</del>		
<del>Restricted Funds</del>	<del>10,000</del>	<del>0</del>
<del>023. Hopkins County Fiscal Court – Hopkins County</del>		
<del>Emergency Management (EMA) – Equipment Upgrades</del>		
<del>Restricted Funds</del>	<del>50,000</del>	<del>0</del>
<del>024. Hopkins County Fiscal Court – Hopkins County</del>		
<del>Public Works Department – Equipment and</del>		
<del>Vehicle Upgrades</del>		
<del>Restricted Funds</del>	<del>200,000</del>	<del>0</del>
<del>025. Hopkins County Fiscal Court – Humane Society–</del>		
<del>Equipment and Upgrades</del>		
<del>Restricted Funds</del>	<del>50,000</del>	<del>0</del>
<del>026. Hopkins County Fiscal Court – Manitou</del>		
<del>Volunteer Fire Department – Equipment</del>		
<del>Restricted Funds</del>	<del>10,000</del>	<del>0</del>
<del>027. Hopkins County Fiscal Court – Mortons Gap</del>		
<del>Volunteer Fire Department – Equipment</del>		
<del>Restricted Funds</del>	<del>10,000</del>	<del>0</del>
<del>028. Hopkins County Fiscal Court – Nebo Volunteer</del>		

<del>Fire Department Equipment</del>		
<del>Restricted Funds</del>		
	10,000	0
<del>029. Hopkins County Fiscal Court Nortonville</del>		
<del>Volunteer Fire Department Equipment</del>		
<del>Restricted Funds</del>		
	10,000	0
<del>030. Hopkins County Fiscal Court Richland</del>		
<del>Volunteer Fire Department Equipment</del>		
<del>Restricted Funds</del>		
	10,000	0
<del>031. Hopkins County Fiscal Court Rosenwalk</del>		
<del>Smith Multicultural Center Maintenance and Repairs</del>		
<del>Restricted Funds</del>		
	100,000	0
<del>032. Hopkins County Fiscal Court South Hopkins</del>		
<del>Volunteer Fire Department Equipment</del>		
<del>Restricted Funds</del>		
	10,000	0
<del>033. Hopkins County Fiscal Court St. Charles</del>		
<del>Volunteer Fire Department Equipment</del>		
<del>Restricted Funds</del>		
	10,000	0
<del>034. Hopkins County Fiscal Court White Plains</del>		
<del>Volunteer Fire Department Equipment</del>		
<del>Restricted Funds</del>		
	10,000	0
<del>035. KCTCS Madisonville Community College</del>		
<del>Kentucky Coal Academy Program</del>		
<del>Restricted Funds</del>		
	125,000	125,000

**Jackson County**

<del>001. Jackson County Fiscal Court Gray Hawk Fire</del>		
<del>Department Equipment</del>		
<del>Restricted Funds</del>		
	10,000	5,000
<del>002. Jackson County Fiscal Court Jackson County</del>		
<del>Library Board</del>		
<del>Restricted Funds</del>		
	20,000	10,000
<del>003. Jackson County Fiscal Court Maintenance</del>		
<del>Vehicles Improvements</del>		
<del>Restricted Funds</del>		
	20,000	10,000
<del>004. Jackson County Fiscal Court McKee Fire</del>		
<del>Department Equipment</del>		
<del>Restricted Funds</del>		
	10,000	5,000
<del>005. Jackson County Fiscal Court Pond Creek Fire</del>		
<del>Department Equipment</del>		

<del>Restricted Funds</del>	<del>10,000</del>	<del>5,000</del>
<del>006. Jackson County Fiscal Court Sand Gap Fire</del>		
<del>Department Equipment</del>		
<del>Restricted Funds</del>	<del>10,000</del>	<del>5,000</del>
<del>007. Jackson County Fiscal Court Sheriff Department</del>		
<del>Vehicle and Equipment</del>		
<del>Restricted Funds</del>	<del>20,000</del>	<del>25,000</del>

**~~Johnson County~~**

<del>001. Johnson County Board of Education Public</del>		
<del>Schools Youth Activities Facility Construction</del>		
<del>Restricted Funds</del>	<del>50,000</del>	<del>50,000</del>
<del>002. Johnson County Fiscal Court Courthouse</del>		
<del>Debt Reduction</del>		
<del>Restricted Funds</del>	<del>250,000</del>	<del>250,000</del>
<del>003. Johnson County Fiscal Court Courthouse</del>		
<del>Maintenance and Repair</del>		
<del>Restricted Funds</del>	<del>25,000</del>	<del>0</del>
<del>004. Johnson County Fiscal Court Senior Citizens</del>		
<del>Center Improvements</del>		
<del>Restricted Funds</del>	<del>25,000</del>	<del>25,000</del>
<del>005. Johnson County Fiscal Court Volunteer Fire</del>		
<del>Departments Equipment and Operations</del>		
<del>Restricted Funds</del>	<del>35,000</del>	<del>35,000</del>
<del>006. Paintsville Independent Board of Education</del>		
<del>City Schools Youth Activities Facility Construction</del>		
<del>Restricted Funds</del>	<del>50,000</del>	<del>50,000</del>

**~~Knott County~~**

<del>001. Knott County Fiscal Court Adult Wellness</del>		
<del>Complex Bond Payment</del>		
<del>Restricted Funds</del>	<del>1,000,000</del>	<del>1,000,000</del>
<del>002. Knott County Fiscal Court Amphitheater</del>		
<del>Construction</del>		
<del>Restricted Funds</del>	<del>50,000</del>	<del>200,000</del>
<del>003. Knott County Fiscal Court ATV Training</del>		
<del>Center and Trails Develop and Construct</del>		
<del>Restricted Funds</del>	<del>25,000</del>	<del>50,000</del>
<del>004. Knott County Fiscal Court Ball Creek Fire</del>		
<del>Department Equipment</del>		

	Restricted Funds	25,000	25,000
005.	Knott County Fiscal Court – Ball Creek Park – Operation, Maintenance and Improvements		
	Restricted Funds	5,000	5,000
006.	Knott County Fiscal Court – Ball Creek and Beaver Creek Water Project – Fire Hydrants		
	Restricted Funds	110,000	0
007.	Knott County Fiscal Court – Beaver Creek Park – Operation, Maintenance and Improvements		
	Restricted Funds	5,000	5,000
008.	Knott County Fiscal Court – Carr Creek – Water Treatment Plant		
	Restricted Funds	500,000	500,000
009.	Knott County Fiscal Court – Carr Creek Fire Department – Equipment		
	Restricted Funds	25,000	25,000
010.	Knott County Fiscal Court – Kentucky School of Craft		
	Restricted Funds	250,000	250,000
011.	Knott County Fiscal Court – County Clerk's Office – Operations, Maintenance, and Equipment		
	Restricted Funds	35,000	35,000
012.	Knott County Fiscal Court – Dry Creek Park – Operation, Maintenance and Improvements		
	Restricted Funds	5,000	5,000
013.	Knott County Fiscal Court – Fisty Fire Department – Equipment		
	Restricted Funds	25,000	25,000
014.	Knott County Fiscal Court – Hindman Fire Department – Equipment		
	Restricted Funds	25,000	25,000
015.	Knott County Fiscal Court – Hindman Park – Operation, Maintenance and Improvements		
	Restricted Funds	5,000	5,000
016.	Knott County Fiscal Court – Hindman Sidewalk Pedestrian – Bridge Project		
	Restricted Funds	100,000	0
017.	Knott County Fiscal Court – Jamestown Village		

<del>and Highway 81 Water Line</del>	<del>WRIS Project</del>		
<del>No. WX21119225</del>			
<del>Restricted Funds</del>	<del>300,000</del>	<del>0</del>	
<del>018. Knott County Fiscal Court</del>	<del>Jones Fork Fire</del>		
<del>Department</del>	<del>Equipment</del>		
<del>Restricted Funds</del>	<del>25,000</del>	<del>25,000</del>	
<del>019. Knott County Fiscal Court</del>	<del>Jones Fork Park</del>		
<del>Operation, Maintenance and Improvements</del>			
<del>Restricted Funds</del>	<del>5,000</del>	<del>5,000</del>	
<del>020. Knott County Fiscal Court</del>	<del>Kite Park</del>		
<del>Operation, Maintenance and Improvements</del>			
<del>Restricted Funds</del>	<del>5,000</del>	<del>5,000</del>	
<del>021. Knott County Fiscal Court</del>	<del>Kite/Topmost Fire</del>		
<del>Department</del>	<del>Equipment</del>		
<del>Restricted Funds</del>	<del>25,000</del>	<del>25,000</del>	
<del>022. Knott County Fiscal Court</del>	<del>Knott County</del>		
<del>Courthouse</del>	<del>Renovation</del>		
<del>Restricted Funds</del>	<del>200,000</del>	<del>200,000</del>	
<del>023. Knott County Fiscal Court</del>	<del>Knott County</del>		
<del>Emergency Rescue Squad</del>	<del>Equipment</del>		
<del>Restricted Funds</del>	<del>25,000</del>	<del>25,000</del>	
<del>024. Knott County Fiscal Court</del>	<del>Knott County</del>		
<del>Football Field</del>	<del>Fence Around the Field</del>		
<del>Restricted Funds</del>	<del>8,300</del>	<del>0</del>	
<del>025. Knott County Fiscal Court</del>	<del>Knott County</del>		
<del>Football Field</del>	<del>Rubberizing Track Service</del>		
<del>Restricted Funds</del>	<del>45,000</del>	<del>0</del>	
<del>026. Knott County Fiscal Court</del>	<del>Knott County Football</del>		
<del>Field</del>	<del>Turf Solution</del>		
<del>Restricted Funds</del>	<del>10,438</del>	<del>0</del>	
<del>027. Knott County Fiscal Court</del>	<del>Knott County Sheriff's</del>		
<del>Office</del>	<del>Safety Equipment, Operating,</del>		
<del>Maintenance, and Vehicle</del>			
<del>Restricted Funds</del>	<del>100,000</del>	<del>0</del>	
<del>028. Knott County Fiscal Court</del>	<del>Knott County Youth</del>		
<del>Foundation</del>	<del>Operating and Equipment</del>		
<del>Restricted Funds</del>	<del>20,000</del>	<del>75,000</del>	
<del>029. Knott County Fiscal Court</del>	<del>Lotts Creek Fire</del>		



<del>Department</del>	<del>Equipment</del>		
<del>Restricted Funds</del>	<del>25,000</del>	<del>25,000</del>	
<del>030. Knott County Fiscal Court</del>	<del>Lotts Creek</del>		
<del>School</del>	<del>Athletic Field lighting</del>		
<del>Restricted Funds</del>	<del>50,000</del>	<del>25,000</del>	
<del>031. Knott County Fiscal Court</del>	<del>Various Water</del>		
<del>Line Extensions</del>			
<del>Restricted Funds</del>	<del>250,000</del>	<del>250,000</del>	
<del>032. Knott County Fiscal Court</del>	<del>Martin</del>		
<del>Branch</del>	<del>Water Project</del>		
<del>Restricted Funds</del>	<del>250,000</del>	<del>0</del>	
<del>033. Knott County Fiscal Court</del>	<del>Rt. 80 Montgomery</del>		
<del>to Soft Shell Exit</del>	<del>Water Line Extensions</del>		
<del>Restricted Funds</del>	<del>0</del>	<del>1,000,000</del>	
<del>034. Knott County Fiscal Court</del>	<del>Mousie Community</del>		
<del>Fifteen Fire Hydrants</del>			
<del>Restricted Funds</del>	<del>33,000</del>	<del>0</del>	
<del>035. Knott County Fiscal Court</del>	<del>Pippa Passes Fire</del>		
<del>Department</del>	<del>Equipment</del>		
<del>Restricted Funds</del>	<del>25,000</del>	<del>25,000</del>	
<del>036. Knott County Fiscal Court</del>	<del>Purchase of</del>		
<del>Beckham Combs Elementary</del>	<del>Community Center</del>		
<del>Restricted Funds</del>	<del>250,000</del>	<del>0</del>	
<del>037. Knott County Fiscal Court</del>	<del>Purchase of Caney</del>		
<del>Elementary</del>	<del>Community Center</del>		
<del>Restricted Funds</del>	<del>250,000</del>	<del>0</del>	
<del>038. Knott County Fiscal Court</del>	<del>Purchase of Old</del>		
<del>Knott County Food Store</del>	<del>Community Center</del>		
<del>Restricted Funds</del>	<del>100,000</del>	<del>0</del>	
<del>039. Knott County Fiscal Court</del>	<del>Purchase Property</del>		
<del>for Economic Development</del>	<del>Robert and Maggie</del>		
<del>Gambill Property</del>			
<del>Restricted Funds</del>	<del>525,000</del>	<del>0</del>	
<del>040. Knott County Fiscal Court</del>	<del>Red Fox Fire</del>		
<del>Department</del>	<del>Construction</del>		
<del>Restricted Funds</del>	<del>100,000</del>	<del>0</del>	
<del>041. Knott County Fiscal Court</del>	<del>Red Fox Fire</del>		
<del>Department</del>	<del>Purchase Property</del>		

<del>Restricted Funds</del>	<del>100,000</del>	<del>0</del>
<del>042. Knott County Fiscal Court – Red Fox Park –</del>		
<del>Operation, Maintenance and Improvements</del>		
<del>Restricted Funds</del>	<del>5,000</del>	<del>5,000</del>
<del>043. Knott County Fiscal Court – School of</del>		
<del>Crafts – Ceramic Department – Construction</del>		
<del>Restricted Funds</del>	<del>250,000</del>	<del>0</del>
<del>044. Knott County Fiscal Court – Senior Citizens</del>		
<del>Center – Improvements</del>		
<del>Restricted Funds</del>	<del>75,000</del>	<del>75,000</del>
<del>045. Knott County Fiscal Court – Tourism – ATV</del>		
<del>and Horse Trail</del>		
<del>Restricted Funds</del>	<del>175,000</del>	<del>40,000</del>
<del>046. Knott County Fiscal Court – Vico/Sassafrass</del>		
<del>Fire Department – Equipment</del>		
<del>Restricted Funds</del>	<del>25,000</del>	<del>25,000</del>
<del>047. Knott County Fiscal Court – Fire Hydrants</del>		
<del>Restricted Funds</del>	<del>0</del>	<del>25,000</del>

**Knox County**

<del>001. Cumberland Valley Area Development District –</del>		
<del>Artemus Volunteer Fire Department – Equipment</del>		
<del>Restricted Funds</del>	<del>0</del>	<del>30,000</del>
<del>002. Cumberland Valley Area Development District –</del>		
<del>Bailey Volunteer Fire Department – Equipment</del>		
<del>Restricted Funds</del>	<del>0</del>	<del>30,000</del>
<del>003. Cumberland Valley Area Development District –</del>		
<del>East Knox Volunteer Fire Department – Equipment</del>		
<del>Restricted Funds</del>	<del>0</del>	<del>30,000</del>
<del>004. Cumberland Valley Area Development District –</del>		
<del>Poplar Creek Volunteer Fire Department – Equipment</del>		
<del>Restricted Funds</del>	<del>0</del>	<del>30,000</del>
<del>005. Cumberland Valley Area Development District –</del>		
<del>Richland Volunteer Fire Department – Equipment</del>		
<del>Restricted Funds</del>	<del>0</del>	<del>30,000</del>
<del>006. Cumberland Valley Area Development District –</del>		
<del>Stinking Creek Volunteer Fire Department – Equipment</del>		
<del>Restricted Funds</del>	<del>0</del>	<del>30,000</del>
<del>007. Cumberland Valley Area Development District –</del>		

<del>West Knox Volunteer Fire Department</del>	<del>Capital</del>		
<del>Construction</del>	<del>Substation</del>		
<del>Restricted Funds</del>		<del>0</del>	<del>80,000</del>
<del>008. Cumberland Valley Area Development District</del>			
<del>West Knox Volunteer Fire Department</del>	<del>Equipment</del>		
<del>Restricted Funds</del>		<del>0</del>	<del>30,000</del>
<del>009. Cumberland Valley Area Development District</del>			
<del>Woodbine Subdivision Station Volunteer Fire</del>			
<del>Department</del>	<del>Equipment</del>		
<del>Restricted Funds</del>		<del>0</del>	<del>30,000</del>
<del>010. Cumberland Valley Area Development District</del>			
<del>Woodvine Volunteer Fire Department</del>	<del>Capital</del>		
<del>Construction</del>	<del>Walker Park Substation</del>		
<del>Restricted Funds</del>		<del>0</del>	<del>80,000</del>
<del>011. Knox County Board of Education</del>	<del>Knox Central</del>		
<del>Currency Bank</del>	<del>Equipment</del>		
<del>Restricted Funds</del>		<del>5,000</del>	<del>0</del>
<del>012. Knox County Board of Education</del>	<del>TV 4 Equipment</del>		
<del>Restricted Funds</del>		<del>20,000</del>	<del>0</del>
<del>013. Knox County Fiscal Court</del>	<del>Knox County</del>		
<del>Attorney's Office UNITE</del>	<del>Equipment</del>		
<del>Restricted Funds</del>		<del>20,000</del>	<del>0</del>
<del>014. Knox County Fiscal Court</del>	<del>Sheriff Equipment</del>		
<del>and Cars</del>			
<del>Restricted Funds</del>		<del>50,000</del>	<del>25,000</del>
<del>015. City of Barbourville</del>	<del>Police Department Equipment</del>		
<del>Restricted Funds</del>		<del>0</del>	<del>30,000</del>
<del>016. City of Barbourville</del>	<del>Fire Department Equipment</del>		
<del>Restricted Funds</del>		<del>0</del>	<del>30,000</del>
<del>017. Knox County Fiscal Court</del>	<del>Girdler Volunteer Fire</del>		
<del>Department</del>	<del>Payment of Capital</del>		
<del>Construction Debt</del>			
<del>Restricted Funds</del>		<del>30,000</del>	<del>0</del>
<del>018. Knox County Fiscal Court</del>	<del>Artemus Volunteer</del>		
<del>Fire Department</del>	<del>Payment of Capital</del>		
<del>Construction Debt</del>			
<del>Restricted Funds</del>		<del>50,000</del>	<del>0</del>

**Laurel County**

<del>001.</del>	<del>Laurel County Fiscal Court</del>	<del>Bald Rock Fire</del>		
	<del>Department</del>	<del>Equipment</del>		
	<del>Restricted Funds</del>		<del>12,000</del>	<del>5,000</del>
<del>002.</del>	<del>Laurel County Fiscal Court</del>	<del>Bush Fire</del>		
	<del>Department</del>	<del>Equipment</del>		
	<del>Restricted Funds</del>		<del>12,000</del>	<del>5,000</del>
<del>003.</del>	<del>Laurel County Fiscal Court</del>	<del>Campground Fire</del>		
	<del>Department</del>	<del>Equipment</del>		
	<del>Restricted Funds</del>		<del>12,000</del>	<del>5,000</del>
<del>004.</del>	<del>Laurel County Fiscal Court</del>	<del>Crossroads Fire</del>		
	<del>Department</del>	<del>Equipment</del>		
	<del>Restricted Funds</del>		<del>12,000</del>	<del>5,000</del>
<del>005.</del>	<del>Laurel County Fiscal Court</del>	<del>East Bernstadt Fire</del>		
	<del>Department</del>	<del>Equipment</del>		
	<del>Restricted Funds</del>		<del>12,000</del>	<del>5,000</del>
<del>006.</del>	<del>Laurel County Fiscal Court</del>	<del>Health Department</del>		
	<del>Community Walking Track</del>	<del>Equipment</del>		
	<del>Restricted Funds</del>		<del>20,000</del>	<del>0</del>
<del>007.</del>	<del>Laurel County Fiscal Court</del>	<del>Keavy Fire</del>		
	<del>Department</del>	<del>Equipment</del>		
	<del>Restricted Funds</del>		<del>12,000</del>	<del>5,000</del>
<del>008.</del>	<del>Laurel County Fiscal Court</del>	<del>Laurel County Fire</del>		
	<del>Department</del>	<del>Equipment</del>		
	<del>Restricted Funds</del>		<del>12,000</del>	<del>5,000</del>
<del>009.</del>	<del>Laurel County Fiscal Court</del>	<del>Laurel County Rescue</del>		
	<del>Squad</del>	<del>Equipment</del>		
	<del>Restricted Funds</del>		<del>12,000</del>	<del>5,000</del>
<del>010.</del>	<del>Laurel County Fiscal Court</del>	<del>Library</del>	<del>Supplies</del>	
	<del>Restricted Funds</del>		<del>5,000</del>	<del>5,382</del>
<del>011.</del>	<del>Laurel County Fiscal Court</del>	<del>Lily Fire</del>		
	<del>Department</del>	<del>Equipment</del>		
	<del>Restricted Funds</del>		<del>12,000</del>	<del>5,000</del>
<del>012.</del>	<del>Laurel County Fiscal Court</del>	<del>London / Laurel</del>		
	<del>County Optimist Club</del>			
	<del>Restricted Funds</del>		<del>25,000</del>	<del>40,000</del>
<del>013.</del>	<del>Laurel County Fiscal Court</del>	<del>London Fire</del>		
	<del>Department</del>	<del>Equipment</del>		
	<del>Restricted Funds</del>		<del>12,000</del>	<del>5,000</del>

<del>014. Laurel County Fiscal Court – McWhorter Fire</del>		
<del>Department – Equipment</del>		
<del>Restricted Funds</del>	<del>12,000</del>	<del>5,000</del>
<del>015. Laurel County Fiscal Court – North Laurel Little</del>		
<del>League – Capital Construction</del>		
<del>Restricted Funds</del>	<del>20,000</del>	<del>25,000</del>
<del>016. Laurel County Fiscal Court – OPAC</del>		
<del>Restricted Funds</del>	<del>15,000</del>	<del>15,000</del>
<del>017. Laurel County Fiscal Court – Swiss Colony Fire</del>		
<del>Department – Equipment</del>		
<del>Restricted Funds</del>	<del>12,000</del>	<del>5,000</del>
<del>018. Laurel County Fiscal Court – Veterans</del>		
<del>Memorial – Improvements</del>		
<del>Restricted Funds</del>	<del>30,000</del>	<del>0</del>

**Lawrence County**

<del>001. City of Louisa – Downtown Beautification,</del>		
<del>Building, Sidewalk and Street Improvements,</del>		
<del>Infrastructure, City Park and City Pool Upgrades</del>		
<del>and Any Other Enhancements</del>		
<del>Restricted Funds</del>	<del>50,000</del>	<del>50,000</del>
<del>002. City of Louisa – Lawrence County Public Library –</del>		
<del>Technology Upgrades, Construction, Library</del>		
<del>Enhancements and Improvements</del>		
<del>Restricted Funds</del>	<del>75,000</del>	<del>75,000</del>
<del>003. Lawrence County Board of Education – Blaine</del>		
<del>Elementary – Facility and Ground Improvements,</del>		
<del>Technology Upgrades, Curriculum, Program,</del>		
<del>Enhancements, and other Physical Fitness and</del>		
<del>Playground Equipment Upgrades</del>		
<del>Restricted Funds</del>	<del>25,000</del>	<del>0</del>
<del>004. Lawrence County Board of Education – Facility</del>		
<del>Improvements and Upgrades – New Floor and Lights –</del>		
<del>Lawrence County High School Gymnasium</del>		
<del>Restricted Funds</del>	<del>150,000</del>	<del>0</del>
<del>005. Lawrence County Board of Education – Fallsburg</del>		
<del>Elementary – Facility and Ground Improvements,</del>		
<del>Technology Upgrades, Curriculum, Program and</del>		
<del>other Enhancements, Physical Fitness and</del>		

<del>Playground Equipment Upgrades</del>		
<del>Restricted Funds</del>	<del>25,000</del>	<del>0</del>
<del>006. Lawrence County Board of Education – Lawrence</del>		
<del>County Career Tech Program – Jr. Coal Academy –</del>		
<del>Program Equipment, Materials, Curriculum and</del>		
<del>Training Enhancements – Other Improvements Related</del>		
<del>to Jr. Coal Academy</del>		
<del>Restricted Funds</del>	<del>100,000</del>	<del>100,000</del>
<del>007. Lawrence County Board of Education – Louisa Upper</del>		
<del>Elementary – Facility and Ground Improvements,</del>		
<del>Technology Upgrades, Curriculum, Program and</del>		
<del>other Enhancements, Physical Fitness and Playground</del>		
<del>Equipment Upgrades</del>		
<del>Restricted Funds</del>	<del>25,000</del>	<del>0</del>
<del>008. Lawrence County Fiscal Court – Blaine Fire</del>		
<del>Department – Equipment and Improvements</del>		
<del>Restricted Funds</del>	<del>0</del>	<del>10,000</del>
<del>009. Lawrence County Fiscal Court – Blaine City Park –</del>		
<del>Various Construction, Equipment and Ground</del>		
<del>Improvements</del>		
<del>Restricted Funds</del>	<del>15,000</del>	<del>15,000</del>
<del>010. Lawrence County Fiscal Court – Cherryville Fire</del>		
<del>Department – Equipment and Improvements</del>		
<del>Restricted Funds</del>	<del>0</del>	<del>10,000</del>
<del>011. Lawrence County Fiscal Court – Fallsburg Fire</del>		
<del>Department – Equipment and Improvements</del>		
<del>Restricted Funds</del>	<del>0</del>	<del>10,000</del>
<del>012. Lawrence County Fiscal Court – Lawrence County</del>		
<del>Community Center – Facility and Ground Improvements,</del>		
<del>Related Upgrades and Enhancements at the Community</del>		
<del>Center</del>		
<del>Restricted Funds</del>	<del>50,000</del>	<del>25,000</del>
<del>013. Lawrence County Fiscal Court – Lawrence County</del>		
<del>Industrial Park – Various Industrial Park</del>		
<del>Improvements and Upgrades</del>		
<del>Restricted Funds</del>	<del>50,000</del>	<del>75,000</del>
<del>014. Lawrence County Fiscal Court – Louisa #1 Fire</del>		
<del>Department – Equipment and Improvements</del>		

<del>Restricted Funds</del>	<del>0</del>	<del>10,000</del>
<del>015. Lawrence County Fiscal Court – Louisa #2 Fire</del>		
<del>Department – Equipment and Improvements</del>		
<del>Restricted Funds</del>	<del>0</del>	<del>10,000</del>
<del>016. Lawrence County Fiscal Court – Lowmansville</del>		
<del>Fire Department – Equipment and Improvements</del>		
<del>Restricted Funds</del>	<del>0</del>	<del>10,000</del>
<del>017. Lawrence County Fiscal Court – Pleasant</del>		
<del>Ridge Park – Various Park Improvements</del>		
<del>Restricted Funds</del>	<del>100,000</del>	<del>100,000</del>
<del>018. Lawrence County Fiscal Court – Stella Moore</del>		
<del>Recreational Complex – Facility and Ground</del>		
<del>Improvements, Equipment and other Enhancements</del>		
<del>Restricted Funds</del>	<del>50,000</del>	<del>0</del>
<del>019. Lawrence County Fiscal Court – Webbville Fire</del>		
<del>Department – Equipment and Improvements</del>		
<del>Restricted Funds</del>	<del>0</del>	<del>10,000</del>
<del>020. Lawrence County Board of Education: Louisa Lower</del>		
<del>Elementary – Facility and Ground Improvements,</del>		
<del>Technology Upgrades, Curriculum, Program and</del>		
<del>other Enhancements, Physical Fitness and</del>		
<del>Playground Equipment Upgrades</del>		
<del>Restricted Funds</del>	<del>25,000</del>	<del>0</del>
<del>021. Lawrence County Board of Education: Louisa</del>		
<del>Middle School – Facility and Ground Improvements,</del>		
<del>Technology Upgrades, Curriculum, Program and</del>		
<del>other Enhancements, Physical Fitness and</del>		
<del>Playground Equipment Upgrades</del>		
<del>Restricted Funds</del>	<del>25,000</del>	<del>0</del>
<b><del>Lee County</del></b>		
<del>001. City of Beattyville – Renaissance</del>		
<del>Restricted Funds</del>	<del>100,000</del>	<del>150,000</del>
<del>002. Lee County Fiscal Court – Ambulance</del>		
<del>Service – Equipment</del>		
<del>Restricted Funds</del>	<del>100,000</del>	<del>0</del>
<del>003. Lee County Fiscal Court – Museum, Veterans'</del>		
<del>Wing – Improvements</del>		
<del>Restricted Funds</del>	<del>40,000</del>	<del>0</del>

004.	Lee County Fiscal Court	KY Mountain Mission		
		Inc. of Southeast Kentucky		
	Restricted Funds		25,000	0
005.	Lee County Fiscal Court	Park Improvements		
	Restricted Funds		50,000	0
006.	Lee County Fiscal Court	Senior Citizens Equipment		
	Restricted Funds		0	47,000
007.	Lee County Fiscal Court	Three Forks Jail		
	Restricted Funds		100,000	100,000
008.	Lee County Fiscal Court	Volunteer Fire		
	Department	Equipment		
	Restricted Funds		50,000	0
<b>Leslie County</b>				
001.	City of Hyden	Pedway Project		
	Restricted Funds		100,000	0
002.	Hyden Leslie Water District	Replace Transmission		
		Mains in the City of Hyden and Install Fire Hydrants		
	Restricted Funds		0	400,000
003.	Hyden Leslie Water District	Water Line Extension		
		Water Plant Expansion		
	Restricted Funds		250,000	200,000
004.	Kentucky River ADD	Past Dues		
	Restricted Funds		53,000	0
005.	Leslie County Board of Education	Beechfork		
		Community Center Property Acquisition		
	Restricted Funds		320,000	0
006.	Leslie County Board of Education	Leslie County		
		High School Band		
	Restricted Funds		14,000	0
007.	Leslie County Board of Education	Student Bus		
		Loading Canopy		
	Restricted Funds		0	100,000
008.	Leslie County Board of Education	Technology		
		Infrastructure and Student Lab Computers		
	Restricted Funds		100,000	100,000
009.	Leslie County Fiscal Court	Beechfork Community		
		Center Equipment, Operations and Property Acquisition		
	Restricted Funds		180,000	0



<del>010.</del>	<del>Leslie County Fiscal Court</del>	<del>Clerks Office</del>	<del>Equipment</del>		
	<del>Restricted Funds</del>		<del>20,000</del>	<del>0</del>	
<del>011.</del>	<del>Leslie County Fiscal Court</del>	<del>Community</del>			
	<del>Development Center</del>	<del>Operations</del>			
	<del>Restricted Funds</del>		<del>74,000</del>	<del>80,000</del>	
<del>012.</del>	<del>Leslie County Fiscal Court</del>	<del>Coon Creek Volunteer</del>			
	<del>Fire Department</del>				
	<del>Restricted Funds</del>		<del>10,000</del>	<del>20,000</del>	
<del>013.</del>	<del>Leslie County Fiscal Court</del>	<del>C.R.E.E.K. Operations</del>			
	<del>Restricted Funds</del>		<del>100,000</del>	<del>75,000</del>	
<del>014.</del>	<del>Leslie County Fiscal Court</del>	<del>Cutshin Fire and</del>			
	<del>Rescue Volunteer Fire Department</del>				
	<del>Restricted Funds</del>		<del>10,000</del>	<del>20,000</del>	
<del>015.</del>	<del>Leslie County Fiscal Court</del>	<del>Debt Service for</del>			
	<del>Refunding Bond Series 2003</del>				
	<del>Restricted Funds</del>		<del>113,650</del>	<del>0</del>	
<del>016.</del>	<del>Leslie County Fiscal Court</del>	<del>Drug Awareness Program</del>			
	<del>Restricted Funds</del>		<del>10,000</del>	<del>10,000</del>	
<del>017.</del>	<del>Leslie County Fiscal Court</del>	<del>E911 Center</del>			
	<del>New Facility</del>	<del>Construction</del>			
	<del>Restricted Funds</del>		<del>500,000</del>	<del>0</del>	
<del>018.</del>	<del>Leslie County Fiscal Court</del>	<del>E911 Operations</del>			
	<del>Restricted Funds</del>		<del>200,000</del>	<del>200,000</del>	
<del>019.</del>	<del>Leslie County Fiscal Court</del>	<del>Hyden Volunteer</del>			
	<del>Fire Department</del>				
	<del>Restricted Funds</del>		<del>10,000</del>	<del>20,000</del>	
<del>020.</del>	<del>Leslie County Fiscal Court</del>	<del>Jail Bond Debt (Principal)</del>			
	<del>Restricted Funds</del>		<del>0</del>	<del>500,000</del>	
<del>021.</del>	<del>Leslie County Fiscal Court</del>	<del>Leslie County Food Pantry</del>			
	<del>Restricted Funds</del>		<del>10,000</del>	<del>0</del>	
<del>022.</del>	<del>Leslie County Fiscal Court</del>	<del>Leslie County</del>			
	<del>Humane Society</del>	<del>Operations</del>			
	<del>Restricted Funds</del>		<del>10,000</del>	<del>4,500</del>	
<del>023.</del>	<del>Leslie County Fiscal Court</del>	<del>Redbird Fire Department</del>			
	<del>Restricted Funds</del>		<del>10,000</del>	<del>0</del>	
<del>024.</del>	<del>Leslie County Fiscal Court</del>	<del>RV Park Improvements</del>			
	<del>Restricted Funds</del>		<del>75,000</del>	<del>0</del>	
<del>025.</del>	<del>Leslie County Fiscal Court</del>	<del>Stinnett Fire and</del>			

<del>Rescue Volunteer Fire Department</del>		
<del>026. Leslie County Fiscal Court Stinnett Community</del>		
<del>Center - Community Development Project</del>		
<del>Restricted Funds</del>	<del>10,000</del>	<del>20,000</del>
<del>027. Leslie County Fiscal Court Thousandsticks</del>		
<del>Fire and Rescue Volunteer Fire Department</del>		
<del>Restricted Funds</del>	<del>150,000</del>	<del>0</del>
<del>028. Leslie County Fiscal Court Transportation</del>		
<del>County Roads - Equipment</del>		
<del>Restricted Funds</del>	<del>425,000</del>	<del>611,441</del>
<del>029. Leslie County Fiscal Court Wooten Fire and</del>		
<del>Rescue Volunteer Fire Department</del>		
<del>Restricted Funds</del>	<del>10,000</del>	<del>20,000</del>
<del>030. Leslie County Fiscal Court Tim Lee Carter</del>		
<del>Building, Equipment, Repairs</del>		
<del>Restricted Funds</del>	<del>0</del>	<del>12,800</del>

**Letcher County**

<del>001. City of Jenkins Cumberland Mountain Arts</del>		
<del>and Crafts Council Project - Construction</del>		
<del>Restricted Funds</del>	<del>100,000</del>	<del>0</del>
<del>002. City of Jenkins Jenkins Water Line Replacement</del>		
<del>Restricted Funds</del>	<del>100,000</del>	<del>0</del>
<del>003. City of Neon Neon/Haymond Sewer Project</del>		
<del>Restricted Funds</del>	<del>500,000</del>	<del>0</del>
<del>004. City of Whitesburg Easta Craft Conway Center</del>		
<del>Improvements - Operations</del>		
<del>Restricted Funds</del>	<del>100,000</del>	<del>100,000</del>
<del>005. City of Whitesburg Whitesburg Wastewater Plant</del>		
<del>Restricted Funds</del>	<del>500,000</del>	<del>0</del>
<del>006. Letcher County Fiscal Court ATV Trail</del>		
<del>Development Fund - Tourism Development</del>		
<del>Restricted Funds</del>	<del>100,000</del>	<del>0</del>
<del>007. Letcher County Fiscal Court Colson Volunteer</del>		
<del>Fire Department - Equipment</del>		
<del>Restricted Funds</del>	<del>20,000</del>	<del>0</del>
<del>008. Letcher County Fiscal Court Cram Creek Water Extension</del>		
<del>Restricted Funds</del>	<del>400,000</del>	<del>0</del>

<del>009.</del>	<del>Letcher County Fiscal Court</del>	<del>Cumberland River</del>		
	<del>Volunteer Fire Department</del>	<del>Equipment</del>		
	<del>Restricted Funds</del>	<del>20,000</del>	<del>0</del>	
<del>010.</del>	<del>Letcher County Fiscal Court</del>	<del>Cumberland River Water Project</del>		
	<del>Restricted Funds</del>	<del>0</del>	<del>600,000</del>	
<del>011.</del>	<del>Letcher County Fiscal Court</del>	<del>Dry Fork Sewer Extension</del>		
	<del>Restricted Funds</del>	<del>0</del>	<del>400,000</del>	
<del>012.</del>	<del>Letcher County Fiscal Court</del>	<del>Gordon Community</del>		
	<del>Park Improvements</del>			
	<del>Restricted Funds</del>	<del>35,000</del>	<del>0</del>	
<del>013.</del>	<del>Letcher County Fiscal Court</del>	<del>Gordon Fire</del>		
	<del>Department Vehicle</del>			
	<del>Restricted Funds</del>	<del>100,000</del>	<del>0</del>	
<del>014.</del>	<del>Letcher County Fiscal Court</del>	<del>Gordon</del>		
	<del>Volunteer Fire Department</del>	<del>Equipment</del>		
	<del>Restricted Funds</del>	<del>20,000</del>	<del>0</del>	
<del>015.</del>	<del>Letcher County Fiscal Court</del>	<del>Hemphill Community</del>		
	<del>Center Equipment</del>			
	<del>Restricted Funds</del>	<del>10,000</del>	<del>10,000</del>	
<del>016.</del>	<del>Letcher County Fiscal Court</del>	<del>Highway 1181/</del>		
	<del>Highway 15 (Smoot Creek) Water Line Extension</del>			
	<del>Restricted Funds</del>	<del>0</del>	<del>300,000</del>	
<del>017.</del>	<del>Letcher County Fiscal Court</del>	<del>Jenkins Volunteer</del>		
	<del>Fire Department</del>	<del>Equipment</del>		
	<del>Restricted Funds</del>	<del>20,000</del>	<del>0</del>	
<del>018.</del>	<del>Letcher County Fiscal Court</del>	<del>Kingscreek</del>		
	<del>Community Center</del>	<del>Equipment</del>		
	<del>Restricted Funds</del>	<del>10,000</del>	<del>10,000</del>	
<del>019.</del>	<del>Letcher County Fiscal Court</del>	<del>Kingscreek Volunteer</del>		
	<del>Fire Department</del>	<del>Equipment</del>		
	<del>Restricted Funds</del>	<del>20,000</del>	<del>0</del>	
<del>020.</del>	<del>Letcher County Fiscal Court</del>	<del>Letcher County Clerk</del>		
	<del>Office</del>	<del>Equipment</del>		
	<del>Restricted Funds</del>	<del>30,000</del>	<del>0</del>	
<del>021.</del>	<del>Letcher County Fiscal Court</del>	<del>Letcher County</del>		
	<del>Parks</del>	<del>Improvements</del>		
	<del>Restricted Funds</del>	<del>50,000</del>	<del>50,000</del>	
<del>022.</del>	<del>Letcher County Fiscal Court</del>	<del>Letcher County PVA</del>		

<del>Office Equipment</del>		
<del>Restricted Funds</del>	<del>10,000</del>	<del>0</del>
<del>023. Letcher County Fiscal Court Letcher County</del>		
<del>Recreation Park Improvements</del>		
<del>Restricted Funds</del>	<del>0</del>	<del>125,000</del>
<del>024. Letcher County Fiscal Court Letcher County</del>		
<del>Sheriff's Department Equipment</del>		
<del>Restricted Funds</del>	<del>70,000</del>	<del>0</del>
<del>025. Letcher County Fiscal Court Letcher</del>		
<del>Volunteer Fire Department Equipment</del>		
<del>Restricted Funds</del>	<del>20,000</del>	<del>0</del>
<del>026. Letcher County Fiscal Court Mayking</del>		
<del>Volunteer Fire Department Equipment</del>		
<del>Restricted Funds</del>	<del>20,000</del>	<del>0</del>
<del>027. Letcher County Fiscal Court McRoberts</del>		
<del>Community Center Construction</del>		
<del>Restricted Funds</del>	<del>115,000</del>	<del>0</del>
<del>028. Letcher County Fiscal Court Mountain</del>		
<del>Water District Booker Branch Water Project</del>		
<del>Restricted Funds</del>	<del>100,000</del>	<del>0</del>
<del>029. Letcher County Fiscal Court Neon Library</del>		
<del>Construction</del>		
<del>Restricted Funds</del>	<del>150,000</del>	<del>0</del>
<del>030. Letcher County Fiscal Court Neon Volunteer</del>		
<del>Fire Department Equipment</del>		
<del>Restricted Funds</del>	<del>20,000</del>	<del>0</del>
<del>031. Letcher County Fiscal Court Neon Volunteer</del>		
<del>Fire Department New Regional Training Center</del>		
<del>Restricted Funds</del>	<del>200,000</del>	<del>200,000</del>
<del>032. Letcher County Fiscal Court Partridge</del>		
<del>Community Park Improvements</del>		
<del>Restricted Funds</del>	<del>0</del>	<del>25,000</del>
<del>033. Letcher County Fiscal Court Sandlick Community</del>		
<del>Park Improvements</del>		
<del>Restricted Funds</del>	<del>0</del>	<del>25,000</del>
<del>034. Letcher County Fiscal Court Sandlick Volunteer</del>		
<del>Fire Department Equipment</del>		
<del>Restricted Funds</del>	<del>20,000</del>	<del>0</del>

<del>035. Letcher County Fiscal Court Thornton Community</del>		
<del>Park Improvements</del>		
<del>Restricted Funds</del>	<del>0</del>	<del>25,000</del>
<del>036. Letcher County Fiscal Court Whitesburg</del>		
<del>Volunteer Fire Department Equipment</del>		
<del>Restricted Funds</del>	<del>20,000</del>	<del>0</del>
<del>037. Letcher County Fiscal Court Eolia Park</del>		
<del>Improvements</del>		
<del>Restricted Funds</del>	<del>25,000</del>	<del>0</del>
<del>038. Letcher County Airport Board New Airport</del>		
<del>Planning and Engineering</del>		
<del>Restricted Funds</del>	<del>20,000</del>	<del>0</del>
<del>039. Letcher County Board of Education Purchase</del>		
<del>Mayking Head Start Building for LKLP Head Start</del>		
<del>Restricted Funds</del>	<del>120,000</del>	<del>0</del>
<del>040. Southeast Kentucky Community Technical</del>		
<del>College Explore College Program</del>		
<del>Restricted Funds</del>	<del>150,000</del>	<del>0</del>
<del>041. Letcher County Board of Education Letcher</del>		
<del>County Central Vocational School</del>		
<del>Restricted Funds</del>	<del>750,000</del>	<del>0</del>
<del>042. City of Jenkins Jenkins Sewer System Upgrades</del>		
<del>Restricted Funds</del>	<del>125,000</del>	<del>0</del>

**Magoffin County**

<del>001. Magoffin County Fiscal Court</del>		
<del>Administration Building</del>		
<del>Restricted Funds</del>	<del>500,000</del>	<del>0</del>
<del>002. Magoffin County Fiscal Court Bloomington</del>		
<del>Fire Department Equipment</del>		
<del>Restricted Funds</del>	<del>0</del>	<del>20,000</del>
<del>003. Magoffin County Fiscal Court City Hall Restoration</del>		
<del>Restricted Funds</del>	<del>100,000</del>	<del>100,000</del>
<del>004. Magoffin County Fiscal Court Horse Arena</del>		
<del>Restricted Funds</del>	<del>150,000</del>	<del>0</del>
<del>005. Magoffin County Fiscal Court Magoffin County</del>		
<del>Rescue Squad Equipment and Operations</del>		
<del>Restricted Funds</del>	<del>35,000</del>	<del>0</del>
<del>006. Magoffin County Fiscal Court Magoffin County</del>		

<del>Sheriff's Office</del>	<del>Vehicle and Safety Equipment</del>		
<del>Restricted Funds</del>		<del>15,200</del>	<del>60,000</del>
<del>007. Magoffin County Fiscal Court</del>	<del>Middle Fork Fire</del>		
<del>Department</del>	<del>Equipment</del>		
<del>Restricted Funds</del>		<del>0</del>	<del>20,000</del>
<del>008. Magoffin County Fiscal Court</del>	<del>Northern Magoffin</del>		
<del>Fire Department</del>	<del>Equipment</del>		
<del>Restricted Funds</del>		<del>0</del>	<del>20,000</del>
<del>009. Magoffin County Fiscal Court</del>	<del>Ramey Memorial</del>		
<del>Park and Bridge Match</del>			
<del>Restricted Funds</del>		<del>0</del>	<del>135,000</del>
<del>010. Magoffin County Fiscal Court</del>	<del>Reach Operations</del>		
<del>Restricted Funds</del>		<del>20,000</del>	<del>0</del>
<del>011. Magoffin County Fiscal Court</del>	<del>Royalton Fire</del>		
<del>Department</del>	<del>Equipment</del>		
<del>Restricted Funds</del>		<del>0</del>	<del>20,000</del>
<del>012. Magoffin County Fiscal Court</del>	<del>Salyersville</del>		
<del>Fire Department</del>			
<del>Restricted Funds</del>		<del>0</del>	<del>80,000</del>
<del>013. Magoffin County Fiscal Court</del>	<del>Salyersville Renaissance</del>		
<del>Restricted Funds</del>		<del>0</del>	<del>50,000</del>
<del>014. Magoffin County Fiscal Court</del>	<del>Salyersville Fire</del>		
<del>Department</del>	<del>Equipment</del>		
<del>Restricted Funds</del>		<del>0</del>	<del>20,000</del>
<del>015. Magoffin County Fiscal Court</del>	<del>Teen Center Operations</del>		
<del>Restricted Funds</del>		<del>0</del>	<del>20,000</del>
<del>016. Magoffin County Fiscal Court</del>	<del>D.A.V. Chapter 15</del>		
<del>Restricted Funds</del>		<del>25,000</del>	<del>0</del>
<del>017. Magoffin County Fiscal Court</del>	<del>American Legion</del>		
<del>Roy Cain Post 150</del>			
<del>Restricted Funds</del>		<del>25,000</del>	<del>0</del>
<b>Martin County</b>			
<del>001. Martin County Board of Education</del>	<del></del>		
<del>Family Resource Centers</del>	<del>Improvements</del>		
<del>Restricted Funds</del>		<del>60,000</del>	<del>0</del>
<del>002. Martin County Board of Education</del>	<del>Youth</del>		
<del>Activities Facility</del>	<del>Construction</del>		
<del>Restricted Funds</del>		<del>250,000</del>	<del>0</del>

<del>003.</del>	<del>Martin County Fiscal Court – Courthouse</del>		
	<del>Renovation</del>		
	<del>Restricted Funds</del>	<del>150,000</del>	<del>0</del>
<del>004.</del>	<del>Martin County Fiscal Court – Fire Hydrants</del>		
	<del>Restricted Funds</del>	<del>50,000</del>	<del>0</del>
<del>005.</del>	<del>Martin County Fiscal Court – Inez Park – Improvements</del>		
	<del>Restricted Funds</del>	<del>25,000</del>	<del>0</del>
<del>006.</del>	<del>Martin County Fiscal Court – Mountain Scenic</del>		
	<del>Overlook – Construction</del>		
	<del>Restricted Funds</del>	<del>75,000</del>	<del>0</del>
<del>007.</del>	<del>Martin County Fiscal Court – New Warfield</del>		
	<del>Firehouse – Construction</del>		
	<del>Restricted Funds</del>	<del>75,000</del>	<del>0</del>
<del>008.</del>	<del>Martin County Fiscal Court – Pigeon Roost</del>		
	<del>Park – Improvements</del>		
	<del>Restricted Funds</del>	<del>50,000</del>	<del>0</del>
<del>009.</del>	<del>Martin County Fiscal Court – Public Library –</del>		
	<del>Automation</del>		
	<del>Restricted Funds</del>	<del>50,000</del>	<del>0</del>
<del>010.</del>	<del>Martin County Fiscal Court – Public Library –</del>		
	<del>Rufus Reed – Improvements</del>		
	<del>Restricted Funds</del>	<del>25,000</del>	<del>0</del>
<del>011.</del>	<del>Martin County Fiscal Court – Ray Fields</del>		
	<del>Park – Renovation of Swimming Pool</del>		
	<del>Restricted Funds</del>	<del>100,000</del>	<del>0</del>
<del>012.</del>	<del>Martin County Fiscal Court – Roy F. Collier</del>		
	<del>Community Center – Operations Grant</del>		
	<del>Restricted Funds</del>	<del>250,000</del>	<del>0</del>
<del>013.</del>	<del>Martin County Fiscal Court – Sheriff Offices –</del>		
	<del>Vehicles</del>		
	<del>Restricted Funds</del>	<del>100,000</del>	<del>0</del>
<del>014.</del>	<del>Martin County Fiscal Court – Technology</del>		
	<del>Building – Construction</del>		
	<del>Restricted Funds</del>	<del>3,500,000</del>	<del>0</del>
<del>015.</del>	<del>Martin County Fiscal Court – Warfield</del>		
	<del>Park – Improvements</del>		
	<del>Restricted Funds</del>	<del>25,000</del>	<del>0</del>
<del>016.</del>	<del>Martin County Fiscal Court – Wolfe Creek</del>		

<del>Substance Abuse Center for Women Improvements</del>		
<del>Restricted Funds</del>	<del>200,000</del>	<del>0</del>

~~017. Martin County Fiscal Court Complete~~

<del>Construction on Historical Building</del>		
<del>Restricted Funds</del>	<del>125,000</del>	<del>0</del>

**McCreary County**

<del>001. McCreary County Fiscal Court Feasibility</del>		
<del>Study Cumberland Falls</del>		

<del>Restricted Funds</del>	<del>0</del>	<del>25,000</del>
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~~002. McCreary County Fiscal Court Park Site Development~~

<del>Restricted Funds</del>	<del>101,300</del>	<del>89,700</del>
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<del>003. McCreary County Fiscal Court Senior Citizens</del>		
<del>Building Improvements</del>		

<del>Restricted Funds</del>	<del>50,000</del>	<del>0</del>
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<del>004. McCreary County Industrial Development</del>		
<del>Authority Industrial Equipment and Development</del>		

<del>Restricted Funds</del>	<del>35,000</del>	<del>35,000</del>
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**McLean County**

<del>001. McLean County Fiscal Court Broad Band</del>		
<del>Restricted Funds</del>	<del>0</del>	<del>100,000</del>

<del>002. McLean County Fiscal Court Fire Hydrants</del>		
<del>Restricted Funds</del>	<del>0</del>	<del>19,362</del>

<del>003. McLean County Fiscal Court Parks Board</del>		
<del>Restricted Funds</del>	<del>0</del>	<del>50,000</del>

<del>004. McLean County Fiscal Court Southeast District</del>		
<del>Fire Station Building Expansion</del>		
<del>Restricted Funds</del>	<del>23,379</del>	<del>0</del>

<del>005. McLean County Fiscal Court Water Extension</del>		
<del>Leachman School House Road</del>		
<del>Restricted Funds</del>	<del>40,000</del>	<del>0</del>

<del>006. McLean County Fiscal Court Water Extension</del>		
<del>Beech Grove</del>		
<del>Restricted Funds</del>	<del>0</del>	<del>75,000</del>

<del>007. McLean County Fiscal Court Water Extension</del>		
<del>Leachman School House Road</del>		
<del>Restricted Funds</del>	<del>0</del>	<del>60,000</del>

**Menifee County**

<del>001. City of Frenchburg Feasibility Study for Horse</del>		
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<del>Trail Development Around Cave Run Lake and/or</del>		
<del>Trail Development at Murder Branch</del>		
<del>Restricted Funds</del>	<del>15,000</del>	<del>0</del>
<del>002. City of Frenchburg – Pedestrian Walkway – Front</del>		
<del>of Menifee County High School</del>		
<del>Restricted Funds</del>	<del>20,000</del>	<del>0</del>
<del>003. Menifee County Board of Education – Botts</del>		
<del>Elementary – Playground Equipment</del>		
<del>Restricted Funds</del>	<del>15,000</del>	<del>0</del>
<del>004. Menifee County Board of Education – Botts</del>		
<del>Elementary School – Facility and Ground</del>		
<del>Improvements, Technology Upgrades, Curriculum,</del>		
<del>Program and Other Enhancements, Physical Fitness</del>		
<del>and Playground Equipment Upgrades</del>		
<del>Restricted Funds</del>	<del>5,000</del>	<del>0</del>
<del>005. Menifee County Board of Education – Frenchburg</del>		
<del>Elementary School – Facility and Ground</del>		
<del>Improvements, Technology Upgrades, Curriculum,</del>		
<del>Program and Other Enhancements, Physical Fitness</del>		
<del>and Playground Equipment Upgrades</del>		
<del>Restricted Funds</del>	<del>5,000</del>	<del>0</del>
<del>006. Menifee County Board of Education – Menifee</del>		
<del>County High School – Facility and Ground</del>		
<del>Improvements, Technology Upgrades, Curriculum,</del>		
<del>Program and Other Enhancements, Physical Fitness</del>		
<del>and Equipment Upgrades</del>		
<del>Restricted Funds</del>	<del>5,000</del>	<del>0</del>
<del>007. Menifee County Board of Education – Menifee County</del>		
<del>Middle School – Facility and Ground Improvements,</del>		
<del>Technology Upgrades, Curriculum, Program and Other</del>		
<del>Enhancements, Physical Fitness and Equipment Upgrades</del>		
<del>Restricted Funds</del>	<del>5,000</del>	<del>0</del>
<del>008. Menifee County Board of Education – Menifee</del>		
<del>County Middle School – Facility and Ground</del>		
<del>Improvements, Technology Upgrades, Curriculum,</del>		
<del>Program and Other Enhancements, Physical Fitness</del>		
<del>and Playground Equipment Upgrades</del>		
<del>Restricted Funds</del>	<del>5,000</del>	<del>0</del>

<del>009. Menifee County Fiscal Court 911 Emergency</del>		
<del>Dispatch Center Upgrades</del>		
<del>Restricted Funds</del>	<del>0</del>	<del>20,000</del>
<del>010. Menifee County Fiscal Court Baseball Field Improvements</del>		
<del>Restricted Funds</del>	<del>0</del>	<del>20,000</del>
<del>011. Menifee County Fiscal Court Emergency Rescue</del>		
<del>Squad Equipment and Operations</del>		
<del>Restricted Funds</del>	<del>0</del>	<del>5,000</del>
<del>012. Menifee County Fiscal Court Public Library</del>		
<del>50/50 Match Automated Upgrade Grant</del>		
<del>Restricted Funds</del>	<del>0</del>	<del>10,000</del>
<del>013. Menifee County Fiscal Court Sheriff Transport Van</del>		
<del>Restricted Funds</del>	<del>0</del>	<del>30,000</del>
<del>014. Menifee County Fiscal Court Sheriff's Office Equipment</del>		
<del>Restricted Funds</del>	<del>15,000</del>	<del>5,000</del>

**Morgan County**

<del>001. Morgan County Board of Education Alternative</del>		
<del>School Program</del>		
<del>Restricted Funds</del>	<del>50,000</del>	<del>50,000</del>
<del>002. Morgan County Board of Education Canel City</del>		
<del>Elementary Facility and Ground Improvements,</del>		
<del>Technology Upgrades, Curriculum, Program and</del>		
<del>Other Enhancements, Physical Fitness and Playground</del>		
<del>Equipment Upgrades</del>		
<del>Restricted Funds</del>	<del>5,000</del>	<del>0</del>
<del>003. Morgan County Board of Education East Valley</del>		
<del>Elementary Facility and Ground Improvements,</del>		
<del>Technology Upgrades, Curriculum, Program and</del>		
<del>Other Enhancements, Physical Fitness and</del>		
<del>Playground Equipment Upgrades</del>		
<del>Restricted Funds</del>	<del>5,000</del>	<del>0</del>
<del>004. Morgan County Board of Education Ezel</del>		
<del>Elementary Facility and Ground Improvements,</del>		
<del>Technology Upgrades, Curriculum, Program and</del>		
<del>Other Enhancements, Physical Fitness and</del>		
<del>Playground Equipment Upgrades</del>		
<del>Restricted Funds</del>	<del>5,000</del>	<del>0</del>
<del>005. Morgan County Board of Education Football</del>		

Field – Renovate Dressing Facilities		
Restricted Funds	18,000	0
006. Morgan County Board of Education – High School – Concession Stand – Equipment and Improvements		
Restricted Funds	10,000	0
007. Morgan County Board of Education – High School – Football Field – Improvements		
Restricted Funds	20,000	0
008. Morgan County Board of Education – High School – Track and Practice Field – Improvements		
Restricted Funds	60,000	0
009. Morgan County Board of Education – Morgan County High School – Day Treatment Drug Program		
Restricted Funds	10,000	25,000
010. Morgan County Board of Education – Morgan County High School – Facility and Ground Improvements, Technology Upgrades, Curriculum, Program and Other Enhancements, Physical Fitness and Equipment Upgrades		
Restricted Funds	5,000	0
011. Morgan County Board of Education – Morgan Middle School – Facility and Ground Improvements, Technology Upgrades, Curriculum, Program and Other Enhancements, Physical Fitness and Equipment Upgrades		
Restricted Funds	5,000	0
012. Morgan County Board of Education – West Liberty Elementary – Facility and Ground Improvements, Technology Upgrades, Curriculum, Program and Other Enhancements, Physical Fitness and Playground Equipment Upgrades		
Restricted Funds	5,000	0
013. Morgan County Board of Education – Wrigley Elementary – Facility and Ground Improvements, Technology Upgrades, Curriculum, Program and Other Enhancements, Physical Fitness and Playground Equipment Upgrades		

<del>Restricted Funds</del>	<del>5,000</del>	<del>0</del>
<del>014. Appalachian Regional Hospital Diabetes Program</del>		
<del>Regional, Technology and Business Center</del>		
<del>Restricted Funds</del>	<del>20,000</del>	<del>20,000</del>
<del>015. Blackwater Fire Department Equipment,</del>		
<del>Operating and Improvements Regional,</del>		
<del>Technology and Business Center</del>		
<del>Restricted Funds</del>	<del>5,000</del>	<del>0</del>
<del>016. Caney Valley Fire Department Equipment,</del>		
<del>Operating and Improvements Regional,</del>		
<del>Technology and Business Center</del>		
<del>Restricted Funds</del>	<del>5,000</del>	<del>0</del>
<del>017. Crockett Fire Department Equipment,</del>		
<del>Operating and Improvements Regional,</del>		
<del>Technology and Business Center</del>		
<del>Restricted Funds</del>	<del>5,000</del>	<del>0</del>
<del>018. Disabled American Vets Operating Expenses</del>		
<del>Regional, Technology and Business Center</del>		
<del>Restricted Funds</del>	<del>5,000</del>	<del>5,000</del>
<del>019. East Kentucky ATV Association Equipment</del>		
<del>and Trail Improvements Regional, Technology</del>		
<del>and Business Center</del>		
<del>Restricted Funds</del>	<del>10,000</del>	<del>0</del>
<del>020. Feasibility Study for the Morgan County</del>		
<del>Saddle Club for Horse Trail Development</del>		
<del>Around Cave Run Lake/Trail Development</del>		
<del>Restricted Funds</del>	<del>15,000</del>	<del>0</del>
<del>021. Food Pantry Regional, Technology and</del>		
<del>Business Center Operations</del>		
<del>Restricted Funds</del>	<del>5,000</del>	<del>0</del>
<del>022. Oral Health Screening for Elderly with UK</del>		
<del>Regional, Technology and Business Center</del>		
<del>Restricted Funds</del>	<del>0</del>	<del>25,000</del>
<del>023. Peddler Gap Fire Department Equipment,</del>		
<del>Operating and Improvements Regional,</del>		
<del>Technology and Business Center</del>		
<del>Restricted Funds</del>	<del>5,000</del>	<del>0</del>
<del>024. Morgan County Public Library Maintenance, Equipment</del>		

<del>and Upgrades</del>		
<del>Restricted Funds</del>	<del>10,000</del>	<del>10,000</del>
<del>025. Senior Citizens Operations Regional,</del>		
<del>Technology and Business Center</del>		
<del>Restricted Funds</del>	<del>5,000</del>	<del>5,000</del>
<del>026. Sheriff's Department Equipment</del>		
<del>Restricted Funds</del>	<del>0</del>	<del>15,000</del>
<del>027. White Oak Fire Department Equipment,</del>		
<del>Operating and Improvements Regional,</del>		
<del>Technology and Business Center</del>		
<del>Restricted Funds</del>	<del>5,000</del>	<del>0</del>
<del>028. WPA Museum Operating and Maintenance</del>		
<del>Regional, Technology and Business Center</del>		
<del>Restricted Funds</del>	<del>0</del>	<del>10,000</del>
<del>029. Morgan County Rescue Squad Operations,</del>		
<del>Improvements and Equipment Regional,</del>		
<del>Technology and Business Center</del>		
<del>Restricted Funds</del>	<del>5,000</del>	<del>0</del>
<del>030. 519 Fire Department Equipment, Operating</del>		
<del>and Improvements Regional, Technology</del>		
<del>and Business Center</del>		
<del>Restricted Funds</del>	<del>5,000</del>	<del>0</del>
<del>031. Wrigley Fire Department Equipment, Operating</del>		
<del>and Improvements Regional, Technology and</del>		
<del>Business Center</del>		
<del>Restricted Funds</del>	<del>5,000</del>	<del>0</del>
<del>032. Morgan County Board of Education Morgan County</del>		
<del>High School Industrial Education Building Renovation</del>		
<del>Restricted Funds</del>	<del>25,000</del>	<del>0</del>
<del>033. Morgan County Tuition Grant Program Regional,</del>		
<del>Technology and Business Center</del>		
<del>Restricted Funds</del>	<del>0</del>	<del>60,000</del>
<b>Muhlenberg County</b>		
<del>001. City of Bremen Community Center Repair</del>		
<del>Restricted Funds</del>	<del>10,000</del>	<del>0</del>
<del>002. City of Drakesboro Brown Field Remediation</del>		
<del>Project, to Locate City Building Complex on</del>		
<del>Old Aluminum Smelter Facility</del>		

<del>Restricted Funds</del>	<del>205,000</del>	<del>0</del>
<del>003. Muhlenberg County Board of</del>		
<del>Health Construction of Wellness Center located</del>		
<del>at the intersection of Cleaton Rd. and US 62 North</del>		
<del>or on the West Side of US 62 N Approx. 1/2 Mile</del>		
<del>N of Northern City Limit of Powderly</del>		
<del>Restricted Funds</del>	<del>1,000,000</del>	<del>0</del>
<del>004. Muhlenberg County Fiscal Court for Muhlenberg</del>		
<del>Economic Enterprises Inc. (Industrial Board)</del>		
<del>to Operate Industrial Recruitment Program for</del>		
<del>Economic Development of Muhlenberg County</del>		
<del>Restricted Funds</del>	<del>250,000</del>	<del>0</del>
<del>005. City of Greenville Divide Equally to all</del>		
<del>Muhlenberg Fire Departments to Purchase</del>		
<del>Needed Equipment</del>		
<del>Restricted Funds</del>	<del>35,212</del>	<del>0</del>
<b><del>Ohio County</del></b>		
<del>001. Ohio County Fiscal Court 911 Equipment</del>		
<del>(Workstation and Radios)</del>		
<del>Restricted Funds</del>	<del>45,000</del>	<del>0</del>
<del>002. Ohio County Fiscal Court Airport Water</del>		
<del>Line with Hydrant</del>		
<del>Restricted Funds</del>	<del>48,000</del>	<del>0</del>
<del>003. Ohio County Fiscal Court Ambulance Vehicle</del>		
<del>Restricted Funds</del>	<del>65,000</del>	<del>0</del>
<del>004. Ohio County Fiscal Court Bluegrass</del>		
<del>Crossings Industrial Park Infrastructure</del>		
<del>Restricted Funds</del>	<del>174,000</del>	<del>0</del>
<del>005. Ohio County Fiscal Court Broadband Infrastructure</del>		
<del>Restricted Funds</del>	<del>250,000</del>	<del>0</del>
<del>006. Ohio County Fiscal Court Eight Welcome</del>		
<del>Ohio County Signs</del>		
<del>Restricted Funds</del>	<del>19,000</del>	<del>0</del>
<del>007. Ohio County Fiscal Court Repair 2 Bridges</del>		
<del>Hamlin Chapel Road #C 285</del>		
<del>Restricted Funds</del>	<del>35,000</del>	<del>0</del>
<del>008. Ohio County Fiscal Court Road Department</del>		
<del>Backhoe</del>		

<del>Restricted Funds</del>	<del>70,000</del>	<del>0</del>
<del>009. Ohio County Fiscal Court Road Department</del>		
<del>De-icer Equipment</del>		
<del>Restricted Funds</del>	<del>25,000</del>	<del>0</del>
<del>010. Ohio County Fiscal Court Seven Community</del>		
<del>Weather Sirens</del>		
<del>Restricted Funds</del>	<del>110,000</del>	<del>0</del>
<del>011. Ohio County Fiscal Court Sports Complex</del>		
<del>Improvements</del>		
<del>Restricted Funds</del>	<del>50,000</del>	<del>0</del>
<del>012. Ohio County Fiscal Court Bill Monroe Museum /</del>		
<del>Art Center Planning and Design</del>		
<del>Restricted Funds</del>	<del>250,000</del>	<del>0</del>
<b>Owsley County</b>		
<del>001. City of Booneville Match Money for Police Cruiser</del>		
<del>Restricted Funds</del>	<del>8,000</del>	<del>0</del>
<del>002. Owsley County Board of Education Capital</del>		
<del>Construction and Equipment "The Owl"</del>		
<del>Restricted Funds</del>	<del>25,000</del>	<del>25,000</del>
<del>003. Owsley County Fiscal Court Booneville City Fire</del>		
<del>Department Equipment</del>		
<del>Restricted Funds</del>	<del>10,000</del>	<del>10,000</del>
<del>004. Owsley County Fiscal Court Cemetery</del>		
<del>Cleanup Costs</del>		
<del>Restricted Funds</del>	<del>0</del>	<del>15,000</del>
<del>005. Owsley County Fiscal Court Industrial Authority</del>		
<del>Operating Expenses</del>		
<del>Restricted Funds</del>	<del>0</del>	<del>29,365</del>
<del>006. Owsley County Fiscal Court Industrial Loan for Spee</del>		
<del>Building in Industrial Park Paying Interest on Building</del>		
<del>Restricted Funds</del>	<del>16,126</del>	<del>0</del>
<del>007. Owsley County Fiscal Court Island City Fire</del>		
<del>Department Equipment</del>		
<del>Restricted Funds</del>	<del>10,000</del>	<del>10,000</del>
<del>008. Owsley County Fiscal Court Senior Citizens</del>		
<del>Center Repairs and Construction</del>		
<del>Restricted Funds</del>	<del>100,000</del>	<del>100,000</del>
<del>009. Owsley County Fiscal Court Sheriff's Office</del>		

<del>Restricted Funds</del>	<del>45,000</del>	<del>0</del>
<del>010. Owsley County Fiscal Court Three Forks</del>		
<del>Regional Jail Maintenance and Expenses</del>		
<del>Restricted Funds</del>	<del>0</del>	<del>200,000</del>
<del>011. Owsley County Fiscal Court Vincent Fire</del>		
<del>Department Equipment</del>		
<del>Restricted Funds</del>	<del>10,000</del>	<del>10,000</del>
<del>012. Owsley County Library Board Land Acquisition</del>		
<del>Restricted Funds</del>	<del>150,000</del>	<del>0</del>
<b><del>Perry County</del></b>		
<del>001. City of Buckhorn Buckhorn Lake Economic</del>		
<del>Development Fund</del>		
<del>Restricted Funds</del>	<del>150,000</del>	<del>0</del>
<del>002. City of Buckhorn Sewer and Water Operations</del>		
<del>and Expense</del>		
<del>Restricted Funds</del>	<del>200,000</del>	<del>0</del>
<del>003. City of Hazard Equipment Fund</del>		
<del>Restricted Funds</del>	<del>250,000</del>	<del>0</del>
<del>004. Hazard Independent School Board Expense</del>		
<del>Restricted Funds</del>	<del>100,000</del>	<del>50,000</del>
<del>005. Perry County Board of Education Perry County</del>		
<del>Schools Expense and Air Conditioning for</del>		
<del>High School Gym</del>		
<del>Restricted Funds</del>	<del>150,000</del>	<del>150,000</del>
<del>006. Perry County Fiscal Court Economic</del>		
<del>Development and Tourism Initiative Operations</del>		
<del>and Expense</del>		
<del>Restricted Funds</del>	<del>100,000</del>	<del>300,000</del>
<del>007. Perry County Fiscal Court Avawam Volunteer</del>		
<del>Fire Department Operations and Equipment</del>		
<del>Restricted Funds</del>	<del>5,384</del>	<del>5,384</del>
<del>008. Perry County Fiscal Court Buckhorn Volunteer</del>		
<del>Fire Department Operations and Equipment</del>		
<del>Restricted Funds</del>	<del>5,384</del>	<del>5,384</del>
<del>009. Perry County Fiscal Court Challenger Center</del>		
<del>Operations and Expense</del>		
<del>Restricted Funds</del>	<del>100,000</del>	<del>100,000</del>
<del>010. Perry County Fiscal Court Civil War</del>		



<del>Reenactment – Tourism Fund</del>		
<del>Restricted Funds</del>	<del>10,000</del>	<del>10,000</del>
<del>011. Perry County Fiscal Court – Clerk's Office–</del>		
<del>Virtual Court House Modernization</del>		
<del>Restricted Funds</del>	<del>50,000</del>	<del>0</del>
<del>012. Perry County Fiscal Court – Cornettsville</del>		
<del>Volunteer Fire Department – Operations and Equipment</del>		
<del>Restricted Funds</del>	<del>5,384</del>	<del>5,384</del>
<del>013. Perry County Fiscal Court – Fisty Volunteer Fire</del>		
<del>Department – Operations and Equipment</del>		
<del>Restricted Funds</del>	<del>5,384</del>	<del>5,384</del>
<del>014. Perry County Fiscal Court – Grapevine Chavies</del>		
<del>Volunteer Fire Department – Operations and Equipment</del>		
<del>Restricted Funds</del>	<del>5,384</del>	<del>5,384</del>
<del>015. Perry County Fiscal Court – Jakes Branch Volunteer</del>		
<del>Fire Department – Operations and Equipment</del>		
<del>Restricted Funds</del>	<del>5,384</del>	<del>5,384</del>
<del>016. Perry County Fiscal Court – Joshua's Dream–</del>		
<del>Drug Rehabilitation</del>		
<del>Restricted Funds</del>	<del>150,000</del>	<del>0</del>
<del>017. Perry County Fiscal Court – Krypton Volunteer Fire</del>		
<del>Department – Operations and Equipment</del>		
<del>Restricted Funds</del>	<del>5,384</del>	<del>5,384</del>
<del>018. Perry County Fiscal Court – Leatherwood</del>		
<del>Volunteer Fire Department – Operations and Equipment</del>		
<del>Restricted Funds</del>	<del>5,384</del>	<del>5,384</del>
<del>019. Perry County Fiscal Court – Lost Creek</del>		
<del>Volunteer Fire Department – Operations and Equipment</del>		
<del>Restricted Funds</del>	<del>5,384</del>	<del>5,384</del>
<del>020. Perry County Fiscal Court – Lotts Creek</del>		
<del>Volunteer Fire Department – Operations and Equipment</del>		
<del>Restricted Funds</del>	<del>5,384</del>	<del>5,384</del>
<del>021. Perry County Fiscal Court – Park – Expansion</del>		
<del>and Maintenance</del>		
<del>Restricted Funds</del>	<del>200,000</del>	<del>0</del>
<del>022. Perry County Fiscal Court – Regional Jail–</del>		
<del>Operations and Expense</del>		
<del>Restricted Funds</del>	<del>250,000</del>	<del>0</del>

<del>023.</del>	<del>Perry County Fiscal Court – Senior Citizens –</del>		
	<del>Sustenance Fund and New Building Expense</del>		
	<del>Restricted Funds</del>	<del>20,000</del>	<del>20,000</del>
<del>024.</del>	<del>Perry County Fiscal Court – Senior Citizens –</del>		
	<del>Wellness Center</del>		
	<del>Restricted Funds</del>	<del>0</del>	<del>330,000</del>
<del>025.</del>	<del>Perry County Fiscal Court – Sewer Treatment –</del>		
	<del>Pilot Project Hiner Sewer</del>		
	<del>Restricted Funds</del>	<del>100,000</del>	<del>50,000</del>
<del>026.</del>	<del>Perry County Fiscal Court – Sheriff – Operating</del>		
	<del>Expense to Combat Drugs</del>		
	<del>Restricted Funds</del>	<del>250,000</del>	<del>0</del>
<del>027.</del>	<del>Perry County Fiscal Court – South Perry Water</del>		
	<del>Line – Expansion Phase II and Phase III</del>		
	<del>Restricted Funds</del>	<del>73,000</del>	<del>442,000</del>
<del>028.</del>	<del>Perry County Fiscal Court – Troublesome Creek</del>		
	<del>Volunteer Fire Department – Operations and Equipment</del>		
	<del>Restricted Funds</del>	<del>5,384</del>	<del>5,384</del>
<del>029.</del>	<del>Perry County Fiscal Court – University Center</del>		
	<del>of the Mountains – Operations and Expense</del>		
	<del>Restricted Funds</del>	<del>0</del>	<del>500,000</del>
<del>030.</del>	<del>Perry County Fiscal Court – University of Kentucky</del>		
	<del>for Rural Health Indigent Primary School –</del>		
	<del>Operations and Expense</del>		
	<del>Restricted Funds</del>	<del>250,000</del>	<del>0</del>
<del>031.</del>	<del>Perry County Fiscal Court – Vieco Volunteer</del>		
	<del>Fire Department – Operations and Equipment</del>		
	<del>Restricted Funds</del>	<del>5,384</del>	<del>5,384</del>
<del>032.</del>	<del>Perry County Fiscal Court – Viper Volunteer Fire</del>		
	<del>Department – Operations and Equipment</del>		
	<del>Restricted Funds</del>	<del>5,384</del>	<del>5,384</del>
<del>033.</del>	<del>Perry County Fiscal Court – Wendell Ford Airport Expansion</del>		
	<del>Restricted Funds</del>	<del>200,000</del>	<del>0</del>
<del>034.</del>	<del>Perry County Fiscal Court – Sewer Maintenance/Improvement</del>		
	<del>Restricted Funds</del>	<del>0</del>	<del>200,000</del>
<del>035.</del>	<del>Perry County Fiscal Court – Lower Lost Creek Water Line Extension</del>		
	<del>Restricted Funds</del>	<del>400,000</del>	<del>0</del>

**Pike County**

001.	City of Pikeville	Big Sandy Heritage Center		
	Restricted Funds		25,000	25,000
002.	City of Pikeville	Bob Amos Park Sidewalks and Improvements		
	Restricted Funds		100,000	100,000
003.	City of Pikeville	Domestic Violence Center		
	Restricted Funds		75,000	75,000
004.	City of Pikeville	Humane Society Operating		
	Restricted Funds		100,000	0
005.	City of Pikeville	Marion Branch Economic Development Construction		
	Restricted Funds		500,000	500,000
006.	City of Pikeville	Pike/Floyd Sewer Project		
	Restricted Funds		300,000	0
007.	Mountain Water District	Elkhorn Creek Water		
	Restricted Funds		0	300,000
008.	Mountain Water District	Forest Hill Sewer Phase II		
	Restricted Funds		1,280,000	0
009.	Mountain Water District	Justiceville / Garden Village Sewer / Shelby Phase IV		
	Restricted Funds		0	1,000,000
010.	Mountain Water District	LMI Connections Water Project		
	Restricted Funds		400,000	0
011.	Mountain Water District	Millard Water Main Replacement		
	Restricted Funds		0	400,000
012.	Mountain Water District	Smith Fork Sewer Project		
	Restricted Funds		0	1,400,000
013.	Mountain Water District	Water Plant Expansion		
	Restricted Funds		1,000,000	0
014.	Pike County Board of Education	Belfrey YSC Operating		
	Restricted Funds		4,296	0
015.	Pike County Board of Education	Belfry Middle School Operating		
	Restricted Funds		3,561	0
016.	Pike County Board of Education	Bevins		

<del>Elementary School Operating</del>		
<del>Restricted Funds</del>		
	<del>1,752</del>	<del>0</del>
<del>017. Pike County Board of Education Blackberry</del>		
<del>Elementary School Operating</del>		
<del>Restricted Funds</del>		
	<del>1,639</del>	<del>0</del>
<del>018. Pike County Board of Education Dorton</del>		
<del>Elementary School Operating</del>		
<del>Restricted Funds</del>		
	<del>3,957</del>	<del>0</del>
<del>019. Pike County Board of Education East Ridge</del>		
<del>YSC Operating</del>		
<del>Restricted Funds</del>		
	<del>7,688</del>	<del>0</del>
<del>020. Pike County Board of Education Elkhorn City</del>		
<del>Elementary Operating</del>		
<del>Restricted Funds</del>		
	<del>9,893</del>	<del>0</del>
<del>021. Pike County Board of Education Feds</del>		
<del>Creek Operating</del>		
<del>Restricted Funds</del>		
	<del>7,123</del>	<del>0</del>
<del>022. Pike County Board of Education Johns</del>		
<del>Creek Operating</del>		
<del>Restricted Funds</del>		
	<del>3,844</del>	<del>0</del>
<del>023. Pike County Board of Education Kimper</del>		
<del>Elementary School Operating</del>		
<del>Restricted Funds</del>		
	<del>1,865</del>	<del>0</del>
<del>024. Pike County Board of Education Millard</del>		
<del>Middle School Operating</del>		
<del>Restricted Funds</del>		
	<del>4,409</del>	<del>0</del>
<del>025. Pike County Board of Education</del>		
<del>Mullins Operating</del>		
<del>Restricted Funds</del>		
	<del>2,940</del>	<del>0</del>
<del>026. Pike County Board of Education Phelps</del>		
<del>Elementary School Operating</del>		
<del>Restricted Funds</del>		
	<del>4,918</del>	<del>0</del>
<del>027. Pike County Board of Education Phelps</del>		
<del>High School Athletic Field Improvements</del>		
<del>Restricted Funds</del>		
	<del>100,000</del>	<del>0</del>
<del>028. Pike County Board of Education Phelps</del>		
<del>YSC Operating</del>		
<del>Restricted Funds</del>		
	<del>8,140</del>	<del>0</del>

<del>029. Pike County Board of Education – Pike</del>		
<del>Central – Operating</del>		
<del>Restricted Funds</del>	<del>5,031</del>	<del>0</del>
<del>030. Pike County Board of Education – Pike Central</del>		
<del>High School – Athletic Complex – Equipment,</del>		
<del>Operating and Improvements</del>		
<del>Restricted Funds</del>	<del>25,000</del>	<del>25,000</del>
<del>031. Pike County Board of Education – Robinson</del>		
<del>Creek – Operating</del>		
<del>Restricted Funds</del>	<del>4,522</del>	<del>0</del>
<del>032. Pike County Board of Education – Runyon</del>		
<del>Elementary School – Operating</del>		
<del>Restricted Funds</del>	<del>4,070</del>	<del>0</del>
<del>033. Pike County Board of Education – Shelby</del>		
<del>Valley – Operating</del>		
<del>Restricted Funds</del>	<del>4,296</del>	<del>0</del>
<del>034. Pike County Board of Education – Shelby Valley</del>		
<del>High School – Athletic Field – Improvements</del>		
<del>Restricted Funds</del>	<del>100,000</del>	<del>0</del>
<del>035. Pike County Board of Education – Southside</del>		
<del>Elementary School – Operating</del>		
<del>Restricted Funds</del>	<del>4,975</del>	<del>0</del>
<del>036. Pike County Board of Education – Virgie Middle</del>		
<del>School – Operating</del>		
<del>Restricted Funds</del>	<del>2,261</del>	<del>0</del>
<del>037. Pike County Board of Education – GF Johnson –</del>		
<del>Operating</del>		
<del>Restricted Funds</del>	<del>2,657</del>	<del>0</del>
<del>038. Pike County Board of Education – Majestic</del>		
<del>Elementary School – Operating</del>		
<del>Restricted Funds</del>	<del>6,162</del>	<del>0</del>
<del>039. Pike County Fiscal Court – Belfry Fire</del>		
<del>Department – Equipment, Operating and</del>		
<del>Improvements</del>		
<del>Restricted Funds</del>	<del>50,000</del>	<del>0</del>
<del>040. Pike County Fiscal Court – Big Creek Fire</del>		
<del>Department – Operations</del>		
<del>Restricted Funds</del>	<del>50,000</del>	<del>0</del>

<del>041.</del>	<del>Pike County Fiscal Court</del>	<del>Big Sandy Child</del>		
		<del>Advocacy Center</del>		
	<del>Restricted Funds</del>		<del>25,000</del>	<del>25,000</del>
<del>042.</del>	<del>Pike County Fiscal Court</del>	<del>Blackberry Senior</del>		
		<del>Citizens Program</del>		
		<del>Construction, Operating</del>		
		<del>and Improvements</del>		
	<del>Restricted Funds</del>		<del>50,000</del>	<del>0</del>
<del>043.</del>	<del>Pike County Fiscal Court</del>	<del>City of Elkhorn</del>		
		<del>City Housing Development Corporation</del>		
	<del>Restricted Funds</del>		<del>100,000</del>	<del>0</del>
<del>044.</del>	<del>Pike County Fiscal Court</del>	<del>East Kentucky</del>		
		<del>Expo Center</del>		
	<del>Restricted Funds</del>		<del>100,000</del>	<del>0</del>
<del>045.</del>	<del>Pike County Fiscal Court</del>	<del>Elkhorn City</del>		
		<del>Art Center</del>		
	<del>Restricted Funds</del>		<del>100,000</del>	<del>0</del>
<del>046.</del>	<del>Pike County Fiscal Court</del>	<del>Elkhorn City</del>		
		<del>Heritage Council</del>		
	<del>Restricted Funds</del>		<del>5,000</del>	<del>5,000</del>
<del>047.</del>	<del>Pike County Fiscal Court</del>	<del>Elkhorn City</del>		
		<del>Railroad Museum</del>		
		<del>Equipment, Operating and Improvements</del>		
	<del>Restricted Funds</del>		<del>5,000</del>	<del>0</del>
<del>048.</del>	<del>Pike County Fiscal Court</del>	<del>Elkhorn City Renaissance</del>		
		<del>Program</del>		
		<del>Equipment, Operating and Improvements</del>		
	<del>Restricted Funds</del>		<del>20,000</del>	<del>0</del>
<del>049.</del>	<del>Pike County Fiscal Court</del>	<del>Elkhorn City Water</del>		
		<del>Lines</del>		
		<del>Repair, Replace &amp; Restore</del>		
		<del>Equipment,</del>		
		<del>Operating, and Improvements</del>		
	<del>Restricted Funds</del>		<del>200,000</del>	<del>0</del>
<del>050.</del>	<del>Pike County Fiscal Court</del>	<del>Feds Creek</del>		
		<del>Fire Department</del>		
		<del>Equipment, Operating</del>		
		<del>and Improvements</del>		
	<del>Restricted Funds</del>		<del>50,000</del>	<del>0</del>
<del>051.</del>	<del>Pike County Fiscal Court</del>	<del>Ferrells Creek</del>		
		<del>Fire Department</del>		
		<del>Operating and Improvements</del>		
	<del>Restricted Funds</del>		<del>50,000</del>	<del>0</del>
<del>052.</del>	<del>Pike County Fiscal Court</del>	<del>Hatfield Fire</del>		
		<del>Department</del>		
		<del>Equipment, Operating and Improvements</del>		

<del>Restricted Funds</del>	<del>0</del>	<del>50,000</del>
<del>053. Pike County Fiscal Court Hatfield McCoy</del>		
<del>Trail Development Fund Tourism Development</del>		
<del>Restricted Funds</del>	<del>100,000</del>	<del>0</del>
<del>054. Pike County Fiscal Court Hellier Veterans</del>		
<del>Center Improvements</del>		
<del>Restricted Funds</del>	<del>20,000</del>	<del>0</del>
<del>055. Pike County Fiscal Court HOPE, Inc.</del>		
<del>(3 Centers) Equipment, Operating and Improvements</del>		
<del>Restricted Funds</del>	<del>75,000</del>	<del>75,000</del>
<del>056. Pike County Fiscal Court Johns Creek Community</del>		
<del>Center Improvements</del>		
<del>Restricted Funds</del>	<del>15,000</del>	<del>0</del>
<del>057. Pike County Fiscal Court Kimper Fire</del>		
<del>Department New Trucks</del>		
<del>Restricted Funds</del>	<del>150,000</del>	<del>0</del>
<del>058. Pike County Fiscal Court KY HOPE</del>		
<del>Equipment, Operating and Improvements</del>		
<del>Restricted Funds</del>	<del>80,000</del>	<del>80,000</del>
<del>059. Pike County Fiscal Court Long Fork Community</del>		
<del>Center Construction, Equipment and Operating Costs</del>		
<del>Restricted Funds</del>	<del>50,000</del>	<del>150,000</del>
<del>060. Pike County Fiscal Court Lower Johns Creek</del>		
<del>Fire Department Equipment</del>		
<del>Restricted Funds</del>	<del>0</del>	<del>25,000</del>
<del>061. Pike County Fiscal Court Old Pond</del>		
<del>Fire Department</del>		
<del>Restricted Funds</del>	<del>25,000</del>	<del>0</del>
<del>062. Pike County Fiscal Court Open Fork Community</del>		
<del>Center Equipment, Operating and Improvements</del>		
<del>Restricted Funds</del>	<del>50,000</del>	<del>0</del>
<del>063. Pike County Fiscal Court Phelps Fire</del>		
<del>Department Building Expansion</del>		
<del>Restricted Funds</del>	<del>30,000</del>	<del>0</del>
<del>064. Pike County Fiscal Court Pike County</del>		
<del>DAV/VFW Operating and Improvements</del>		
<del>Restricted Funds</del>	<del>50,000</del>	<del>50,000</del>
<del>065. Pike County Fiscal Court Pike County Fire</del>		

<del>Departments Equipment, Operating and Improvements</del>		
<del>Restricted Funds</del>	<del>100,000</del>	<del>100,000</del>
<del>066. Pike County Fiscal Court Pike County Jail</del>		
<del>Improvements</del>		
<del>Restricted Funds</del>	<del>250,000</del>	<del>250,000</del>
<del>067. Pike County Fiscal Court Pike County</del>		
<del>Recreational Department</del>		
<del>Restricted Funds</del>	<del>240,000</del>	<del>240,000</del>
<del>068. Pike County Fiscal Court Senior Citizens</del>		
<del>Program Equipment, Operating and Improvements</del>		
<del>Restricted Funds</del>	<del>100,000</del>	<del>0</del>
<del>069. Pike County School Board Belfry Athletic</del>		
<del>Complex Equipment, Operating and Improvements</del>		
<del>Restricted Funds</del>	<del>25,000</del>	<del>25,000</del>
<del>070. Pike County School Board Phelps High School</del>		
<del>Phelps History Center Equipment, Operating</del>		
<del>and Improvements</del>		
<del>Restricted Funds</del>	<del>35,000</del>	<del>35,000</del>
<del>071. KCTCS Hazard Community College Kentucky</del>		
<del>Coal Academy Program</del>		
<del>Restricted Funds</del>	<del>125,000</del>	<del>125,000</del>
<del>072. Pike County Fiscal Court Pike County Sheriff's</del>		
<del>Office Equipment Purchases (Cruisers)</del>		
<del>Restricted Funds</del>	<del>150,000</del>	<del>0</del>
<del>073. Pike County Fiscal Court Pikeville Medical</del>		
<del>Center Juvenile Drug Treatment Program</del>		
<del>Restricted Funds</del>	<del>125,000</del>	<del>125,000</del>
<del>074. Pike County Fiscal Court Westcare Kentucky</del>		
<del>Pike County Facility Operations Support</del>		
<del>Restricted Funds</del>	<del>125,000</del>	<del>125,000</del>
<del>075. Pike County Fiscal Court Elkhorn City Heritage</del>		
<del>Council White Water Park Feasibility Study</del>		
<del>Restricted Funds</del>	<del>25,000</del>	<del>0</del>
<del>076. Pike County Board of Education East Ridge High</del>		
<del>School Athletic Programs</del>		
<del>Restricted Funds</del>	<del>50,000</del>	<del>0</del>
<del>077. Pike County Board of Education Pikeville High</del>		
<del>School for Athletic Programs</del>		



<del>Restricted Funds</del>	<del>50,000</del>	<del>0</del>
<b><del>Rockcastle County</del></b>		
<del>001. City of Mt. Vernon Reconstruct Sidewalk/ Lovell Lane</del>		
<del>Restricted Funds</del>	<del>40,000</del>	<del>0</del>
<del>002. Rockcastle County Fiscal Court Brindle Ridge Fire Department Equipment</del>		
<del>Restricted Funds</del>	<del>10,000</del>	<del>7,500</del>
<del>003. Rockcastle County Fiscal Court Broadhead Fire Department Equipment</del>		
<del>Restricted Funds</del>	<del>10,000</del>	<del>7,500</del>
<del>004. Rockcastle County Fiscal Court Kentucky Music Museum and Hall of Fame Improvements</del>		
<del>Restricted Funds</del>	<del>150,000</del>	<del>93,800</del>
<del>005. Rockcastle County Fiscal Court Livingston Fire Department Equipment</del>		
<del>Restricted Funds</del>	<del>10,000</del>	<del>7,500</del>
<del>006. Rockcastle County Fiscal Court Mt. Vernon Fire Department Equipment</del>		
<del>Restricted Funds</del>	<del>10,000</del>	<del>7,500</del>
<del>007. Rockcastle County Fiscal Court Quail Fire Department Equipment</del>		
<del>Restricted Funds</del>	<del>10,000</del>	<del>7,500</del>
<del>008. Rockcastle County Fiscal Court Rockcastle Fire Department Equipment</del>		
<del>Restricted Funds</del>	<del>10,000</del>	<del>7,500</del>
<b><del>Union County</del></b>		
<del>001. City of Sturgis Rest Home Window Replacement, Tile, and Other Needed Furnishings</del>		
<del>Restricted Funds</del>	<del>50,000</del>	<del>0</del>
<del>002. Union County Fiscal Court Morganfield Renaissance Park</del>		
<del>Restricted Funds</del>	<del>15,000</del>	<del>0</del>
<del>003. Union County Fiscal Court Elkwood Public Golf Course Equipment to Maintain Fairways and Greens, Paving of Cart Path and Other Needs of the Golf Course Including but not Limited to the Pro Golf Shop</del>		

<del>Restricted Funds</del>	<del>75,000</del>	<del>0</del>
<del>004. Union County Fiscal Court Public Library</del>		
<del>To Purchase Book Cases, Tables and Chairs,</del>		
<del>Computer Desks, and Other Expenses to</del>		
<del>Complete Interior</del>		
<del>Restricted Funds</del>	<del>150,000</del>	<del>0</del>
<del>005. Union County Fiscal Court Sturgis Airport</del>		
<del>Dump Truck with Snow Removal Equipment</del>		
<del>and other Equipment</del>		
<del>Restricted Funds</del>	<del>84,000</del>	<del>0</del>
<del>006. Union County Fiscal Court Sturgis</del>		
<del>Amphitheater Sound Equipment, Roof Upgrade,</del>		
<del>and Seating Refurbishing</del>		
<del>Restricted Funds</del>	<del>50,000</del>	<del>0</del>
<del>007. Union County Fiscal Court Union County</del>		
<del>Correctional Facility Interest on Bond Payments</del>		
<del>Restricted Funds</del>	<del>450,000</del>	<del>450,000</del>
<del>008. Union County Fiscal Court Union County</del>		
<del>YMCA Upgrades of Heating, Air, Sidewalks,</del>		
<del>Emergency Lighting, Restrooms and Rehabilitation</del>		
<del>of the Interior and Exterior of the Building</del>		
<del>Restricted Funds</del>	<del>75,000</del>	<del>0</del>
<del>009. Union County Fiscal Court Uniontown Park</del>		
<del>Restricted Funds</del>	<del>10,000</del>	<del>0</del>
<del>010. Union County Fiscal Court Van for Senior Services</del>		
<del>Restricted Funds</del>	<del>30,000</del>	<del>0</del>
<del>011. Union County Fiscal Court Morganfield</del>		
<del>Recreational Park Upgrade Facilities</del>		
<del>Restricted Funds</del>	<del>10,000</del>	<del>0</del>
<del>012. Union County Fiscal Court Sturgis Horning</del>		
<del>Recreational Park Upgrade Facilities</del>		
<del>Restricted Funds</del>	<del>10,000</del>	<del>0</del>
<del>013. Union County Fiscal Court Volunteer Fire</del>		
<del>and Rescue Squads Equipment and Upgrade</del>		
<del>Facilities Divide Equally</del>		
<del>Restricted Funds</del>	<del>200,000</del>	<del>0</del>
<del>014. Union County Fiscal Court Purchase Seven</del>		
<del>Acres of Property and Develop Small</del>		

<del>Business Incubator</del>		
<del>Restricted Funds</del>	<del>100,000</del>	<del>0</del>
<del>015. Union County Fiscal Court Courthouse</del>		
<del>Exterior Improvements</del>		
<del>Restricted Funds</del>	<del>1,500</del>	<del>0</del>
<del>016. Union County Fiscal Court Moffit Lake</del>		
<del>Improvements</del>		
<del>Restricted Funds</del>	<del>30,000</del>	<del>0</del>
<del>017. Union County Fiscal Court James D. Veatch</del>		
<del>Museum Upgrades and Maintenance</del>		
<del>Restricted Funds</del>	<del>30,000</del>	<del>0</del>
<del>018. Union County Fiscal Court Union County</del>		
<del>Economic Development Projects</del>		
<del>Restricted Funds</del>	<del>970,800</del>	<del>970,800</del>
<b><del>Webster County</del></b>		
<del>001. City of Dixon First Response Truck</del>		
<del>Restricted Funds</del>	<del>75,000</del>	<del>0</del>
<del>002. City of Dixon Lighting for City Park Soccer Field</del>		
<del>Restricted Funds</del>	<del>40,000</del>	<del>0</del>
<del>003. City of Providence Debt Service to KIA</del>		
<del>Water and Sewer Plant</del>		
<del>Restricted Funds</del>	<del>250,000</del>	<del>0</del>
<del>004. City of Providence Fire Station Repair</del>		
<del>Restricted Funds</del>	<del>50,000</del>	<del>0</del>
<del>005. City of Sebree Economic Development</del>		
<del>Building and Repair</del>		
<del>Restricted Funds</del>	<del>200,000</del>	<del>0</del>
<del>006. City of Providence Purchase Fire Truck</del>		
<del>Restricted Funds</del>	<del>0</del>	<del>200,000</del>
<del>007. City of Wheatcroft City Park Improvements</del>		
<del>and Equipment</del>		
<del>Restricted Funds</del>	<del>0</del>	<del>25,000</del>
<del>008. City of Wheatcroft Fire Department Building</del>		
<del>Restricted Funds</del>	<del>50,000</del>	<del>0</del>
<del>009. Webster County Fiscal Court Blackford Bridge</del>		
<del>Park and Building</del>		
<del>Restricted Funds</del>	<del>50,000</del>	<del>0</del>
<del>010. Webster County Fiscal Court Debt Service to</del>		

<del>KIA Dixon Sewer</del>		
<del>Restricted Funds</del>	<del>250,000</del>	<del>250,000</del>
<del>011. Webster County Fiscal Court Providence/Webster</del>		
<del>County Airport Board Hanger Building and</del>		
<del>Repairs to Airport</del>		
<del>Restricted Funds</del>	<del>0</del>	<del>70,000</del>
<del>012. Webster County Industrial Development</del>		
<del>Authority Revolving Loan Fund</del>		
<del>Restricted Funds</del>	<del>250,000</del>	<del>400,000</del>
<del>013. Webster County Water District Equipment</del>		
<del>Restricted Funds</del>	<del>250,000</del>	<del>0</del>
<del>014. City of Clay Renaissance Program</del>		
<del>Restricted Funds</del>	<del>75,000</del>	<del>0</del>
<del>015. City of Providence Renaissance Program</del>		
<del>Restricted Funds</del>	<del>75,000</del>	<del>0</del>

**Whitley County**

<del>001. Whitley County Fiscal Court Corbin Police</del>		
<del>Department One Police Cruiser</del>		
<del>Restricted Funds</del>	<del>0</del>	<del>35,000</del>
<del>002. Whitley County Fiscal Court Historical</del>		
<del>Society Improvements</del>		
<del>Restricted Funds</del>	<del>10,000</del>	<del>0</del>
<del>003. Whitley County Fiscal Court Jail Reopening</del>		
<del>and Startup Expense</del>		
<del>Restricted Funds</del>	<del>200,000</del>	<del>0</del>
<del>004. Whitley County Fiscal Court Library Books</del>		
<del>and Technology Upgrade</del>		
<del>Restricted Funds</del>	<del>0</del>	<del>30,000</del>
<del>005. Whitley County Fiscal Court Purchase Equipment</del>		
<del>for Vegetation Control of Sensitive Areas</del>		
<del>Restricted Funds</del>	<del>0</del>	<del>10,000</del>
<del>006. Whitley County Fiscal Court Senior</del>		
<del>Citizens Service Upgrade</del>		
<del>Restricted Funds</del>	<del>0</del>	<del>20,000</del>
<del>007. Whitley County Fiscal Court Sheriff's Department</del>		
<del>Lease and Principle for Two Police Cars</del>		
<del>Restricted Funds</del>	<del>0</del>	<del>64,000] (Veto #24)</del>

**N. INFRASTRUCTURE FOR ECONOMIC DEVELOPMENT FUND**



	Line Extensions		
	Bond Funds	150,000	-0-
005.	City of Ashland - Big Sandy Water District - Water Line Extensions and Interconnect		
	Bond Funds	400,000	-0-
<b>Breathitt County</b>			
001.	Breathitt County Water District - Extension on Highway 205/1812 to Wolfe County Line, Including the Vancleve Fire Department and HWY 3193 to River Bridge and Highway 15 South at Watts		
	Bond Funds	1,200,000	-0-
<b>Butler County</b>			
001.	Butler County Fiscal Court - Community Training Center		
	Bond Funds	538,000	-0-
002.	Butler County Fiscal Court - Dexterville Area Connections - Water Line Replacement		
	Bond Funds	51,000	-0-
003.	Butler County Fiscal Court - Highway 19 Water Tank		
	Bond Funds	300,000	-0-
004.	Butler County Fiscal Court - Logansport Fire Protection Phase 2 - Water Line Replacement		
	Bond Funds	375,000	-0-
005.	Butler County Fiscal Court - Roundhill/Reedyville Fire Protect - Water Line Replacement		
	Bond Funds	449,000	-0-
006.	Butler County Fiscal Court - Water Plant Improvements		
	Bond Funds	196,000	-0-
007.	Butler County Fiscal Court - Woodbury/Cool Springs Fire Protection - Water Line Replacement		
	Bond Funds	129,000	-0-
008.	Butler Water Plant Board - Sludge Handling		
	Bond Funds	425,000	-0-
009.	Butler Water Plant Board - Various Water and Sewer		
	Bond Funds	1,000,000	-0-
<b>Carter County</b>			

001.	City of Grayson - Police and Fire Administration		
	Building - Construction		
	Bond Funds	500,000	-0-
002.	City of Grayson - US 60 East - Damon Mayo -		
	Sewer Extensions		
	Bond Funds	200,000	-0-
003.	City of Olive Hill - Biggs Hill/Grayson Interconnect		
	Bond Funds	250,000	-0-
004.	City of Olive Hill - Henderson Branch/College		
	Hill - Sewer Extensions		
	Bond Funds	250,000	-0-
005.	City of Olive Hill - Sewer Line Repair and Extension		
	Bond Funds	300,000	-0-
006.	Grayson Utility Commission - Sewer Line		
	Repair and Extension		
	Bond Funds	300,000	-0-
007.	Grayson Utility Commission - Water Line Extensions		
	Bond Funds	250,000	-0-
008.	Grayson Water District - Water Line Extension		
	Bond Funds	500,000	-0-
009.	Olive Hill Water District - Water Line Extension		
	Bond Funds	500,000	-0-
010.	Rattlesnake Ridge Water District - Phase VIII -		
	Water Extension		
	Bond Funds	250,000	-0-
011.	Rattlesnake Ridge Water District - Water Line Extension		
	Bond Funds	500,000	-0-

**Christian County**

001.	Christian County Water District - Water Line Extensions		
	Bond Funds	1,200,000	-0-

**Clay County**

001.	City of Manchester - Amphitheater/Park/		
	Bridge Construction and Other Parks		
	Bond Funds	725,000	-0-
002.	Clay County Board of Education - Health		
	Education Building		
	Bond Funds	750,000	-0-
003.	Clay County Fiscal Court - Administration		

	Building and DAV Memorial		
	Bond Funds	400,000	-0-
004.	Clay County Fiscal Court - Ambulance/EMS Center		
	Bond Funds	250,000	-0-
005.	Clay County Fiscal Court - North Manchester		
	Water Line Extensions		
	Bond Funds	125,000	-0-
006.	Clay County Fiscal Court - Recreation, Economic Development, Capital Construction, and Land Acquisition		
	Bond Funds	1,500,000	-0-
007.	Clay County Fiscal Court - Sewer Extension to Health Department and Resurfacing		
	Bond Funds	250,000	-0-
008.	Clay County Fiscal Court - Water Line Extension		
	Bond Funds	1,000,000	-0-
009.	Clay County Fiscal Court - Wood Creek Water District - Line Extensions		
	Bond Funds	125,000	-0-
010.	Clay County Health Department Board - Capital Construction		
	Bond Funds	500,000	-0-
011.	Manchester Water District - Water Line Extensions		
	Bond Funds	250,000	-0-
012.	Manchester Water District - Water Plant Construction/Water Line Extensions		
	Bond Funds	1,000,000	-0-
<b>Crittenden County</b>			
001.	City of Marion - Wastewater Extension		
	Bond Funds	400,000	-0-
002.	Crittenden/Livingston Water District - Water Project		
	Bond Funds	800,000	-0-
<b>Daviess County</b>			
001.	City of Whitesville - Sanitary Sewer Collection System Rehabilitation, Including Pump Stations		
	Bond Funds	215,000	-0-
002.	East Daviess County Water Association - Water Distribution System Line Loops and Tie-Ins		



	Bond Funds	215,000	-0-
003.	Owensboro Municipal Utilities - Various Small Water Main Replacement Projects		
	Bond Funds	205,000	-0-
004.	Regional Water Resource Agency (RWRA) - Sewer Installation Projects - Broadacre Subdivision and Masonville Area		
	Bond Funds	205,000	-0-
005.	Southeast Daviess County Water District - 750,000 Gallon Water Storage Tank Replacement		
	Bond Funds	205,000	-0-
006.	West Daviess County Water District - 500,000 Gallon Water Storage Tank Replacement		
	Bond Funds	205,000	-0-
<b>Elliott County</b>			
001.	City of Sandy Hook - Sewer District - Various Sewer Line Extensions and Improvements		
	Bond Funds	250,000	-0-
002.	Rattlesnake Ridge Water District - Phase VIII - Various Water Line Extensions and Improvements		
	Bond Funds	400,000	-0-
003.	Sandy Hook Water District - Various Water Line Extensions and Improvements		
	Bond Funds	600,000	-0-
<b>Floyd County</b>			
001.	City of Wheelwright - Sewer - Equipment Upgrade and Sewer Extensions		
	Bond Funds	182,000	-0-
002.	City of Wheelwright - Water Extension at Golf Holler		
	Bond Funds	50,000	-0-
003.	Floyd County Fiscal Court - Eastern Sewer Project		
	Bond Funds	350,000	-0-
004.	Floyd County Fiscal Court - Pike/Floyd County Sewer Project		
	Bond Funds	600,000	-0-
005.	Floyd County Fiscal Court - Prestonsburg Water and Sewer - Water and Projects		

	Bond Funds	200,000	-0-
006.	Floyd County Fiscal Court - River Crossing for Sewage at Prater Creek		
	Bond Funds	100,000	-0-
<b>Greenup County</b>			
001.	City of Flatwoods - Espy Lane - 693 Project - Upgrade Espy Lane Pump Station and Lines SX21089009		
	Bond Funds	200,000	-0-
002.	City of Greenup (Oldtown) - Install Approximately One Mile of New Service Along Upper Hog Branch Road off Laurel Road Near Oldtown WX21089020		
	Bond Funds	40,000	-0-
003.	City of Greenup - Downtown Renovations		
	Bond Funds	150,000	-0-
004.	City of Greenup - Wastewater Treatment Plant Backwash Line Relocation WX21089038		
	Bond Funds	200,000	-0-
005.	City of Raceland - SX21089030		
	Bond Funds	18,000	-0-
006.	City of South Shore - Repairs and Rehab of Collection System (SX21089032) and Storm Water/Sanitary Sewer		
	Bond Funds	680,000	-0-
007.	City of Worthington - Edsel Avenue Storm Water Drain Bypass SX21089002		
	Bond Funds	70,000	-0-
008.	City of Wurtland - Isolation Values for Existing Water System Infrastructure WX21089023		
	Bond Funds	30,000	-0-
009.	City of Wurtland - Lloyd Sewer Project SX21089021		
	Bond Funds	470,000	-0-
010.	Greenbo State Park - Campground Construction and Improvements		
	Bond Funds	1,100,000	-0-
011.	Greenup County Board of Education - Greenup County High School Renovations		

	Bond Funds	200,000	-0-
012.	Greenup County Environmental Commission (Flatwoods, Raceland, Russell, Sanitary Districts 1 and 2) - Upgrades to Sewer Treatment Plant and Facilities SX21089006		
	Bond Funds	1,400,000	-0-
013.	Greenup County Fiscal Court - Ashland Regional Airport at Worthington - Renovation and Improvements		
	Bond Funds	250,000	-0-
014.	Russell Independent Board of Education - Russell High School Renovations		
	Bond Funds	200,000	-0-

**Hancock County**

001.	Hancock County Fiscal Court - Bates Hollow Road Water Extension		
	Bond Funds	50,000	-0-
002.	Hancock County Fiscal Court - East Daviess County/Lewisport Area - Water Tower		
	Bond Funds	225,000	-0-
003.	Hancock County Fiscal Court - Hawesville Water and Sewer Improvements		
	Bond Funds	1,000,000	-0-
004.	Hancock County Fiscal Court - Hawesville Water Tank		
	Bond Funds	500,000	-0-
005.	Hancock County Fiscal Court - Highway 60 East Water Tower Expansion		
	Bond Funds	225,000	-0-
006.	Hancock County Fiscal Court - Lewisport Water and Sewer Improvements		
	Bond Funds	1,000,000	-0-
007.	Hancock County Fiscal Court - Smith Bridge Highway 261 Water Line Extensions		
	Bond Funds	150,000	-0-
008.	Hancock County Fiscal Court - Various Extensions, Pump Station, and Hydrants		
	Bond Funds	295,000	-0-

**Harlan County**

001.	Harlan County Fiscal Court - City of Harlan - Regular Upgrades		
	Bond Funds	300,000	-0-
002.	Harlan County Fiscal Court - City of Loyall - Regular Upgrades		
	Bond Funds	300,000	-0-
003.	Harlan County Fiscal Court - Sewer Line to Detention Center		
	Bond Funds	600,000	-0-

**Henderson County**

001.	City of Henderson - Improvement of Drainage and Flow of Waters in Canoe Creek in and Around City and County		
	Bond Funds	1,250,000	-0-

**Hopkins County**

001.	City of Dawson Springs - Sewer System Project		
	Bond Funds	400,000	-0-
002.	City of Earlington - Water and Sewer Line - Extension Project		
	Bond Funds	200,000	-0-
003.	City of Hanson - Gravity Flow Sewer System Project		
	Bond Funds	200,000	-0-
004.	City of Nortonville, White Plains, and Mortons Gap - Sewer Treatment Project		
	Bond Funds	300,000	-0-
005.	City of White Plains/Mortons Gap - Interconnection and Water System - New Well and Water Plant Upgrades		
	Bond Funds	120,000	-0-
006.	Nebo Water District - Water Tank and Upgrade of Distribution System		
	Bond Funds	300,000	-0-

**Jackson County**

001.	City of McKee - SX21109090		
	Bond Funds	1,000,000	-0-
002.	Jackson County Fiscal Court - Grey Hawk Fire and Rescue - Capital Construction		
	Bond Funds	220,000	-0-

003.	Jackson County Fiscal Court - Water Lines - Sand Springs		
	Bond Funds	36,000	-0-
004.	Jackson County Water District - Indian Creek Road Water - 9.1 Mile (23 Households) and 89 North 3.8 Miles (13 Households)		
	Bond Funds	514,862	-0-
005.	Jackson County Water District - McKee City Sewer Re-Design		
	Bond Funds	539,300	-0-
006.	Jackson County Water District - Terrill Creek Water Lines		
	Bond Funds	55,910	-0-

**Johnson County**

001.	Paintsville Utility Commission - Burnt Cabin Branch Off 1559 Water Line Extension		
	Bond Funds	60,000	-0-
002.	Paintsville Utility Commission - Jenny's Creek Water Line Extension		
	Bond Funds	150,000	-0-
003.	Paintsville Utility Commission - Little Lural Water Line Extension		
	Bond Funds	120,000	-0-
004.	Paintsville Utility Commission - Miscellaneous Short Line Connections		
	Bond Funds	168,000	-0-
005.	Paintsville Utility Commission - New Paintsville Water Plant		
	Bond Funds	500,000	-0-
006.	Paintsville Utility Commission - Pressure Tank Flat Gap Water Line Extension		
	Bond Funds	270,000	-0-
007.	Paintsville Utility Commission - Preston Ridge Water Line Extension		
	Bond Funds	30,000	-0-
008.	Paintsville Utility Commission - Rocky Knob Water Line Extension		
	Bond Funds	42,000	-0-

**Knott County**

001.	Knott County Fiscal Court - Jamestown Village and Highway 81 Water Line - WRIS Project No. WX21119225		
	Bond Funds	1,200,000	-0-

**Knox County**

001.	Barbourville Utility Commission - Heidrick Wastewater		
	Bond Funds	300,000	-0-
002.	Barbourville Utility Commission - Sewer and Water Line Extension		
	Bond Funds	200,000	-0-
003.	Barbourville Utility Commission - Wastewater Plant Upgrade		
	Bond Funds	600,000	-0-
004.	Corbin City Utility Commission - Water Line Extension for Dowis		
	Bond Funds	90,000	-0-
005.	Cumberland Valley Area Development District - K.C.E.O.C. - Capital Construction		
	Bond Funds	550,000	-0-
006.	Knox County Board of Education - Health Education Centers for Lynn Camp and Knox Central Capital Construction		
	Bond Funds	1,000,000	-0-
007.	Knox County Fiscal Court - West Knox Annex		
	Bond Funds	750,000	-0-
008.	Knox County Utility Commission - Water Line Extension for Flat Creek and Hubbs Hollow		
	Bond Funds	250,000	-0-
009.	Knox County Utility Commission - Water Line Extension for Stinking Creek, Poplar Creek, and Flat Lick		
	Bond Funds	750,000	-0-
010.	Laurel District #2 - Knox County Lines		
	Bond Funds	225,000	-0-
011.	Laurel District No. 2 - Oak Ridge Road Water Line Extension		

	Bond Funds	5,000	-0-
012.	Knox County Fiscal Court - Wellness Center		
	Bond Funds	1,000,000	-0-

**Laurel County**

001.	City of London - London City Park - Capital Construction at the College Park		
	Bond Funds	2,000,000	-0-
002.	East Laurel Water District - Sewer Line Extension - Conley Road to Crooked Creek		
	Bond Funds	325,000	-0-
003.	Laurel County Water District - Cross Key Subdivision - Sewer - Extensions		
	Bond Funds	500,000	-0-
004.	Laurel County Water District - Woodscreek Water - Extensions		
	Bond Funds	700,000	-0-
005.	Laurel Public Works - Mill Street Retention Basin		
	Bond Funds	425,000	-0-
006.	London/Laurel Industrial Authority - Land Acquisition and Infrastructure		
	Bond Funds	1,250,000	-0-
007.	London Utility Commission - Sublimity/ Miller Lane/Meadow Lane		
	Bond Funds	1,200,000	-0-
008.	London Utility Commission - Sublimity Loop		
	Bond Funds	800,000	-0-
009.	London Water District #2 - Water Line		
	Bond Funds	750,000	-0-
010.	West Laurel Water District - Water Line		
	Bond Funds	54,000	-0-
011.	Woods Creek Water District - Extension		
	Bond Funds	300,000	-0-

**Lawrence County**

001.	Louisa Water and Sewer Commission - Cynthia Chapel Project - Sewer Line Extensions and Improvements		
	Bond Funds	500,000	-0-
002.	Louisa Water and Sewer Commission - High		

	Bottom Lift Station and Sewer Line Upgrades and Extensions		
	Bond Funds	350,000	-0-
003.	Rattlesnake Ridge Water District - Phase VIII - Various Water Line Extensions and Improvements		
	Bond Funds	400,000	-0-
<b>Lee County</b>			
001.	City of Beattyville - Water Treatment Plant		
	Bond Funds	800,000	-0-
002.	City of Beattyville - Water Treatment Plant for City of Beattyville and all of Lee County - Construction		
	Bond Funds	1,200,000	-0-
003.	Lee County Fiscal Court - County Garage Building		
	Bond Funds	250,000	-0-
004.	Lee County Fiscal Court - Happytop Recreation Center - Construction		
	Bond Funds	500,000	-0-
<b>Leslie County</b>			
001.	Hyden Leslie Water District - Hell for Certain Water Line Extensions		
	Bond Funds	500,000	-0-
002.	Hyden Leslie Water District - Water Treatment Plant Expansion - Water Line Extensions		
	Bond Funds	750,000	-0-
<b>Letcher County</b>			
001.	Letcher County Fiscal Court - Blackey Wastewater Collection System		
	Bond Funds	500,000	-0-
002.	Letcher County Fiscal Court - Thornton Water Line Extension		
	Bond Funds	250,000	-0-
003.	Letcher County Fiscal Court - Whitesburg/ Blackey Water Connector		
	Bond Funds	500,000	-0-
<b>Magoffin County</b>			
001.	Magoffin County Fiscal Court - Dixie Addition of Salyersville - Replacement of Aging Water Lines		



	Bond Funds	250,000	-0-
002.	Magoffin County Fiscal Court - Interconnect with Paintsville Utilities - Water Security Projects		
	Bond Funds	900,000	-0-
003.	Magoffin County Fiscal Court - Magoffin Administration Building		
	Bond Funds	600,000	-0-
004.	Magoffin County Fiscal Court - Tacket Bottom - Sewer Project		
	Bond Funds	200,000	-0-
005.	Magoffin County Fiscal Court - Water Line Extension		
	Bond Funds	425,000	-0-

**Martin County**

001.	Martin County Water District - Replace Old and Leaking Water Lines		
	Bond Funds	780,000	-0-
002.	Martin County Water District - Warfield Sewer Project		
	Bond Funds	500,000	-0-

**McCreary County**

001.	McCreary County Fiscal Court - Marsh, Holloway to Whitley City Sewer Extension		
	Bond Funds	500,000	-0-
002.	McCreary County Fiscal Court - McCreary County Industrial Park - Infrastructure		
	Bond Funds	615,000	-0-
003.	McCreary County Fiscal Court - Multi-Purpose/ Senior Citizens Complex		
	Bond Funds	600,000	-0-
004.	McCreary County Fiscal Court - Raw Water Intake		
	Bond Funds	275,000	-0-
005.	McCreary County Water District - Water Line #1 - Transmission Main Upgrade from Stearns to the Pine Knot Area - Extensions		
	Bond Funds	700,000	-0-
006.	McCreary County Water District - Water Line #2 - Water Line Extensions to New Liberty Area, Garland Road, Poff Road and Creekmore/		

	Privett Road		
	Bond Funds	500,000	-0-
<b>McLean County</b>			
001.	McLean County Fiscal Court - 138 Knkobbs (Island) - Water Extension		
	Bond Funds	175,000	-0-
002.	McLean County Fiscal Court - Adams School House Loop (Sacramento) - Water Extension		
	Bond Funds	50,000	-0-
003.	McLean County Fiscal Court - Branch School House Loop (Sacramento) - Water Extension		
	Bond Funds	50,000	-0-
004.	McLean County Fiscal Court - Buttonsberry (Island) - Sewer Extension		
	Bond Funds	50,000	-0-
005.	McLean County Fiscal Court - Fox Hollow (Island) - Water Extension		
	Bond Funds	75,000	-0-
006.	McLean County Fiscal Court - Interconnect KY 81 - KY 250 - Water Line Extension		
	Bond Funds	200,000	-0-
007.	McLean County Fiscal Court - Knuckles - Water Line Extension		
	Bond Funds	30,000	-0-
008.	McLean County Fiscal Court - KY 81 - Sewer Extension		
	Bond Funds	40,000	-0-
009.	McLean County Fiscal Court - Livermore - Sewer Line Infiltration Problems		
	Bond Funds	100,000	-0-
010.	McLean County Fiscal Court - Sacramento - Sewer Pump - Replacement		
	Bond Funds	100,000	-0-
011.	McLean County Fiscal Court - Second Street - Water Line		
	Bond Funds	50,000	-0-
012.	McLean County Fiscal Court - Walnut Street - Water Line		

	Bond Funds	80,000	-0-
013.	McLean County Fiscal Court - Water and Sewer Improvements		
	Bond Funds	250,000	-0-
<b>Meniffee County</b>			
001.	City of Frenchburg - Water Line Extension and Line Improvement		
	Bond Funds	820,000	-0-
002.	Frenchburg Water District - Meter Replacement Project		
	Bond Funds	300,000	-0-
003.	Frenchburg Water District - System Improvements to Improve the ISO Rating		
	Bond Funds	80,000	-0-
004.	Meniffee County Fiscal Court - Library Board - Parking Structure		
	Bond Funds	30,000	-0-
005.	Meniffee County Fiscal Court - EMS Building		
	Bond Funds	150,000	-0-
<b>Morgan County</b>			
001.	Morgan County Fiscal Court - Various Water Line Extensions		
	Bond Funds	1,000,000	-0-
002.	Morgan County Water District - Various Water and Sewer Extensions and Upgrades		
	Bond Funds	200,000	-0-
003.	Morgan County Water District - Water Line Extensions for Laurel Fork, River Rd., Whites Branch, Vest Br., Rt. 191 (Helechawa-Adele), Rt. 134 (Wheelrim), Rt. 7, M. Whitt Rd., Leonard Havens Rd. off 460, Hwy 3345, Dyer Br, Gevedon Br. Roads and Cabin Cr. Rd.		
	Bond Funds	1,000,000	-0-
<b>Muhlenberg County</b>			
001.	Muhlenberg County Water District #1 - Water Lines - Line Replacement		
	Bond Funds	1,000,000	-0-
002.	Muhlenberg County Water District #1 - Water		

	Lines - Paradise Industrial Park		
	Bond Funds	250,000	-0-
<b>Ohio County</b>			
001.	Ohio County Fiscal Court - Water Project - Centertown Water Line Relocation Project		
	Bond Funds	20,000	-0-
002.	Ohio County Fiscal Court - Water Project - Centertown Water Project		
	Bond Funds	1,080,000	-0-
003.	Ohio County Fiscal Court - Water Project - Taffy Ralph Road Project		
	Bond Funds	150,000	-0-
<b>Owsley County</b>			
001.	City of Booneville - Sewer and Water Line Extensions		
	Bond Funds	600,000	-0-
002.	Owsley County Fiscal Court - Water and Sewer Line Extensions		
	Bond Funds	1,200,000	-0-
003.	Owsley County Library Board - Construction		
	Bond Funds	1,000,000	-0-
<b>Perry County</b>			
001.	City of Vicco - Sewer Maintenance		
	Bond Funds	200,000	-0-
002.	Perry County Fiscal Court - Hiner Water Line - Water Line Extension		
	Bond Funds	200,000	-0-
003.	Perry County Fiscal Court - Lower Lost Creek - Water Line Extension		
	Bond Funds	400,000	-0-
004.	Perry County Fiscal Court - South Perry County - Water Project Phase III		
	Bond Funds	400,000	-0-
<b>Pike County</b>			
001.	Mountain Water District - Various Water and Sewer Projects - Extensions and Upgrades		
	Bond Funds	1,282,000	-0-
<b>Rockcastle County</b>			

001.	Rockcastle County Fiscal Court - Lake Linville Sewer Extension		
	Bond Funds	1,100,000	-0-
002.	Western Rockcastle Water Association - Add Four Inch Water Line on SR 1329 for a Distance of Four Miles		
	Bond Funds	120,000	-0-

**Union County**

001.	City of Sturgis and Morganfield - Various Water and Sewer Projects		
	Bond Funds	1,250,000	-0-

**Webster County**

001.	City of Clay - Water/Sewer Line Improvements		
	Bond Funds	250,000	-0-
002.	City of Dixon - Water Line Upgrades		
	Bond Funds	150,000	-0-
003.	City of Providence - Sewer Line Extension		
	Bond Funds	250,000	-0-
004.	City of Sebree - Water/Sewer Line Replacement		
	Bond Funds	250,000	-0-
005.	City of Slaughters - Water Line Improvements and Fire Hydrants		
	Bond Funds	250,000	-0-
006.	Webster County Water District - Water Line Extension		
	Bond Funds	250,000	-0-

**Whitley County**

001.	City of Williamsburg - Hal Rogers Water Park Expansion		
	Bond Funds	400,000	-0-
002.	Corbin Area Technology Center - Utilities Infrastructure		
	Bond Funds	2,500,000	-0-
003.	Corbin Utilities Company - Tattersall		
	Bond Funds	700,000	-0-
004.	University of the Cumberlands - Capital Construction - Pharmacy Building		
	Bond Funds	10,000,000	-0-

005.	Whitley County Board of Education - Oak Grove Community Center		
	Bond Funds	500,000	-0-
006.	Whitley County Fiscal Court - Courthouse Renovations		
	Bond Funds	250,000	-0-
007.	Whitley County Fiscal Court - Fire Hydrant Refill Station for Canadysville Community		
	Bond Funds	40,000	-0-
008.	Whitley County Fiscal Court - Rural Water Lines for unserved regions of Water Project AML, Meadow Creek/Tackett Creek Area of Whitley County		
	Bond Funds	1,160,000	-0-

**O. INFRASTRUCTURE FOR ECONOMIC DEVELOPMENT FUND  
FOR NON-COAL PRODUCING COUNTIES**

(1) **Bond Authority:** Bond Funds in the amount of \$150,000,000 are authorized for projects within the Infrastructure for Economic Development Fund for Non-Coal Producing Counties. The Bond Pool authorization identified in Part II, A. General Government, 2. Kentucky Infrastructure Authority, Item 003., of this Act, and the Projects list as identified in this section shall be placed under the jurisdiction of the Kentucky Infrastructure Authority (KIA). There is \$13,968,000 in fiscal year 2007-2008 appropriated from the General Fund for debt service.

(2) **Appropriations Not To Be Duplicated:** Appropriations identified as Bond Funds in this section are representative of the amounts provided in Part II, A. General Government, 2. Kentucky Infrastructure Authority, Item 003., of this Act, and are not to be appropriated in duplication.

**1. GENERAL GOVERNMENT**

a.	Budget Unit	Kentucky Infrastructure Authority	2006-07	2007-08
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**Adair County**

001.	Adair County Water District - WX21001011 - Shepherd Water Storage Tank and Transmission Line		
	Bond Funds	1,000,000	-0-
002.	City of Columbia - Sewer Project - SX21001010		
	Bond Funds	481,000	-0-
003.	Columbia Utilities Commission - SX21001008 - Columbia Lift Station Renovation		
	Bond Funds	375,000	-0-

**Allen County**

001.	Allen County Fiscal Court - Rural Water Line Improvements and Fire Hydrants		
	Bond Funds	25,000	-0-
002.	City of Scottsville - Camp Courageous Water		

	Line and Tank		
	Bond Funds	300,000	-0-
003.	City of Scottsville - Pump Station Improvements		
	Bond Funds	90,000	-0-
004.	City of Scottsville - Sewer Plant Improvements		
	Bond Funds	350,000	-0-
005.	City of Scottsville - SX21003003 - Old		
	Gallatin Road Sewer System Improvements		
	Bond Funds	58,000	-0-
006.	City of Scottsville - SX21003004 - Sewer		
	System Rehabilitation		
	Bond Funds	20,000	-0-
<b>Anderson County</b>			
001.	City of Lawrenceburg - SX21005005 - Sewer		
	Expansion to Bluegrass Parkway		
	Bond Funds	1,000,000	-0-
<b>Ballard County</b>			
001.	City of Barlow - Sewer Project		
	Bond Funds	265,000	-0-
002.	City of Kevil - WX21007015 - Kevil/West		
	McCracken Interconnect		
	Bond Funds	135,000	-0-
003.	City of Kevil - WX21007016 - Water Extension		
	and Tank Painting and Repair		
	Bond Funds	95,000	-0-
004.	City of Wickliffe - WX21007013 - Wickliffe		
	Industrial Park Water Upgrade		
	Bond Funds	150,000	-0-
<b>Barren County</b>			
001.	Barren County Fiscal Court - Barren County		
	Library Improvements		
	Bond Funds	1,000,000	-0-
002.	Caveland Environmental Authority -		
	SX21009020 - Reconstruction of Sewer Main		
	from Twyman Park to Gorin Park		
	Bond Funds	380,000	-0-
003.	Caveland Environmental Authority -		
	SX21009019 - Reconstruction of Sewer Main		

	from Twyman Park to Water Street		
	Bond Funds	300,000	-0-
004.	Caveland Environmental Authority - SX21009033 - Davis Lift Station and Sewer System Improvements		
	Bond Funds	300,000	-0-
005.	Caveland Environmental Authority - WX21009004 - Water Transmission Line from Water Plant Expansion to City of Glasgow		
	Bond Funds	320,000	-0-
006.	City of Glasgow - IX21009001 - Industrial Park Infrastructure		
	Bond Funds	400,000	-0-
<b>Bath County</b>			
001.	City of Owingsville - SX21011009 - US 60 East/Wyoming Rd/A6 Development Extension Project		
	Bond Funds	600,000	-0-
002.	City of Sharpsburg - SX21011006 - Tater Town Line Extension Project		
	Bond Funds	400,000	-0-
<b>Boone County</b>			
001.	Boone County Water District - WX21015203 - River Road Water Line Extension		
	Bond Funds	500,000	-0-
002.	Boone County Water District - WX21015204 - North Bend Road Water System Improvements		
	Bond Funds	415,000	-0-
003.	Boone County Water District - WX21015251 - KY 18 and Zig Zag Road Water Line Extension		
	Bond Funds	407,000	-0-
004.	City of Florence - SX21015501 - Ewing Sewer System Improvements		
	Bond Funds	80,000	-0-
005.	City of Florence - SX21015503 - Turfway Road Sewer Rehabilitation		
	Bond Funds	90,000	-0-
006.	City of Florence - SX21015504 - Gun Powder		



	Road Sewer Extension		
	Bond Funds	56,000	-0-
007.	City of Union - SX21015100 - Sewer System and Temporary Treatment Plant		
	Bond Funds	200,000	-0-
008.	City of Walton - SX21015800 - Wastewater Treatment Plant Expansion		
	Bond Funds	1,000,000	-0-
<b>Bourbon County</b>			
001.	Bourbon County Fiscal Court - Bedford Acres - Sewer and Water Extensions		
	Bond Funds	500,000	-0-
002.	Bourbon County Fiscal Court - Centerville Sewer Project		
	Bond Funds	600,000	-0-
003.	Bourbon County Fiscal Court - Fire Hydrant Project		
	Bond Funds	76,500	-0-
004.	Bourbon County Fiscal Court - North Middletown Water Project - Matching Funds for Federal Grant		
	Bond Funds	65,000	-0-
005.	Bourbon County Fiscal Court - Sewer Lines - Parkway Drive and Horseshoe Drive		
	Bond Funds	350,000	-0-
006.	Bourbon County Fiscal Court - Water Lines - 2 Miles Extension to Finish All of Bourbon County Water Project		
	Bond Funds	80,000	-0-
<b>Boyle County</b>			
001.	Boyle County Fiscal Court - Water Improvements - Middle and Lower Salt River Road - Baugh Hollow Water Line - Rankin Road Water Line		
	Bond Funds	250,000	-0-
002.	City of Danville Water Utility - Stanford Road Emergency Connection		
	Bond Funds	450,000	-0-
003.	City of Danville Water Utility - Water		

	Distribution Improvements		
	Bond Funds	50,000	-0-
004.	City of Danville Water Utility - Water		
	Plant Upgrade		
	Bond Funds	250,000	-0-
<b>Bracken County</b>			
001.	Bracken County Fiscal Court -		
	Germantown Sewer		
	Bond Funds	300,000	-0-
002.	Bracken County Fiscal Court - RR 8 Water		
	Line Extension		
	Bond Funds	100,000	-0-
003.	Bracken County Fiscal Court - SX21023005 -		
	Regional Sewer System Design		
	Bond Funds	100,000	-0-
004.	Bracken County Fiscal Court - SX21023006 -		
	Bracken Creek Pump Station		
	Bond Funds	40,000	-0-
005.	Bracken County Fiscal Court - SX21161001 -		
	Germantown Sewer Improvements		
	Bond Funds	75,000	-0-
006.	Bracken County Water District - WX21023011 -		
	Highway 435 Water Line Extension		
	Bond Funds	1,000,000	-0-
007.	Bracken County Water District - WX21023018 -		
	Tuckers Trailer Park Water Line Extension		
	Bond Funds	108,000	-0-
008.	City of Augusta - WX21023023 - Route 8		
	Water Line Extension		
	Bond Funds	120,000	-0-
<b>Breckinridge County</b>			
001.	Breckinridge County Fiscal Court - Ohio		
	County Water System Line Extensions		
	Bond Funds	221,250	-0-
002.	City of Cloverport - Water Tank Replacement		
	Bond Funds	221,250	-0-
003.	City of Hardinsburg - Various Water Projects		
	Bond Funds	221,250	-0-

004.	City of Hardinsburg - WX21027005 - Water Storage Tank Rehabilitation		
	Bond Funds	1,000,000	-0-
005.	City of Irvington - Various Water and Sewer Projects		
	Bond Funds	221,250	-0-

**Bullitt County**

001.	Bullitt County Fiscal Court - Ridge Road Line Extensions		
	Bond Funds	15,000	-0-
002.	City of Lebanon Junction - Water and Sewer Improvements		
	Bond Funds	100,000	-0-
003.	City of Mount Washington - WX21029224 - East Sanders and Cabin Lane Water Extension		
	Bond Funds	832,000	-0-
004.	City of Mount Washington - WX21029224 - East Sanders, Hoagland Hill, and Cabin Lane Water Line Extension		
	Bond Funds	850,000	-0-
005.	Louisville Water Company - WX21029015 - Water Line Extension Bob-O-Link Road		
	Bond Funds	198,000	-0-
006.	Louisville Water Company - WX21029194 - Walls Hollow Road from Raymond Road to End		
	Bond Funds	168,000	-0-
007.	Louisville Water Company - WX21029196 - Water Storage Tank		
	Bond Funds	550,000	-0-

**Caldwell County**

001.	Caldwell County Water District - WX2103307 - Equipment Purchase and Storage Building		
	Bond Funds	265,000	-0-
002.	Princeton Water District - WX2103306 - Improvements		
	Bond Funds	400,000	-0-

**Calloway County**

001.	Calloway County Fiscal Court - Railroad Spur		
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	Bond Funds	250,000	-0-
002.	City of Murray - Sherwood Forrest Extension - WX21035018		
	Bond Funds	84,000	-0-
003.	City of Murray - SX21035012 - Phase II Sewer Rehab.		
	Bond Funds	363,750	-0-
004.	City of Murray - SX21035014 - Southwest Sewer Interceptor Phase II		
	Bond Funds	375,788	-0-
005.	City of Murray - WX21035019 - Water Treatment Plant Improvements		
	Bond Funds	250,000	-0-
006.	Dexter - Almo Heights Water District - Coles Campground Extension - WX21035012		
	Bond Funds	41,462	-0-
007.	Murray Water District #2 - WX21035004 - Water Line Extension		
	Bond Funds	135,000	-0-
008.	Murray Water District #3 - WX21035023 - Water Consolidation Improvement Study		
	Bond Funds	50,000	-0-
009.	South 641 Water District - SX21035008 - Wastewater System Improvements		
	Bond Funds	200,000	-0-
<b>Campbell County</b>			
001.	City of Alexandria Sewer Project - Alexandria/Viewpoint		
	Bond Funds	315,000	-0-
002.	City of Newport - Various Water Projects Including Water Line Replacement to the Waterworks Road Bridge and Newport Pavilion Project Area Waterline/Storm Water Upgrades		
	Bond Funds	600,000	-0-
003.	City of Wilder - Three Mile Road/Gibson Lane from I-275 to Licking Pike Water Project		
	Bond Funds	200,000	-0-
<b>Carlisle County</b>			

001.	City of Bardwell - SX21039005 - Sewer System Rehabilitation		
	Bond Funds	500,000	-0-
002.	Cunningham Water District - WX21039014 - Water Tower Repair		
	Bond Funds	45,000	-0-

**Carroll County**

001.	Carrollton Utilities - SX21041300 - Happy Hollow/ Regional Sewer System Improvements		
	Bond Funds	800,000	-0-

**Casey County**

001.	City of Liberty - WX21045004 - Water Treatment Plant and System Improvements		
	Bond Funds	2,200,000	-0-

**Clark County**

001.	Clark County Fiscal Court - Colby Hills Sanitary Sewer Improvements		
	Bond Funds	500,000	-0-
002.	Clark County Fiscal Court - Forest Park Sanitary Sewer Improvements		
	Bond Funds	750,000	-0-
003.	Clark County Fiscal Court - Lynnway Drive/ Stoneybrook Sanitary Sewer Improvements		
	Bond Funds	350,000	-0-
004.	Clark County Fiscal Court - Various Water and Sewer Projects		
	Bond Funds	1,000,000	-0-
005.	East Clark County Water District - Cole Road Tank and Pump and Various Water Projects		
	Bond Funds	300,000	-0-
006.	Winchester Municipal Utilities - Clark County Public Schools Soccer Complex - Water and Sewer Project		
	Bond Funds	100,000	-0-

**Clinton County**

001.	City of Albany - Wastewater Treatment Plant		
	Bond Funds	750,000	-0-
002.	Clinton County Fiscal Court - Water Line		

	Improvements		
	Bond Funds	200,000	-0-
<b>Cumberland County</b>			
001.	City of Burkesville - Water Treatment Plant Improvements		
	Bond Funds	190,000	-0-
002.	Cumberland County Water District - Interconnect and Various Water Line Extensions		
	Bond Funds	600,000	-0-
<b>Edmonson County</b>			
001.	Caveland Environmental Authority - SX21061005 - Phase II Sewer System Improvements		
	Bond Funds	1,300,000	-0-
002.	City of Brownsville - WX21061018 - Water System Improvements		
	Bond Funds	100,000	-0-
003.	Edmonson County Water District - WX21061023 - Improvements and Connection to Hart County		
	Bond Funds	667,535	-0-
<b>Estill County</b>			
001.	City of Irvine - SX21065005 - Regional Wastewater System Improvements		
	Bond Funds	900,000	-0-
002.	Estill County Fiscal Court - Various Water and Sewer Projects		
	Bond Funds	500,000	-0-
<b>Fayette County</b>			
001.	Lexington-Fayette Urban County Government - Comprehensive Sanitary Sewer Project - Remaining Areas - Phase II		
	Bond Funds	1,400,000	-0-
002.	Lexington-Fayette Urban County Government - Gainesway Park Development		
	Bond Funds	750,000	-0-
003.	Lexington-Fayette Urban County Government - Various Water Sewer and Storm Sewer Improvements Including Green Acres Subdivision		
	Bond Funds	2,600,000	-0-

**Fleming County**

001.	City of Flemingsburg - Cherry Grove		
	Road Sewer Project		
	Bond Funds	100,000	-0-
002.	City of Flemingsburg - Industrial Park #2		
	Sewer Project		
	Bond Funds	100,000	-0-
003.	City of Flemingsburg - Water Upgrade		
	Bond Funds	50,000	-0-
004.	Fleming County Water Association -		
	Parkersburg Tank		
	Bond Funds	100,000	-0-
005.	Western Fleming Water District - Pump Station		
	Bond Funds	50,000	-0-

**Franklin County**

001.	City of Frankfort - SX21073002 - Holmes		
	Street Sewer Project		
	Bond Funds	1,630,000	-0-
002.	City of Frankfort - SX21073004 - Shelby		
	Street Sewers		
	Bond Funds	230,000	-0-
003.	City of Frankfort - SX21073005 - Allnut Drive		
	Sewer Replacement		
	Bond Funds	180,000	-0-
004.	City of Frankfort - SX21073007 - Cardinal Hills		
	Pump Station and Force Main Replacement		
	Bond Funds	260,000	-0-
005.	City of Frankfort - SX21073012 - Two Creeks #2		
	Pump Station and Force Main Replacement		
	Bond Funds	200,000	-0-
006.	Farmdale Water District - WX21073005 -		
	Water Line Upgrade Project		
	Bond Funds	700,000	-0-

**Fulton County**

001.	City of Fulton - WX21975007 - Water System		
	Rehabilitation		
	Bond Funds	150,000	-0-
002.	City of Fulton - WX21975012 - Industrial Park		

	Water System Improvements		
	Bond Funds	350,000	-0-
003.	City of Hickman - SX21075007 - Hickman		
	Infiltration and Inflow Reduction/Sewer Rehab.		
	Bond Funds	300,000	-0-
004.	Fulton County Fiscal Court - Industrial Park		
	Utilities and Spec. Building		
	Bond Funds	360,000	-0-
<b>Gallatin County</b>			
001.	Carrollton Utilities - SX21077101 - I-71		
	Interchange Sewer System Improvements		
	Bond Funds	1,250,000	-0-
002.	City of Warsaw - Water and Wastewater Project		
	Bond Funds	300,000	-0-
003.	City of Warsaw - WX21077220 - Water System		
	Improvements		
	Bond Funds	500,000	-0-
<b>Garrard County</b>			
001.	City of Lancaster - SX21079001 - Wastewater		
	Treatment Plant Improvements		
	Bond Funds	200,000	-0-
002.	City of Lancaster - SX21079004 - Sewer		
	System Rehabilitation		
	Bond Funds	100,000	-0-
003.	City of Lancaster - SX21079007 - Buckeye		
	Street Sewer System Improvements		
	Bond Funds	90,705	-0-
004.	City of Lancaster - Water and Sewer		
	Improvements		
	Bond Funds	100,000	-0-
005.	City of Lancaster - WX21079012 - Water		
	System Improvements		
	Bond Funds	71,500	-0-
<b>Grant County</b>			
001.	City of Williamstown - SX21081304 -		
	Wastewater Treatment Plant		
	Bond Funds	900,000	-0-
002.	Grant County Fiscal Court - Dry Ridge		



	Lagoon Repair		
	Bond Funds	250,000	-0-
<b>Graves County</b>			
001.	City of Wingo - Relocate Water Treatment Building and Clear Well		
	Bond Funds	375,000	-0-
002.	Graves County Fiscal Court - SX21083017 - Mayfield Electric & Water Systems Composting Project Phase I		
	Bond Funds	500,000	-0-
003.	Graves County Fiscal Court - WX21083023 - Cuba Loop from School to 339-303 Including Cuba Community Phase IIA		
	Bond Funds	870,674	-0-
004.	Graves County Fiscal Court - WX21083034 - Hickory Interconnect Including Automated Valves and Scada to Mayfield Water System		
	Bond Funds	95,000	-0-
005.	Mayfield Electric and Water System - SX21083021 - Bel-Aire CIPP		
	Bond Funds	260,000	-0-
006.	Mayfield Electric and Water System - SX21083022 - 9th and Gardner		
	Bond Funds	212,000	-0-
007.	Mayfield Electric and Water System - SX21083023 - Washington St. Subbasin Rehab.		
	Bond Funds	150,000	-0-
008.	Mayfield Electric and Water - SX21083018 - Wastewater Treatment Plant Improvements		
	Bond Funds	200,000	-0-
009.	Sedalia Water District - WX21083039 - Elevated Storage Tank Repairs		
	Bond Funds	125,000	-0-
010.	Symsonia Water District - SX21083010 - Sewer System Improvements		
	Bond Funds	75,000	-0-
011.	Symsonia Water District - WX21083008 - Benton Interconnect and Water System Improvements		

	Bond Funds	70,000	-0-
012.	Wingo Water System - WX21083001 - Interconnect with South Graves		
	Bond Funds	91,780	-0-
<b>Grayson County</b>			
001.	City of Caneyville - SX21085001 - Wastewater Plant Upgrade System Improvements and Line Extensions		
	Bond Funds	650,000	-0-
002.	City of Clarkson - SX21085004 - Wastewater Project		
	Bond Funds	94,200	-0-
003.	City of Leitchfield - SX21085002 - Wastewater System Improvements		
	Bond Funds	750,000	-0-
004.	City of Leitchfield - WX21085004 - Bypass Water Transmission Loop		
	Bond Funds	200,000	-0-
005.	Edmonson County Water District - WX21061021 - Water Storage Tank and System Improvements		
	Bond Funds	543,000	-0-
006.	Edmonson County Water District - WX21061022 - Water Line Extension		
	Bond Funds	268,500	-0-
007.	Grayson County Water District - WX21085016 - Water Project		
	Bond Funds	137,300	-0-
<b>Green County</b>			
001.	City of Greensburg - WX21087012 - Water System Improvements		
	Bond Funds	250,000	-0-
002.	Green County Fiscal Court - Green-Taylor Water District - WX21087009 - Water Treatment Plant and Water Main Upgrades		
	Bond Funds	350,000	-0-
003.	Green County Fiscal Court - SX21087002 - Summersville Wastewater System Improvements		
	Bond Funds	300,000	-0-
<b>Hardin County</b>			

001.	City of Vine Grove - SX21093002 - Sewer System Improvements - Highway 313 Area		
	Bond Funds	500,000	-0-
002.	City of West Point - SX21093001 - Sewer System Improvements		
	Bond Funds	200,000	-0-
003.	City of West Point - WX21093016 - Water System Improvements		
	Bond Funds	125,000	-0-
004.	Hardin County Fiscal Court - Project Phase IV - 60 Miles of Water Mains through Unserved Areas of Hardin County		
	Bond Funds	250,000	-0-
005.	Hardin County Water District #1 - WX21093020 - Constantine Road Water System Improvements		
	Bond Funds	1,000,000	-0-
006.	Hardin County Water District #1 - WX21093024 - Pirtle Spring Water Treatment Plant Reconstruction Project		
	Bond Funds	2,000,000	-0-
007.	Hardin County Water District #2 - Elizabethtown Loop Project		
	Bond Funds	750,000	-0-
008.	Hardin County Water District #2 - SX21093004 - Wastewater Collection System Expansion		
	Bond Funds	600,000	-0-
009.	Hardin County Water District #2 - WX21093009 - Cecilia Water Storage Tank		
	Bond Funds	500,000	-0-
010.	Hardin County Water District #2 - WX21093015 - Phase IV Water System Improvements		
	Bond Funds	500,000	-0-
011.	Hardin County Water District #2 - WX21093017 - Phase V Water System Improvements		
	Bond Funds	500,000	-0-
012.	Hardin County Water District #2 - WX21093021 - Glendale Area Water System Improvements		

	Bond Funds	1,000,000	-0-
<b>Harrison County</b>			
001.	City of Berry - Wastewater Project Profile - Engineering Study		
	Bond Funds	10,000	-0-
002.	City of Cynthiana - Wastewater Treatment Plant - Cost Overrun on New Plant		
	Bond Funds	250,000	-0-
003.	Harrison County Water Association - Eleven Homes and Large Farm Water Improvements		
	Bond Funds	250,000	-0-
004.	Harrison County Water Association - Davis Road - 0.6 miles		
	Bond Funds	35,000	-0-
005.	Harrison County Water Association - WX21097005 - Friendship and Coppage Pike		
	Bond Funds	120,000	-0-
<b>Hart County</b>			
001.	Caveland Environmental Authority - Wastewater System Improvements		
	Bond Funds	200,000	-0-
002.	City of Munfordville - WX21099018 - Old Turnpike to Union Street Water System Improvements		
	Bond Funds	220,000	-0-
003.	Green River Valley Water District - WX21099017 - Frenchman Knob Road Water System Improvements		
	Bond Funds	500,000	-0-
<b>Henry County</b>			
001.	City of Campbellsburg - SX21103002 - Campbellsburg to Carrollton Force Main		
	Bond Funds	1,000,000	-0-
002.	Henry County Water District #1 - WX21103029 - Cemetery Hill Road Extension		
	Bond Funds	100,000	-0-
003.	Henry County Water District #2 - WX21103042 - Water System Improvements		
	Bond Funds	300,000	-0-
<b>Hickman County</b>			

001.	City of Clinton - SX21105004 - Sewer System Rehabilitation		
	Bond Funds	300,000	-0-
002.	Water Service Corp. of KY - WX21105004 - Clinton Water System Improvements		
	Bond Funds	70,000	-0-

**Jessamine County**

001.	City of Nicholasville - Bethany Road Extension		
	Bond Funds	220,000	-0-
002.	City of Nicholasville - Old Railroad Road - Union Mill Road to Loganna Road		
	Bond Funds	500,000	-0-
003.	City of Nicholasville - Union Mill Road Extension to the Jessamine County Fire District Building		
	Bond Funds	330,000	-0-
004.	City of Wilmore - Sewer System Service to Ichthus Area		
	Bond Funds	150,000	-0-
005.	City of Wilmore - SX21113008 - Sewer Collection System Rehab.		
	Bond Funds	200,000	-0-
006.	City of Wilmore Automated Water Meter Reading		
	Bond Funds	200,000	-0-
007.	Jessamine County Fiscal Court - Sewer Project		
	Bond Funds	110,000	-0-
008.	Jessamine County Fiscal Court - Sewer Service to Centennial Park		
	Bond Funds	180,000	-0-
009.	Jessamine County Water District #1 - WX21113012 - Water Storage Tank		
	Bond Funds	1,900,000	-0-
010.	Jessamine County Water District #1 - WX21113015 - Groggins Ferry Road Water Line Upgrade		
	Bond Funds	750,000	-0-

**Kenton County**

001.	Kenton County Water District - Main
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	Replacement in City of Covington		
	Bond Funds	1,000,000	-0-
002.	Northern Kentucky Water District - WX21117203 - Subdistrict I Water System Improvements		
	Bond Funds	2,000,000	-0-
003.	Northern Kentucky Water District - WX21177204 - Covington Water System Improvements		
	Bond Funds	2,500,000	-0-
004.	Sanitation District #1 Of NKY - SX21117201 - Ft. Wright Ridgewood Drive Wastewater Improvements		
	Bond Funds	140,000	-0-
<b>Knox County</b>			
001.	Knox County Fiscal Court - Infrastructure for Wellness Center		
	Bond Funds	1,000,000	-0-
<b>Larue County</b>			
001.	City of Hodgenville - WX21123010 - Water Storage Tank		
	Bond Funds	100,000	-0-
002.	Larue County Fiscal Court - Upgrade, Maintain, Repair, Construct, Replace, Extend Water and Sewer Including Fire Hydrants and Industrial Parks		
	Bond Funds	82,465	-0-
003.	Larue County Water District #1 - WX21123012 - Buffalo Water Storage Tank		
	Bond Funds	230,000	-0-
<b>Lewis County</b>			
001.	Garrison Quincy Water District - WX21135009 - Garrison Area Water System Improvements		
	Bond Funds	783,000	-0-
002.	Lewis County Fiscal Court - SX21135001 - Phase I Wastewater System Improvements		
	Bond Funds	700,000	-0-
003.	Lewis County Sanitation District #1 - SX21135008 - KY 57 Area Wastewater		

	System Improvements		
	Bond Funds	304,000	-0-
004.	Vanceburg Electric Plant Board - SX21135009 - Wastewater Treatment Plant Improvements		
	Bond Funds	500,000	-0-
005.	Western Lewis Rectorville Water District - WX21161001 - Phase IV - Ridge Project		
	Bond Funds	250,000	-0-
<b>Lincoln County</b>			
001.	City of Crab Orchard - Various Water and Sewer Projects		
	Bond Funds	250,000	-0-
002.	City of Hustonville - Various Water and Sewer Projects		
	Bond Funds	150,000	-0-
003.	City of Moreland - Various Water and Sewer Projects		
	Bond Funds	150,000	-0-
004.	City of Stanford - Various Water and Sewer Projects		
	Bond Funds	300,000	-0-
005.	City of Waynesburg - Various Water and Sewer Projects		
	Bond Funds	150,000	-0-
<b>Livingston County</b>			
001.	City of Salem - SX21139006 - Lift Station Upgrade		
	Bond Funds	50,000	-0-
002.	City of Smithland - SX21139003 - Wastewater Treatment Plant Improvements		
	Bond Funds	50,000	-0-
003.	Crittenden/Livingston Water District - WX21139007 - Raw Water Intake		
	Bond Funds	100,000	-0-
004.	Grand Rivers Sewer System - SX21139001 - Improvements		
	Bond Funds	300,000	-0-
005.	Livingston County Fiscal Court -		

SX21139004 - Ledbetter Sewer Improvement		
Bond Funds	35,000	-0-
<b>Logan County</b>		
001. East Logan Water District - Expansion		
Bond Funds	200,000	-0-
002. Logan County Fiscal Court - Lewisburg		
Pump Station		
Bond Funds	20,000	-0-
003. Logan County Fiscal Court - Mud River		
Water Shed Dam Repair		
Bond Funds	73,000	-0-
004. Logan County Fiscal Court - Water Treatment		
Plant Debt Retirement		
Bond Funds	307,000	-0-
005. North Logan Water District - Expansion		
Bond Funds	200,000	-0-
006. South Logan Water District - Expansion		
Bond Funds	200,000	-0-
<b>Lyon County</b>		
001. Lyon County Fiscal Court - SX21143002 -		
Wastewater System Improvements		
Bond Funds	1,175,000	-0-
002. Lyon County Fiscal Court - Various Water and		
Sewer Projects		
Bond Funds	250,000	-0-
003. Lyon County Fiscal Court - Various Water and		
Sewer Projects for Eddyville		
Bond Funds	250,000	-0-
004. Lyon County Water District - SX21143003 -		
West Lyon County Wastewater System Improvements		
Bond Funds	200,000	-0-
<b>Madison County</b>		
001. City of Berea Utilities - Raw Water Intake		
Bond Funds	500,000	-0-
002. City of Richmond Utilities - Raw Water Intake		
Bond Funds	1,150,000	-0-
003. Madison County Fiscal Court - Executive Park		
Sanitary Sewer District 2		



	Bond Funds	150,000	-0-
004.	Madison County Fiscal Court - Kirksville Water Association - Water Line Replacements and Extensions - Hwy 1295, Barnes Mill Estates, Taylor Fork, and Various Other Projects		
	Bond Funds	400,000	-0-
005.	Madison County Fiscal Court - North Madison County Sewer Project		
	Bond Funds	1,050,000	-0-
006.	Madison County Utility District - Water System Improvements Phase II		
	Bond Funds	500,000	-0-
007.	Southern Madison Water District - Water Project		
	Bond Funds	400,000	-0-
<b>Marion County</b>			
001.	City of Lebanon - WX21155018 - Water Storage Tank		
	Bond Funds	250,000	-0-
002.	Marion County Water District - WX21155016 - Dry Fork Road, Hwy 49 North Livers Lane, Settles Road, Ferman Road, Farris Road Water System Improvements		
	Bond Funds	210,000	-0-
003.	Marion County Water District - WX21155019 - Hwy 527 Water System Improvements		
	Bond Funds	200,000	-0-
004.	Marion County Water District - WX21155020 - Water Storage Tank		
	Bond Funds	410,000	-0-
<b>Marshall County</b>			
001.	City of Calvert City - SX21157024 - Phase II Sewer System Rehabilitation		
	Bond Funds	250,000	-0-
002.	City of Calvert City - WX21157033 - Shar-Cal Road Water System Improvements		
	Bond Funds	125,000	-0-
003.	Marshall County Fiscal Court - Benton Water and Sewer Projects		

	Bond Funds	750,000	-0-
004.	Marshall County Fiscal Court - Jonathan Creek Water and Sewer Projects		
	Bond Funds	625,000	-0-
005.	Marshall County Fiscal Court - North Marshall Water and Sewer Projects		
	Bond Funds	575,000	-0-
006.	North Marshall Water District - WX21157026 - Sharpe Area Water System Improvements		
	Bond Funds	200,000	-0-
007.	North Marshall Water District - WX21157027 - US 68/Briensburg Water System Improvements		
	Bond Funds	100,000	-0-
<b>Mason County</b>			
001.	Mason County Fiscal Court - Germantown Sewer Bond Funds	300,000	-0-
002.	Mason County Fiscal Court - Maysville Utility Well - Plugtown		
	Bond Funds	50,000	-0-
003.	Mason County Fiscal Court - SX21161001 - Germantown Sewer Improvements		
	Bond Funds	75,000	-0-
004.	Mason County Fiscal Court - WX21161019 - KY 1449 Water System Improvements		
	Bond Funds	360,000	-0-
005.	Western Mason Water District - Well Project Bond Funds	50,000	-0-
<b>McCracken County</b>			
001.	City of Paducah - WX21145022 - Water Line to Airport Along Shemwell Lane		
	Bond Funds	140,000	-0-
002.	City of Paducah - WX21145029 - Lone Oak Water System Improvements		
	Bond Funds	900,000	-0-
003.	Hendron Water District - WX21145035 - Hendron Paducah Interconnect		
	Bond Funds	175,000	-0-
004.	Paducah McCracken Joint Sewer Agency -		

	SX21145004 - Cook Street Pump Station Replacement Project		
	Bond Funds	725,000	-0-
005.	Paducah McCracken Joint Sewer Agency - SX21145028 - Paducah Wastewater Treatment Plant Grit Removal and Headwork Improvements Phase II		
	Bond Funds	800,000	-0-
006.	Paducah McCracken Joint Sewer Authority - SX21145079 - Wastewater Treatment Plant Expansion		
	Bond Funds	1,433,000	-0-
007.	West McCracken Water District - WX21145004 - West McCracken USEC Extension		
	Bond Funds	35,000	-0-
008.	West McCracken Water District - WX21145005 - West McCracken Southwest McCracken Extension		
	Bond Funds	1,042,000	-0-
<b>Meade County</b>			
001.	City of Brandenburg - WX21163010 - Water Storage Tank		
	Bond Funds	250,000	-0-
002.	Meade County Fiscal Court - Various Water and Sewer Projects		
	Bond Funds	1,000,000	-0-
003.	Meade County Water District - WX21163013 - Phase VI Water System Improvements		
	Bond Funds	500,000	-0-
004.	Meade County Water District - WX21163014 - Phase VII Water System Improvements		
	Bond Funds	500,000	-0-
<b>Mercer County</b>			
001.	City of Harrodsburg - SX21167010 - College Street Wastewater System Improvements		
	Bond Funds	122,200	-0-
002.	Mercer County Sanitation District - SX21167009 - Brightleaf Wastewater System Improvements		

	Bond Funds	1,000,000	-0-
<b>Metcalf County</b>			
001.	City of Edmonton - Edmonton Industrial Authority - EX21169001 - Electrical Transmission Line		
	Bond Funds	200,000	-0-
002.	City of Edmonton - Water Project		
	Bond Funds	150,000	-0-
003.	City of Edmonton - WX21169010 - Habison Road Water System Improvements		
	Bond Funds	60,000	-0-
004.	City of Edmonton - WX21169012 - Wisdom and Hwy 640 Water System Improvements		
	Bond Funds	75,000	-0-
<b>Monroe County</b>			
001.	City of Fountain Run - Community Building		
	Bond Funds	100,000	-0-
002.	City of Fountain Run - Various Water and Sewer Projects		
	Bond Funds	25,000	-0-
003.	City of Gamaliel - Sewer System - Sewer Modification		
	Bond Funds	75,000	-0-
004.	Monroe County Water District - Monroe County Water Treatment Plant		
	Bond Funds	150,000	-0-
005.	Tompkinsville and Monroe County Water Districts - Joint Water Treatment Plant		
	Bond Funds	1,200,000	-0-
<b>Montgomery County</b>			
001.	Judy Water Association - WX21173038 - Water Tank		
	Bond Funds	400,000	-0-
002.	Levee Road Water Association - WX21173081 - Radio Read Meter Replacement Project		
	Bond Funds	100,000	-0-
003.	Montgomery County Fiscal Court - Various		

Water and Sewer Projects		
	Bond Funds	200,000 -0-
004.	Montgomery County Fiscal Court - WX21173075 - Science Ridge to 599 Tank Waterline Project	
	Bond Funds	190,000 -0-
005.	Montgomery County Sewer District #2 - SX21173011 - Sludge Press	
	Bond Funds	350,000 -0-
006.	Montgomery County Water District #1 - WX21173062 - Water Lines	
	Bond Funds	500,000 -0-
007.	Mount Sterling Water District - WX21173071 - Storage Building	
	Bond Funds	150,000 -0-
008.	Mt. Sterling Water and Sewer - SX21173013 - Belt Filter Press	
	Bond Funds	200,000 -0-
<b>Multi County</b>		
001.	Kentucky River Authority - Bluegrass Water Supply Commission - Water Project Engineering	
	Bond Funds	900,000 -0-
<b>Nelson County</b>		
001.	City of Bardstown - WX21179017 - Water Storage Tank	
	Bond Funds	550,000 -0-
002.	City of Bloomfield - SX21179008 - Pump Station and Force Main to Bardstown	
	Bond Funds	2,300,000 -0-
003.	City of New Haven - SX21179009 - Pump Station and Force Main to Bardstown	
	Bond Funds	600,000 -0-
004.	City of New Haven - SX21179015 - Sewer System Infiltration and Inflow Rehabilitation Project	
	Bond Funds	300,000 -0-
005.	Nelson County Fiscal Court - Industrial Park Water Infrastructure	
	Bond Funds	350,000 -0-

006.	Nelson County Fiscal Court - Nelson County Industrial Park Water Infrastructure Bond Funds	200,000	-0-
<b>Nicholas County</b>			
001.	Nicholas County Sewer District #2 - Lake Carnico and North Central 4-H Camp Sewer Project Bond Funds	400,000	-0-
002.	Nicholas County Water District - WX1181003 - Phase IX Water Project Bond Funds	428,500	-0-
<b>Oldham County</b>			
001.	LaGrange Utilities Commission - SX21185004 - North Pump Station Bond Funds	300,000	-0-
002.	LaGrange Utilities Commission - SX21185006 - Wastewater Treatment Plant and Pump Station Improvements Bond Funds	1,000,000	-0-
003.	LaGrange Utilities Commission - WX21185042 - Water Tank and Booster Pump Station Bond Funds	500,000	-0-
004.	Oldham County Fiscal Court - SX21185019 - Ohio River Wastewater Treatment Facility Bond Funds	750,000	-0-
005.	Oldham County Water District - WX21185044 - Water System Improvements Bond Funds	2,000,000	-0-
<b>Owen County</b>			
001.	Owenton Water Works - WX21187207 - Water Intake Bond Funds	1,000,000	-0-
<b>Pendleton County</b>			
001.	Pendleton County Fiscal Court - WX21191503 - Supply Wells Bond Funds	150,000	-0-
002.	City of Butler - SX21191320 - Phase II Sewer System Improvements Bond Funds	450,000	-0-

003.	Pendleton County Fiscal Court - SX21191310 - Additional Funding to Complete		
	Bond Funds	210,000	-0-
004.	Pendleton County Fiscal Court - WX21191556 - Harrison County - Pendleton - 10 Homes in Harrison County - 3 Homes in Pendleton County		
	Bond Funds	75,000	-0-

**Powell County**

001.	City of Clay City - Various Water and Sewer Projects		
	Bond Funds	225,000	-0-
002.	City of Stanton - Various Water and Sewer Projects		
	Bond Funds	325,000	-0-
003.	City of Stanton - WX21197002 - Water Storage Tank and System Improvements		
	Bond Funds	350,000	-0-
004.	Powell County Water District - WX21197001 - Water System Improvements		
	Bond Funds	250,000	-0-

**Pulaski County**

001.	City of Burnside - Burnside Municipal Water Works - Water Line Extension		
	Bond Funds	250,000	-0-
002.	City of Burnside - WX21199046 - Phase II Water System Improvements		
	Bond Funds	202,000	-0-
003.	City of Burnside - WX21199047 - Phase III Water System Improvements		
	Bond Funds	328,000	-0-
004.	City of Eubank - WX21137024 - Water System Study		
	Bond Funds	50,000	-0-
005.	City of Somerset - WX21199030 - Water Storage and Water System Improvements		
	Bond Funds	850,000	-0-
006.	Pulaski County Fiscal Court - Science Hill Water and Sewer Projects		

	Bond Funds	250,000	-0-
007.	Southeast Water Association - Water Line Extension		
	Bond Funds	1,500,000	-0-
<b>Robertson County</b>			
001.	Buffalo Trail Water Association - WX21201008 - US 62 to Kentown Water System Improvements		
	Bond Funds	350,000	-0-
002.	City of Mount Olivet - SX21201002 - Sewer System Expansion		
	Bond Funds	400,000	-0-
003.	City of Mount Olivet - WX21201001 - US 62 Water System Improvements		
	Bond Funds	100,000	-0-
<b>Rowan County</b>			
001.	Morehead Utility Plant Board - Meter Replacement Project		
	Bond Funds	103,200	-0-
002.	Morehead Utility Plant Board - Standby Power Generator Project		
	Bond Funds	500,000	-0-
003.	Rowan Water, Inc. - Tank and Pump Station Project		
	Bond Funds	396,800	-0-
<b>Russell County</b>			
001.	Russell Springs Sewer and Water Works - SX21207006 - Russell Springs/Alligator Area Sewer Extensions		
	Bond Funds	2,250,000	-0-
<b>Scott County</b>			
001.	City of Sadieville - SX21209001, SX21209004, SX21209005 - Waste Systems Improvements Project		
	Bond Funds	2,500,000	-0-
002.	Scott County Fiscal Court - WX21209003 - Scott County Reservoir		
	Bond Funds	500,000	-0-
<b>Shelby County</b>			
001.	City of Shelbyville - SX21211004 - Springvalley Pump Station		



	Bond Funds	300,000	-0-
002.	City of Shelbyville - SX21211007 - Arlington/ Ardmore/Midland Sewer System Improvements		
	Bond Funds	350,000	-0-
003.	City of Shelbyville - WX21211043 - Transmission Line to Louisville		
	Bond Funds	1,500,000	-0-
004.	Shelby County Fiscal Court - WX21211039 - Bob Rogers Spur		
	Bond Funds	50,000	-0-
<b>Simpson County</b>			
001.	City of Franklin - Sewer Rehab. Projects		
	Bond Funds	686,412	-0-
002.	Simpson County Water District - Carter Road to State Line		
	Bond Funds	198,000	-0-
003.	Simpson County Water District - East Industrial Park Pump Station		
	Bond Funds	45,000	-0-
<b>Spencer County</b>			
001.	City of Taylorsville - SX21215001 - Taylorsville Sewer System Expansion		
	Bond Funds	705,000	-0-
002.	City of Taylorsville - WX21215088 - Phase III Water System Improvements		
	Bond Funds	500,000	-0-
003.	Spencer County Fiscal Court - SX21215003 - Spencer County Wastewater Treatment Facilities Plan		
	Bond Funds	45,000	-0-
<b>Taylor County</b>			
001.	City of Campbellsville - Elkhorn Transmission Main		
	Bond Funds	375,000	-0-
002.	City of Campbellsville - WX21217012 - Replacement of Existing Raw Water Intake and New Pumps		
	Bond Funds	1,000,000	-0-

003.	Taylor County Fiscal Court - Industrial Park Expansion		
	Bond Funds	358,595	-0-

**Todd County**

001.	Todd County Fiscal Court - Sewer Line Extension Project		
	Bond Funds	180,000	-0-
002.	Todd County Fiscal Court - Water Treatment Plant Debt Retirement		
	Bond Funds	420,000	-0-
003.	Todd County Water District - Expansion Service South of Trenton		
	Bond Funds	400,000	-0-

**Trigg County**

001.	Barkley Lake Water District - WX21221003 - Water Treatment Plant and System Improvements		
	Bond Funds	300,000	-0-
002.	City of Cadiz - SX21221001 - Wastewater Treatment Plant Improvements		
	Bond Funds	200,000	-0-
003.	City of Cadiz - SX21221003 - Industrial Park Sewer System Improvements		
	Bond Funds	100,000	-0-
004.	City of Cadiz - WX21221006 - Cadiz Industrial Park Water Improvements		
	Bond Funds	110,000	-0-

**Trimble County**

001.	City of Bedford Sewer Department - SX21223006 - Bedford Wastewater Expansion		
	Bond Funds	200,000	-0-
002.	City of Milton Water and Sewer Department - SX21223003 - Wastewater Treatment Plant Improvements		
	Bond Funds	30,000	-0-
003.	City of Milton Water and Sewer Department - SX21223004 - Riverdale Force Main		
	Bond Funds	9,000	-0-
004.	City of Milton Water and Sewer Department -		

	SX21223005 - Wastewater Treatment		
	Plant Improvements		
	Bond Funds	75,000	-0-
005.	City of Milton Water and Sewer Department -		
	WX21223019 - Downtown Water		
	System Improvements		
	Bond Funds	200,000	-0-
006.	Trimble County Water District #1 -		
	WX21223020 - Water System Improvements		
	Bond Funds	300,000	-0-
<b>Warren County</b>			
001.	Bowling Green Municipal Utilities - WX21227046 -		
	Water Treatment Plant Improvement/Emergency Power		
	Bond Funds	1,600,000	-0-
002.	Warren County Water District - SX21227013 -		
	Sewer Interceptor		
	Bond Funds	500,000	-0-
003.	Warren County Water District - SX21227020 -		
	Lovers Lane Sewer Extension		
	Bond Funds	626,000	-0-
004.	Warren County Water District - Water and		
	Sewer Projects		
	Bond Funds	530,134	-0-
005.	Warren County Water District - WX21227038 -		
	Cooper Dearing / Mt. Lebanon Fire Protection		
	Bond Funds	80,000	-0-
<b>Washington County</b>			
001.	City of Springfield - SX21229004 - Jim Town		
	Sewer System Expansion		
	Bond Funds	500,000	-0-
002.	City of Springfield - WX21229003 - Phase IV		
	Water System Improvements		
	Bond Funds	1,000,000	-0-
003.	North Mercer Water District - Water System		
	Extensions in Washington County		
	Bond Funds	200,000	-0-
<b>Wayne County</b>			
001.	Monticello Utility Commission - Abandoned		

	Mine Lands (AML) Water Project		
	Bond Funds	650,000	-0-
002.	Monticello Utility Commission - Replace Water Mains and Line Extensions		
	Bond Funds	650,000	-0-
003.	Monticello Utility Commission - Various Water Projects - Charlie Tucket Road, Nathan Hanes Road, Bobby Morrow Road, and George Blevins Road, and Completion of 2005 Water Projects		
	Bond Funds	700,000	-0-
<b>Wolfe County</b>			
001.	City of Campton - Various Water and Sewer Projects		
	Bond Funds	360,000	-0-
002.	City of Campton - WX2137050 - Water Treatment Plant		
	Bond Funds	1,000,000	-0-
003.	Wolfe County Fiscal Court - Water Line Extensions and Upgrades in Hazel Green and Lee City Area		
	Bond Funds	500,000	-0-
<b>Woodford County</b>			
001.	City of Midway - Sewer Extension to Remainder of Midway		
	Bond Funds	190,000	-0-
002.	City of Versailles - WX21239011 - Versailles - Clifton Road/McCracken Pike/Steele Road Water Line Extension		
	Bond Funds	1,800,000	-0-
003.	Northeast Woodford Water District - WX21239012 - Northeast Woodford/Old Frankfort Pike Reconstruction		
	Bond Funds	60,000	-0-
004.	Northeast Woodford Water District - WX21239013 - Northeast Woodford Phase II Connection to Frankfort		
	Bond Funds	300,000	-0-
005.	Woodford County Fiscal Court -		

WX21239014 - Clifton Road/McCracken

Pike Water Line Extension

Bond Funds	950,000	-0-
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**P. COMMUNITY DEVELOPMENT FUND PROJECTS**

(1) **Authorization:** General Fund support in the amount of \$20,650,800 in fiscal year 2006-2007 and \$8,453,000 in fiscal year 2007-2008, and Bond Funds in the amount of \$75,658,000 in fiscal year 2006-2007 are authorized within the Community Development Fund Projects. The authorization is identified in Part II, Capital Projects Budget, A. General Government, 4. Governor's Office for Local Development, Item 005., of this Act, and the Projects list as identified in this section shall be placed under the jurisdiction of the Governor's Office for Local Development (GOLD). There is \$7,045,000 in fiscal year 2007-2008 appropriated from the General Fund for debt service.

(2) **Appropriations Not To Be Duplicated:** Appropriations identified as General Fund or Bond Funds in this section are representative of the amounts provided in Part II, Capital Projects Budget, A. General Government, 4. Governor's Office for Local Development, Item 005., of this Act, and are not to be appropriated in duplication.

(3) **Water and Sewer Projects:** The following projects that are related to water and sewer shall be administered by the Kentucky Infrastructure Authority.

**1. GENERAL GOVERNMENT**

Budget Unit	Governor's Office for Local Development	2006-07	2007-08
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**Adair County**

001.	City of Columbia - City Hall Addition to Accommodate Police, 911 Center, and Red Cross		
	Bond Funds	475,000	-0-
002.	City of Columbia - Park Improvement		
	General Fund	100,000	-0-

**Allen County**

001.	Allen County Board of Education - Allen County Intermediate Center Playground Construction and Equipment		
	General Fund	150,000	-0-
002.	Allen County Fiscal Court - Allen County Senior Center Renovation		
	General Fund	-0-	250,000
003.	Allen County Fiscal Court - Allen County Youth Inc. - Girls Softball		
	General Fund	20,000	-0-
004.	Allen County Fiscal Court - Industrial Park Spec. Building		
	General Fund	300,000	-0-
005.	Allen County Fiscal Court - Park Improvements		
	General Fund	100,000	-0-

**Anderson County**

001.	City of Lawrenceburg - Renovations of Lawrenceburg Police Department Building General Fund	50,000	-0-
<b>Ballard County</b>			
001.	Ballard County Fiscal Court - Ballard County Fair Board - Purchase New Grandstand General Fund	100,000	-0-
002.	City of Blandville - Blandville Fire Station General Fund	100,000	-0-
<b>Barren County</b>			
001.	Barren County Fiscal Court - Barren County EMS Building Bond Funds	500,000	-0-
002.	City of Cave City - Cave City Parks Improvements General Fund	150,000	-0-
003.	Park City - Park Improvements General Fund	100,000	-0-
<b>Bath County</b>			
001.	Bath County Fiscal Court - Agricultural Marketing Project General Fund	25,000	-0-
002.	Bath County Fiscal Court - Bath County Park Restrooms, Concession Stand, Ball Fields Construction General Fund	-0-	100,000
<b>Bell County</b>			
001.	City of Pineville - Pineville Public Library Furnishings General Fund	100,000	-0-
<b>Bourbon County</b>			
001.	Bourbon County Fiscal Court - Bourbon County Fire Department General Fund	100,000	-0-
002.	Bourbon County Fiscal Court - Bourbon County Park General Fund	100,000	-0-
<b>Boyd County</b>			
001.	Boyd County Board of Education - Physical Education/Multipurpose Complex and		

	Classroom Renovations and Improvements		
	Bond Funds	350,000	-0-
002.	Fairview Independent Board of Education -		
	Fairview Independent Schools Renovation -		
	Upgrade of Old Gym		
	Bond Funds	150,000	-0-
<b>Boyle County</b>			
001.	Boyle County Fiscal Court - Boyle County Public		
	Library Improvements		
	General Fund	-0-	300,000
002.	Boyle County Fiscal Court - Danville/Boyle		
	County Animal Shelter Renovation		
	General Fund	20,000	-0-
003.	Boyle County Fiscal Court - Ephraim McDowell		
	House Renovation		
	General Fund	50,000	-0-
004.	Boyle County Fiscal Court - Pioneer Playhouse		
	Improvements		
	General Fund	40,000	-0-
005.	Boyle County Fiscal Court - Wilderness Trace		
	Child Development Center		
	General Fund	60,000	-0-
006.	Boyle County Fiscal Court - Woodlawn Child		
	Care Campus		
	General Fund	50,000	-0-
007.	City of Danville - Brass Band Festival		
	General Fund	50,000	-0-
<b>Bracken County</b>			
001.	Bracken County Fiscal Court - Bracken County		
	Extension Office Renovation		
	General Fund	100,000	-0-
002.	Bracken County Health Department - Building		
	Expansion		
	General Fund	100,000	-0-
003.	City of Augusta - Augusta Community Center		
	Renovation Improvements		
	General Fund	100,000	-0-
<b>Breathitt County</b>			

001.	Breathitt County Fiscal Court - Rails to Trails - Purchase of Abandoned Railroad Track Dawkins, KY to Evanstown, KY 36.08 miles Bond Funds	500,000	-0-
<b>Breckinridge County</b>			
001.	Breckinridge County Fiscal Court - Breckinridge Senior Citizens Center General Fund	-0-	350,000
002.	Breckinridge County Fiscal Court - Industries Expansion Project Bond Funds	100,000	-0-
<b>Bullitt County</b>			
001.	Bullitt County Fiscal Court - Extension of Ridge Road Project #11398 General Fund	50,000	-0-
<b>Caldwell County</b>			
001.	Caldwell County Fiscal Court - County Jail Expansion Bond Funds	250,000	-0-
002.	City of Princeton - Phase II Streetscape Building Renovation and Sidewalk Construction General Fund	-0-	250,000
003.	Murray State University - Renovate Butler Facility in Princeton Bond Funds	250,000	-0-
<b>Calloway County</b>			
001.	City of Murray - Murray-Calloway Community Development Project - Purchase of Trucking Facility Including Office Area, Distribution Center, and Acreage. This Building Will Become a Spec. Building. Bond Funds	500,000	-0-
<b>Campbell County</b>			
001.	Bellevue Independent Board of Education - Infrastructure Bond Funds	250,000	-0-
002.	Bellevue Independent School District - Site Improvement General Fund	50,000	-0-



003.	Central Campbell County Fire District - Infrastructure Improvement		
	General Fund	-0-	100,000
004.	City of Bellevue - Downtown Revitalization Project/ Streetscape		
	Bond Funds	250,000	-0-
005.	City of Dayton - Downtown Revitalization		
	Bond Funds	250,000	-0-
006.	City of Newport - Downtown Revitalization/ Infrastructure		
	Bond Funds	500,000	-0-
007.	City of Southgate - Construct City Building		
	Bond Funds	250,000	-0-
008.	Ft. Thomas Independent Board of Education - Ft. Thomas High School Performing Arts Center		
	Bond Funds	1,400,000	-0-
<b>Carlisle County</b>			
001.	Carlisle County Board of Education Fair Board - Construction of Facility		
	Bond Funds	100,000	-0-
002.	City of Bardwell - Senior Citizens Center		
	General Fund	-0-	200,000
<b>Carroll County</b>			
001.	Carroll County Fiscal Court - Library		
	General Fund	-0-	250,000
<b>Carter County</b>			
001.	Carter County Fiscal Court - Hitchins Community Center/Fire Station		
	Bond Funds	250,000	-0-
002.	City of Olive Hill - Community Center		
	Bond Funds	250,000	-0-
003.	City of Olive Hill - Hop Brown Memorial Park		
	General Fund	50,000	-0-
004.	City of Olive Hill - Olive Hill Historical Society		
	General Fund	100,000	-0-
<b>Casey County</b>			
001.	Casey County Fiscal Court - County Park Improvement		

	General Fund	100,000	-0-
002.	Casey County Fiscal Court - Development and Construction of Southern KY Ag. Expo Center		
	Bond Funds	1,500,000	-0-
003.	Casey County Fiscal Court - Educational Building		
	Bond Funds	150,000	-0-
004.	Casey County Fiscal Court - Library Improvement		
	General Fund	50,000	-0-
005.	Casey County Fiscal Court - Somerset Community College Land/Building Acquisition		
	Bond Funds	100,000	-0-
<b>Christian County</b>			
001.	Christian County Fiscal Court - Alhambra Theatre Renovations		
	Bond Funds	700,000	-0-
<b>Clark County</b>			
001.	Bluegrass Community and Technical College - Winchester Campus		
	Bond Funds	500,000	-0-
002.	City of Winchester - Community Center		
	Bond Funds	1,400,000	-0-
003.	Clark County Fiscal Court - Bluegrass Heritage Museum		
	General Fund	50,000	-0-
004.	Clark County Fiscal Court - Handicapped Children Association - Support Operations and Expenses		
	General Fund	50,000	50,000
<b>Clay County</b>			
001.	Clay County Library Board - Renovations		
	General Fund	-0-	100,000
<b>Clinton County</b>			
001.	City of Albany - Downtown Revitalization		
	General Fund	150,000	-0-
002.	Clinton County Fiscal Court - Albany/Clinton County - Wellness Center Building Construction		
	Bond Funds	1,000,000	-0-
003.	Clinton County Fiscal Court - Clinton County		

	Wellness Center Improvements		
	Bond Funds	2,000,000	-0-
004.	Clinton County Health Department - Infrastructure		
	General Fund	200,000	-0-
<b>Crittenden County</b>			
001.	Crittenden County Fiscal Court - Property Purchase and Site Preparation		
	Bond Funds	225,000	-0-
<b>Cumberland County</b>			
001.	Cumberland County Fiscal Court - Children's Development Center		
	General Fund	324,000	-0-
002.	Cumberland County Fiscal Court - Cumberland County Industrial Site		
	General Fund	500,000	-0-
003.	Cumberland County Fiscal Court - Cumberland County Library		
	General Fund	250,000	-0-
004.	Cumberland County Fiscal Court - Infrastructure		
	Bond Funds	150,000	-0-
005.	Cumberland County Fiscal Court - Infrastructure		
	General Fund	250,000	-0-
006.	Cumberland County Fiscal Court - Marrowbone Park Infrastructure Improvement		
	General Fund	50,000	-0-
007.	Cumberland County Water District - Interconnect and Various Water Line Extensions		
	General Fund	100,000	-0-
<b>Daviess County</b>			
001.	Ben Hawes State Park - Playground Equipment Purchase		
	General Fund	60,000	-0-
002.	City of Owensboro - Owensboro River Park Center		
	General Fund	250,000	250,000
<b>Edmonson County</b>			
001.	City of Brownsville - Building Improvement		
	General Fund	200,000	-0-
002.	City of Brownsville - Business Incubator		

	Bond Funds	50,000	-0-
003.	Edmonson County Fiscal Court - Brownsville Library Improvements		
	Bond Funds	500,000	-0-
004.	Edmonson County Fiscal Court - Edmonson County Industrial Infrastructure - Federal Match		
	Bond Funds	1,000,000	-0-
005.	Edmonson County Fiscal Court - Edmonson County Park Improvements		
	General Fund	150,000	-0-
<b>Elliott County</b>			
001.	City of Sandy Hook - Downtown Beautification Project		
	General Fund	-0-	100,000
002.	Elliott County Board of Education - Recreational Complex and Facilities and Grounds Upgrades and Improvements		
	General Fund	250,000	150,000
<b>Estill County</b>			
001.	Estill County Fiscal Court - Biodiesel Plant Construction		
	Bond Funds	500,000	-0-
002.	Estill County Fiscal Court - Renovation of Westcare Community Involvement Center		
	General Fund	-0-	250,000
<b>Fayette County</b>			
001.	Central Kentucky Blood Center		
	Bond Funds	500,000	-0-
002.	Fayette County Board of Education - Field House and Training Facility - Bryan Station High School		
	Bond Funds	350,000	-0-
003.	Lexington-Fayette Urban County Government - Aviation Museum of Kentucky - Design and Construction		
	Bond Funds	606,000	-0-
004.	Lexington-Fayette Urban County Government - Family Care Center of Lexington - Technology Upgrade		
	General Fund	27,100	-0-

005.	Lexington-Fayette Urban County Government - Community Ventures - Third Street Land Acquisition Bond Funds	650,000	-0-
006.	Lexington-Fayette Urban County Government - Community Ventures for Frederick Douglass Community Learning Center General Fund	150,000	150,000
007.	Lexington-Fayette Urban County Government - Survivors II Grant General Fund	35,000	35,000
008.	Tubby Smith Foundation - Tubby's Clubhouse General Fund	50,000	-0-
009.	University of Kentucky - Arboretum General Fund	50,000	50,000
<b>Fleming County</b>			
001.	Fleming County Fiscal Court - Tilton Volunteer Fire Department Bond Funds	180,000	-0-
<b>Franklin County</b>			
001.	City of Frankfort - Frankfort YMCA General Fund	100,000	-0-
002.	Frankfort Independent Board of Education - Frankfort City Schools Learning and Results Services Internet 2 Project Equipment General Fund	15,000	15,000
003.	Franklin County Board of Education - Learning and Results Services - At-Risk Program General Fund	10,000	10,000
004.	Franklin County Fiscal Court - Save the Grand Theatre, Inc. Bond Funds	488,000	-0-
<b>Fulton County</b>			
001.	City of Fulton Tourism Commission - Upgrade for City Park General Fund	100,000	-0-
<b>Garrard County</b>			
001.	Eastern Kentucky University - ECU Lancaster Campus		

	General Fund	450,000	450,000
002.	Garrard County Fiscal Court - Cartersville Rewritten Park Improvement		
	General Fund	20,000	-0-
003.	Garrard County Fiscal Court - Lancaster Grand Theatre - Renovation		
	General Fund	100,000	-0-
004.	Garrard County Fiscal Court - Paint Lick Sportsman Club Picnic Grounds for Water and Sanitation Picnic Improvements		
	General Fund	20,000	-0-
005.	Garrard County Fiscal Court - Purchase the Michael Salter House		
	General Fund	150,000	-0-
<b>Grant County</b>			
001.	City of Williamstown - Lake Williamstown Expansion		
	General Fund	100,000	-0-
002.	Grant County Fiscal Court - Fire Departments		
	General Fund	50,000	-0-
<b>Graves County</b>			
001.	City of Mayfield - Mayfield Soccer Association		
	General Fund	50,000	50,000
002.	Graves County Fiscal Court - Caterpillar Generator and Trailer Purchase		
	General Fund	74,000	-0-
003.	Graves County Fiscal Court - Picnic Sheds and Playground Equipment		
	General Fund	90,000	-0-
004.	Graves County Fiscal Court - Sidewalk Improvements and Soccer Park Development		
	Bond Funds	300,000	-0-
005.	Graves County Fiscal Court - Water Valley Fire Department Demolition Costs of Building		
	General Fund	10,000	-0-
<b>Grayson County</b>			
001.	City of Caneyville - Infrastructure		
	General Fund	100,000	-0-

002.	City of Clarkson - Infrastructure		
	General Fund	100,000	-0-
003.	City of Leitchfield - Leitchfield Industrial Park		
	Expansion		
	General Fund	500,000	-0-
<b>Green County</b>			
001.	Green County Fiscal Court - Park Improvements		
	General Fund	150,000	-0-
<b>Greenup County</b>			
001.	City of Flatwoods - City Pool Bath Facility		
	Improvements		
	General Fund	25,000	-0-
002.	City of Raceland - Worthington Board of Education -		
	Raceland Worthington Arts Center		
	Bond Funds	250,000	-0-
003.	University of Kentucky - Pilot Project Music/Arts		
	Extension Agent Employment		
	General Fund	50,000	50,000
<b>Hardin County</b>			
001.	City of Elizabethtown - Elizabethtown State		
	Theatre		
	General Fund	100,000	-0-
002.	City of Radcliffe - Radcliffe Community Building		
	General Fund	250,000	-0-
003.	City of Rineyville - Rineyville Community Park		
	Improvements		
	General Fund	100,000	-0-
004.	City of Upton - Infrastructure		
	Bond Funds	250,000	-0-
005.	City of White Mills - White Mills Community		
	Park Improvements		
	General Fund	100,000	-0-
006.	Hardin County Fiscal Court - Elizabethtown		
	Farmer's Market		
	Bond Funds	500,000	-0-
007.	Hardin County Fiscal Court - Rineyville		
	Community Park		
	General Fund	100,000	100,000

008.	Hardin County Sheriff's Office - Radio System Purchase General Fund	500,000	-0-
<b>Harrison County</b>			
001.	Harrison County Fiscal Court - Harrison County Memorial Hospital - Building Wing Construction General Fund	25,000	25,000
<b>Hart County</b>			
001.	Hart County Fiscal Court - Health Department Improvements Bond Funds	500,000	-0-
002.	Hart County Fiscal Court - Industrial Spec. Building Bond Funds	500,000	-0-
<b>Henry County</b>			
001.	Henry County Fiscal Court - Lake Jericho Community Building General Fund	250,000	-0-
<b>Hickman County</b>			
001.	City of Clinton - Industrial Site Acquisition Bond Funds	250,000	-0-
002.	Hickman County Fiscal Court - Civil War Reenactment at Columbus-Belmont Park General Fund	-0-	100,000
<b>Hopkins County</b>			
001.	City of Madisonville - New City Building Construction General Fund	150,000	-0-
002.	Hopkins County Fiscal Court - Agriculture and Expo Center Construction Bond Funds	2,000,000	-0-
003.	Hopkins County Fiscal Court - City Building and Senior Citizens Building in White Plains - Construction Bond Funds	200,000	-0-
<b>Jefferson County</b>			
001.	City of Anchorage - Infrastructure/Park Improvements Bond Funds	250,000	-0-



002.	City of Fern Creek - Fern Creek Park Improvements General Fund	23,500	76,500
003.	City of Highview Park - Infrastructure Improvements General Fund	-0-	50,000
004.	City of Jeffersontown - Infrastructure/Park Improvements Bond Funds	250,000	-0-
005.	City of Jeffersontown - Jeffersontown Library Branch Computers and Books General Fund	50,000	50,000
006.	City of Lyndon - Infrastructure/Park Improvements Bond Funds	250,000	-0-
007.	City of Middletown - Infrastructure/Park Improvements Bond Funds	250,000	-0-
008.	City of Prairie Village - Infrastructure Improvements General Fund	-0-	50,000
009.	City of Shively - Shively City Hall Renovation General Fund	19,500	-0-
010.	City of Shively - Shively Park Walking Path General Fund	142,600	-0-
011.	City of Waverly Park - Infrastructure Improvements General Fund	-0-	50,000
012.	Commerce Cabinet - Arts Council Partnership of Creative Economies General Fund	598,200	-0-
013.	Eastwood Fire Protection District - Mine Safety Equipment General Fund	150,000	-0-
014.	Jefferson County Board of Education - Fairdale Community Center Bond Funds	300,000	-0-
015.	Jefferson County Board of Education - Lane Elementary Playground Equipment General Fund	-0-	50,000
016.	Louisville Metro Government - Actors Theatre		

	of Louisville - Capital Improvements		
	Bond Funds	900,000	-0-
017.	Louisville Metro Government - Boys Haven		
	Moms Mentoring Moms Program		
	General Fund	110,000	110,000
018.	Louisville Metro Government - Center for		
	Women and Families		
	Bond Funds	1,000,000	-0-
019.	Louisville Metro Government - Family Place		
	General Fund	-0-	200,000
020.	Louisville Metro Government - Farnsley-Kaufman		
	House		
	General Fund	150,000	-0-
021.	Louisville Metro Government - Jewish Hospital/		
	St. Mary Infrastructure		
	Bond Funds	950,000	-0-
022.	Louisville Metro Government - Louisville Central		
	Community Centers - Job Readiness Skills for		
	Disadvantaged		
	General Fund	50,000	-0-
023.	Louisville Metro Government - Louisville Regional		
	Airport Authority - Relocation Assistance		
	Bond Funds	5,000,000	-0-
024.	Louisville Metro Government - Riverside, The		
	Farnsley-Moreman Landing Aydelotte House		
	Renovation		
	Bond Funds	130,000	-0-
025.	Louisville Metro Government - Riverside, The		
	Farnsley-Moreman Landing Chapel Restoration		
	Bond Funds	130,000	-0-
026.	Louisville Metro Government - Valley Women's		
	Club - Kennedy House Project		
	General Fund	-0-	250,000
027.	Louisville Metro Government - Renovation of		
	Portland Museum		
	General Fund	150,000	-0-
028.	Waterfront Development Corporation - Lincoln		
	Monument - Waterfront Park		

	Bond Funds	2,000,000	-0-
<b>Jessamine County</b>			
001.	City of Nicholasville - Skate Park Construction		
	Bond Funds	200,000	-0-
002.	City of Wilmore - Park Development		
	Bond Funds	250,000	-0-
003.	City of Wilmore - Wesley Village Community		
	Center Furnishings		
	General Fund	250,000	-0-
004.	Jessamine County Fiscal Court - Camp Nelson		
	Civil War Park		
	Bond Funds	400,000	-0-
005.	Jessamine County Fiscal Court - County Park on		
	Union Mill Road Land Acquisition and Development		
	Bond Funds	400,000	-0-
006.	Jessamine County Fiscal Court - Purchase Land		
	and Building on South Main Street Nicholasville		
	Bond Funds	100,000	-0-
007.	Jessamine County Water District - WX21113014		
	Baker Lane Water Service Upgrade		
	Bond Funds	210,000	-0-
008.	Jessamine Fiscal Court - Animal Shelter		
	Improvements		
	General Fund	20,000	-0-
009.	Jessamine South Elkhorn Water District -		
	Tankersley Lane Water Lines Extension		
	Bond Funds	80,000	-0-
010.	Kentucky Historical Society - Ron Spriggs		
	Tuskegee Airmen		
	General Fund	40,000	30,000
<b>Kenton County</b>			
001.	City of Covington - Times Star Commons -		
	Planning		
	Bond Funds	750,000	-0-
002.	City of Covington - Times Star Commons -		
	Planning		
	General Fund	250,000	-0-
003.	City of Covington - West Covington Fire Station -		

	Property Acquisition		
	Bond Funds	300,000	-0-
004.	City of Fort Wright - Civil War Park Improvement		
	Bond Funds	250,000	-0-
005.	City of Park Hills - Sidewalk Construction		
	General Fund	250,000	-0-
006.	City of Park Hills - Thermoimaging Camera for Fire Department		
	General Fund	12,500	-0-
007.	Kenton County Fiscal Court - Behringer-Crawford Museum Improvements		
	Bond Funds	1,500,000	-0-
008.	Kenton County Fiscal Court - City of Covington Renaissance on Main Facade Project		
	General Fund	100,000	-0-
009.	Kenton County Fiscal Court - Covington Artisans Enterprise Center Improvements		
	Bond Funds	450,000	-0-
<b>Knott County</b>			
001.	Knott County Fiscal Court - Knott County Arts Center		
	General Fund	250,000	250,000
<b>Laurel County</b>			
001.	Laurel County Fiscal Court - Christian Shelter for the Homeless		
	General Fund	-0-	150,000
002.	London/Laurel County Tourism Commission - Design and Construct History Museum		
	Bond Funds	1,000,000	-0-
<b>Lewis County</b>			
001.	City of Vanceburg - Carter House Purchase and Renovate		
	General Fund	200,000	-0-
002.	Lewis County Fiscal Court - E911 Dispatch Center - Purchase Building and Renovate		
	General Fund	250,000	-0-
003.	Lewis County Volunteer Fire Department District - Lewis County Fiscal Court -		

Construction of a Building		
General Fund	75,000	-0-
<b>Lincoln County</b>		
001. Lincoln County Fiscal Court - First Southern Veterans Park Construction		
Bond Funds	500,000	-0-
<b>Logan County</b>		
001. City of Russellville - Russellville Theatre Project		
Bond Funds	100,000	-0-
<b>Lyon County</b>		
001. Lyon County Fiscal Court - Emergency Dredging - Eddyville Riverport		
General Fund	250,000	-0-
<b>Madison County</b>		
001. Artisans Center		
General Fund	300,000	-0-
002. Madison County Fiscal Court - Battle of Richmond Association		
Bond Funds	1,700,000	-0-
003. Madison County Fiscal Court - Domestic Violence Services		
General Fund	400,000	400,000
004. Madison County Fiscal Court - Hospice Care Plus, Inc. Madison County		
Bond Funds	400,000	-0-
005. Madison County Fiscal Court - Richmond Area Arts Council - Land Acquisition		
Bond Funds	200,000	-0-
006. Madison County Fiscal Court - Richmond Area Arts Council - Operating		
General Fund	200,000	200,000
<b>Marion County</b>		
001. City of Lebanon - Lebanon Community Center Improvements		
General Fund	-0-	500,000
<b>Marshall County</b>		
001. City of Benton - Park Improvements		
General Fund	100,000	-0-

002.	Marshall County Fiscal Court - Marshall County - Calvert City River Port Authority - Infrastructure Bond Funds	2,000,000	-0-
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**Mason County**

001.	City of Mayslick - Community Center Improvements General Fund	300,000	-0-
002.	City of Maysville - Maysville Riverwalk Phase II Bond Funds	160,000	-0-
003.	City of Maysville - Riverwalk Bond Funds	500,000	-0-
004.	Mason County Fiscal Court - Lewisburg Fire Department - New Building Bond Funds	300,000	-0-
005.	Mason County Fiscal Court - Russell Theatre Phase II Restoration General Fund	250,000	-0-
006.	Mason County Fiscal Court - Underground Railroad Museum General Fund	50,000	-0-
007.	Mason County Health Department - Infrastructure Bond Funds	500,000	-0-

**McCracken County**

001.	McCracken County Fiscal Court - Renovation of the Joint City-County E911 Center. General Fund	250,000	-0-
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**McCreary County**

001.	McCreary County Fiscal Court - Drug Court Program General Fund	200,000	-0-
002.	McCreary County Fiscal Court - Multigeneration Center Bond Funds	500,000	-0-

**McLean County**

001.	McLean County Fiscal Court - Planning and Design of The McLean County Public Library General Fund	-0-	100,000
002.	McLean County Fiscal Court - Planning and Design		

of The Myer Creek Agricultural Complex

General Fund	250,000	-0-
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**Mercer County**

001. City of Harrodsburg - West Lane Park - Park Renovations		
General Fund	50,000	-0-

**Metcalf County**

001. City of Edmonton - Edmonton Industrial Authority - Industrial Park Improvements		
Bond Funds	300,000	-0-
002. City of Edmonton - Park Improvements		
General Fund	100,000	-0-

**Monroe County**

001. City of Gamaliel - Community Building		
Bond Funds	100,000	-0-
002. City of Tompkinsville - City Park Improvements		
General Fund	200,000	-0-
003. Monroe County Fiscal Court - Wellness Center Improvements		
Bond Funds	3,000,000	-0-

**Montgomery County**

001. Juvenile Justice - Gateway Juvenile Diversion Center Operational Support		
General Fund	50,000	50,000
002. Juvenile Justice - Gateway Juvenile Diversion Center Renovation		
Bond Funds	600,000	-0-
003. Montgomery County Fiscal Court - Gateway Regional Arts Center		
General Fund	50,000	50,000

~~**Muhlenberg County**~~

<del>001. Lake Malone State Park - Park Improvements and Miniature Golf Course</del>		
<del>Bond Funds</del>	<del>200,000</del>	<del>0 (Veto #4)</del>
002. Muhlenberg County Fiscal Court - Courthouse Dome Repair		
Bond Funds	200,000	-0-
003. Muhlenberg County Fiscal Court - Muhlenberg		

	County Agricultural Center		
	General Fund	100,000	-0-
<b>Nelson County</b>			
001.	Nelson County Fiscal Court - Kentucky		
	Railway Museum - Renovation/Upgrade, Road		
	Bid and Bridge Improvements		
	Bond Funds	1,700,000	-0-
<b>Oldham County</b>			
001.	Oldham County Fair Board - Oldham County		
	Fairgrounds Facility Renovation and Infrastructure		
	Improvements		
	General Fund	100,000	-0-
002.	Oldham County Fiscal Court - Oldham County		
	Parks Department - South Oldham Little League		
	Improvement to Peggy Baker Park		
	General Fund	15,000	-0-
003.	Oldham County Fiscal Court - Westport Park		
	Improvements		
	General Fund	-0-	250,000
004.	Oldham County Fiscal Court - Library		
	Improvements		
	Bond Funds	1,500,000	-0-
<b>Pendleton County</b>			
001.	Pendleton County Fiscal Court - Athletic Park		
	Infrastructure and Construction of Concession		
	Stand		
	General Fund	50,000	-0-
<del><b>Pike County</b></del>			
<del>001.</del>	<del>Pike County Fiscal Court - Pikeville Medical Center</del>		
	<del>Planning, Design, and Construction</del>		
	<del>Bond Funds</del>	<del>1,500,000</del>	<del>0 - (Veto #4)</del>
<b>Pulaski County</b>			
001.	City of Burnside - Park Infrastructure Improvement		
	General Fund	50,000	-0-
002.	City of Eubank - City Infrastructure Improvement		
	General Fund	50,000	-0-
003.	City of Science Hill - Park Infrastructure		
	Improvement		



	General Fund	50,000	-0-
004.	City of Somerset - City Park Improvement		
	General Fund	100,000	-0-
005.	Pulaski County Board of Education - Pulaski		
	Secondary Vocational School Project		
	General Fund	300,000	-0-
006.	Pulaski County Fiscal Court - Parks and Recreation		
	Development		
	General Fund	200,000	200,000
<b>Robertson County</b>			
001.	Robertson County Board of Education - Deming		
	School Replacement/Renovations		
	Bond Funds	500,000	-0-
002.	Robertson County Fiscal Court - Mt. Olivet		
	Community Center		
	General Fund	300,000	-0-
<b>Rockcastle County</b>			
001.	City of Mt. Vernon - Relocate Utility Lines For		
	Hospital Expansion		
	General Fund	100,000	-0-
002.	Rockcastle County Industrial Authority - Jones		
	Building Purchase		
	Bond Funds	100,000	-0-
<b>Rowan County</b>			
001.	Rowan County Board of Education - Rowan		
	County High School Outdoor Athletic Complex		
	Site Preparation, Planning, and Construction		
	General Fund	100,000	200,000
002.	Rowan County Fiscal Court - Rowan County		
	Economic Development Office Design		
	General Fund	150,000	-0-
<b>Russell County</b>			
001.	City of Jamestown - Park Improvements		
	General Fund	100,000	-0-
002.	City of Russell Springs - Park Improvements		
	General Fund	100,000	-0-
003.	Russell County Board of Education - Wellness		
	Center Improvements		

	Bond Funds	1,500,000	-0-
004.	Russell County Fiscal Court - Senior Citizens Center Improvements		
	General Fund	-0-	200,000
005.	Russell County Fiscal Court - Wellness Center Building Construction		
	Bond Funds	1,000,000	-0-
<b>Scott County</b>			
001.	Scott County Board of Education - Scott County High School Athletic Field Construction		
	Bond Funds	200,000	-0-
002.	Scott County Fiscal Court - Buffalo Park Improvement Infrastructure		
	General Fund	150,000	-0-
003.	Scott County Fiscal Court - Kentucky Japan Friendship Garden Construction of Educational Center		
	Bond Funds	250,000	-0-
004.	Scott County Fiscal Court - Senior Citizens Center Operational Expense		
	General Fund	50,000	50,000
<b>Shelby County</b>			
001.	City of Simpsonville - Simpsonville Fire Dept. Addition		
	Bond Funds	300,000	-0-
002.	Shelby County Fiscal Court - Chestnut Grove Firehouse		
	Bond Funds	600,000	-0-
003.	Shelby County Fiscal Court - Community Theatre Renovation and Expansion		
	General Fund	-0-	150,000
004.	Shelby County Fiscal Court - Shelby County A & M Association - Construction of Barns		
	General Fund	-0-	250,000
<b>Simpson County</b>			
001.	Simpson County Fiscal Court - Park Improvements General Fund	100,000	-0-
002.	Simpson County Industrial Authority Expansion		

	Bond Funds	500,000	-0-
<b>Statewide</b>			
001.	City of Buckhorn - Buckhorn Children's Foundation		
	General Fund	500,000	-0-
<b>Taylor County</b>			
001.	Campbellsville University - Tech Center Upgrade/ Workforce Retooling		
	General Fund	317,900	-0-
002.	City of Campbellsville - Renaissance Funds for Downtown Development		
	General Fund	100,000	100,000
<b>Todd County</b>			
001.	Todd County Fiscal Court - Clifty Community, Clifty Park Restrooms Construction		
	General Fund	40,000	-0-
<b>Trigg County</b>			
001.	Trigg County Fiscal Court - Senior Citizens Center		
	General Fund	-0-	200,000
<b>Trimble County</b>			
001.	Trimble County Park Improvements		
	General Fund	250,000	-0-
<b>Union County</b>			
001.	City of Morganfield - Sewer, Water, and Storm Drains Construction		
	Bond Funds	2,000,000	-0-
002.	City of Sturgis - Sewer, Water, and Storm Drains Construction		
	Bond Funds	2,000,000	-0-
003.	City of Uniontown - Sewer, Water, and Storm Drains Construction		
	Bond Funds	500,000	-0-
004.	Union County Fiscal Court - Water and Sewer Projects - Construction U.S. Highway 60		
	Bond Funds	1,500,000	-0-
<b>Warren County</b>			
001.	City of Bowling Green - Bowling Green Chamber Orchestra		
	General Fund	40,000	40,000

002.	City of Bowling Green - Historic Rail Park		
	General Fund	75,000	-0-
003.	City of Bowling Green - Kentucky Fireman's Museum		
	General Fund	50,000	-0-
004.	Warren County Fiscal Court - Lost River Gateway Visitors Center		
	General Fund	75,000	100,000
005.	Warren County Fiscal Court - Lovers Lane Utility Infrastructure		
	Bond Funds	200,000	-0-
006.	Warren County Fiscal Court - Old Courthouse Renovation		
	Bond Funds	250,000	-0-
007.	Warren County Fiscal Court - Research and Development Center - Business Accelerator		
	General Fund	-0-	150,000
008.	Warren County Fiscal Court - Warren County Community Center Development		
	General Fund	80,000	-0-
009.	Warren County School Board - Old Alvaton School Gymnasium Renovations		
	Bond Funds	220,000	-0-
010.	Warren County Schools - New Alvaton School Intermediate Center Playground Construction and Equipment		
	General Fund	75,000	-0-
<b>Washington County</b>			
001.	Washington County Fiscal Court - Opera House Renovation		
	General Fund	200,000	-0-
<b>Wayne County</b>			
001.	City of Monticello - Downtown Revitalization		
	Bond Funds	750,000	-0-
002.	Wayne County Fiscal Court - Courthouse Renovation		
	Bond Funds	500,000	-0-
003.	Wayne County Fiscal Court - Foothills Academy -		

	Otter Creek Female Facility		
	Bond Funds	350,000	-0-
004.	Wayne County Fiscal Court - Mill Springs		
	Battlefield Association - West Metcalfe House		
	Bond Funds	250,000	-0-
005.	Wayne County Fiscal Court - Wayne County		
	EMS Building		
	Bond Funds	674,000	-0-
<b>Webster County</b>			
001.	City of Providence - Sewer Line Expansion		
	Bond Funds	950,000	-0-
002.	City of Providence - Sewer Plant Debt Service		
	General Fund	200,000	200,000
<b>Wolfe County</b>			
001.	Wolfe County Fiscal Court - Lee City Fire Station		
	Land and Building		
	General Fund	80,000	-0-
<b>Woodford County</b>			
001.	City of Midway - Walter Bradley Park - Woods		
	Cleanup		
	General Fund	50,000	-0-
002.	Woodford County Fiscal Court - New Senior		
	Citizens Center Construction		
	Bond Funds	750,000	-0-
003.	Woodford County Fiscal Court - Economic		
	Development Authority for Midway Station -		
	Debt Forgiveness		
	Bond Funds	1,250,000	-0-
004.	Woodford County Fiscal Court - Falling		
	Springs Recreational Center Construction		
	General Fund	500,000	-0-
005.	Woodford County Fiscal Court - Woodford		
	County Heritage Committee - Jack Jouett House		
	Land Acquisition and Renovations		
	General Fund	250,000	-0-

**PART III**  
**GENERAL PROVISIONS**

**1. Funds Designations:** Restricted Funds designated in the biennial budget bills are classified in the state financial records and reports as the Agency Revenue Fund, State Enterprise Funds (State Parks, State Fair Board, Insurance Administration, and Kentucky Horse Park), Internal Services Funds (Fleet Management, Computer Services, Correctional Industries, Central Printing, Risk Management, and Property Management), and selected Fiduciary Funds (Other Expendable Trust Funds). Separate funds records and reports shall be maintained in a manner consistent with the branch budget bills.

The sources of Restricted Funds appropriations in this Act shall include all fees (which includes fees for room and board, athletics, and student activities) and rentals, admittances, sales, bond proceeds, licenses collected by law, gifts, subventions, contributions, income from investments, and other miscellaneous receipts produced or received by a budget unit, except as otherwise specifically provided, for the purposes, use, and benefit of the budget unit as authorized by law. Restricted Funds receipts shall be credited and allotted to the respective fund or account out of which a specified appropriation is made in this Act. All receipts of Restricted Funds shall be deposited in the State Treasury and credited to the proper account as provided in KRS Chapters 12, 42, 45, and 48.

The sources of Federal Funds appropriations in this Act shall include federal subventions, grants, contracts, or other Federal Funds received, income from investments, and other miscellaneous federal receipts received by a budget unit, the Unemployment Compensation Fund, except as otherwise provided, for the purposes, use, and benefit of the budget unit as authorized by law. Federal Funds receipts shall be credited and allotted to the respective fund account out of which a specified appropriation is made in this Act. All Federal Funds receipts shall be deposited in the State Treasury and credited to the proper account as provided in KRS Chapters 12, 42, 45, and 48.

**2. Expenditure of Excess Restricted Funds or Federal Funds Receipts:** If receipts received or credited to the Restricted Funds accounts or Federal Funds accounts of a budget unit during fiscal year 2006-2007 or fiscal year 2007-2008, and any balance forwarded to the credit of these same accounts from the previous fiscal year, exceed the appropriation made by specific sum for these accounts of the budget unit as provided in Part I, Operating Budget, of this Act, for the fiscal year in which the excess occurs, the excess funds in the accounts of the budget unit shall become available for expenditure for the purpose of the account during the fiscal year only upon compliance with the conditions and procedures specified in KRS 48.400, 48.500, 48.600, 48.605, 48.610, 48.620, 48.630, 48.700, 48.705, 48.710, 48.720, 48.730, 48.800, and 48.810 and this Act, and with the authorization of the State Budget Director and approval of the Secretary of the Finance and Administration Cabinet.

Prior to authorizing the appropriation of any excess, unbudgeted Restricted Funds pursuant to this section, the State Budget Director and the Secretary of the Finance and Administration Cabinet shall review the adequacy of the General Fund Surplus Account with respect to its availability to support Necessary Government Expenses. In the event that General Fund Surplus Account moneys are determined by this review to be adequate to meet known or anticipated Necessary Government Expenses during fiscal year 2006-2007 or fiscal year 2007-2008, respectively, then the appropriation increase may be approved. In the event that the review indicates that there are insufficient funds available or reasonably estimated to become available to the General Fund Surplus Account to meet known or projected Necessary Government Expenses for the fiscal years enumerated above, the State Budget Director, with the concurrence of the Secretary of the Finance and Administration Cabinet, may disapprove the request for additional Restricted Funds expenditure authority and may direct the excess Restricted Funds identified to the General Fund Surplus Account in order to meet Necessary Government Expense obligations. The results of any review shall be reported to the Interim Joint Committee on Appropriations and Revenue in accordance with KRS 48.400, 48.500, 48.600, 48.605, 48.610, 48.620, 48.630, 48.700, 48.705, 48.710, 48.720, 48.730, 48.800, and 48.810.

Any request made by a budget unit pursuant to KRS 48.630 that relates to Restricted Funds or Federal Funds shall include documentation showing a comparative statement of revised estimated receipts by fund source and the proposed expenditures by proposed use, with the appropriated sums specified in the Budget of the Commonwealth, and statements which explain the cause, source, and use for any variances which may exist.

Each budget unit shall submit its reports in print and electronic format consistent with the Restricted Funds and Federal Funds records contained in the fiscal biennium 2006-2008 Branch Budget Request Manual and according to the following schedule in each fiscal year: (a) On or before the beginning of each fiscal year; (b) On or before October 1; (c) On or before January 1; and (d) On or before April 1.

**3. Interim Appropriation Increases:** No appropriation from any fund source shall exceed the sum specified in this Act until the agency has documented the necessity, purpose, use, and source, and the documentation has been submitted to the Interim Joint Committee on Appropriations and Revenue for its review and action in accordance with KRS 48.630. Proposed revisions to an appropriation contained in the enacted State/Executive Budget

or allotment of an unbudgeted appropriation shall conform to the conditions and procedures of KRS 48.630 and this Act.

Notwithstanding KRS 48.630(3), (4), and (5), any proposed and recommended actions to increase appropriations for funds specified in Section 2 of this Part shall be scheduled consistent with the timetable contained in that section in order to provide continuous and timely budget information.

**4. Revision of Appropriation Allotments:** Allotments within appropriated sums for the activities and purposes contained in the enacted State/Executive Budget shall conform to KRS 48.610 and may be revised pursuant to KRS 48.605 and this Act.

**5. Appropriations Expenditure Purpose and Transfer Restrictions:** Funds appropriated in this Act shall not be expended for any purpose not specifically authorized by the General Assembly in this Act nor shall funds appropriated in this Act be transferred to or between any cabinet, department, board, commission, institution, agency, or budget unit of state government unless specifically authorized by the General Assembly in this Act and the provisions of KRS 48.400, 48.500, 48.600, 48.605, 48.610, 48.620, 48.630, 48.700, 48.705, 48.710, 48.720, 48.730, 48.800, and 48.810. Compliance with the provisions of this section shall be reviewed and determined by the Interim Joint Committee on Appropriations and Revenue.

**6. Permitted Appropriation Obligations:** No state agency, cabinet, department, office, or program shall incur any obligation against the General Fund or Road Fund appropriations contained in this Act unless the obligation may be reasonably determined to have been contemplated in the enacted budget and is based upon supporting documentation considered by the General Assembly, legislative and executive records, and the statutory budget memorandum.

**7. Lapse of General Fund or Road Fund Appropriations Supplanted by Federal Funds:** Any General Fund or Road Fund appropriation made in anticipation of a lack, loss, or reduction of Federal Funds shall lapse to the General Fund or Road Fund Surplus Account, respectively, to the extent the Federal Funds otherwise become available.

**8. Federally Funded Agencies:** A state agency entitled to Federal Funds, which would represent 100 percent of the cost of a program, shall conform to KRS 48.730.

**9. Lapse of General Fund or Road Fund Excess Debt Service Appropriations:** Pursuant to KRS 48.720, any excess General Fund or Road Fund debt service shall lapse to the respective surplus account unless otherwise directed in this Act.

**10. Continuing Appropriations:** All statutes and portions of statutes in conflict with any of the provisions of this Act, to the extent of the conflict, are suspended unless otherwise provided by this Act.

**11. Construction of Budget Provisions on Statutory Budget Administration Powers and Duties:** Nothing in this Act is to be construed as amending or altering the provisions of Chapters 42, 45, and 48 of the Kentucky Revised Statutes pertaining to the duties and powers of the Secretary of the Finance and Administration Cabinet except as otherwise provided in this Act.

**12. Interpretation of Appropriations:** All questions that arise in interpreting any appropriation in this Act as to the purpose or manner for which the appropriation may be expended shall be decided by the Secretary of the Finance and Administration Cabinet pursuant to KRS 48.500, and the decision of the Secretary of the Finance and Administration Cabinet shall be final and conclusive.

**13. Publication of the Budget of the Commonwealth:** The State Budget Director shall cause the Governor's Office for Policy and Management, within 60 days of adjournment of the 2006 Regular Session of the General Assembly, to publish a final enacted budget document, styled the Budget of the Commonwealth, based upon the Legislative Budget, State/Executive Budget and Judicial Budget as enacted by the 2006 Regular Session, as well as other Acts which contain appropriation provisions for the 2006-2008 fiscal biennium, and based upon supporting documentation and legislative records as considered by the 2006 Regular Session, and the statutory budget memorandum. This document shall include, for each agency and budget unit, a consolidated budget summary statement of available regular and continuing appropriated revenue by fund source, corresponding appropriation allocations by program or subprogram as appropriate, budget expenditures by principal budget class and for the State/Executive Budget, and any other fiscal data and commentary considered necessary for budget execution by the Governor's Office for Policy and Management and oversight by the Interim Joint Committee on Appropriations and Revenue. The enacted State/Executive Budget shall be revised or adjusted only upon approval by the Governor's

Office for Policy and Management as provided in each Part of this Act and by KRS 48.400, 48.500, 48.600, 48.605, 48.610, 48.620, 48.630, 48.700, 48.705, 48.710, 48.720, 48.730, 48.800, and 48.810, and upon review and action by the Interim Joint Committee on Appropriations and Revenue.

**14. State Financial Condition:** Pursuant to KRS 48.400, the State Budget Director shall monitor and report on the financial condition of the Commonwealth.

**15. Prorating Administrative Costs:** The Secretary of the Finance and Administration Cabinet is authorized to establish a system or formula or a combination of both for prorating the administrative costs of the Finance and Administration Cabinet, the Department of the Treasury, and the Office of the Attorney General relative to the administration of programs in which there is joint participation by the state and federal governments for the purpose of receiving the maximum amount of participation permitted under the appropriate federal laws and regulations governing the programs. The receipts and allotments under this section shall be reported to the Interim Joint Committee on Appropriations and Revenue prior to any transfer of funds.

**16. Construction of Budget Provisions Regarding Executive Reorganization Orders:** Nothing in this Act shall be construed to confirm or ratify, under KRS 12.027 or 12.028, any executive reorganization order unless the executive order was confirmed or ratified by appropriate amendment to the Kentucky Revised Statutes in another Act of the 2006 Regular Session of the General Assembly. If any executive reorganization order issued from sine die adjournment of the 2005 Regular Session to sine die adjournment of the 2006 Regular Session was not confirmed by the 2006 Regular Session of the General Assembly, the Secretary of the Finance and Administration Cabinet shall, in consultation with agency heads and with notification to the Legislative Research Commission, transfer the balance of funds for any affected program or function for fiscal year 2005-2006 and any related appropriations and funds for each of the next two fiscal years from the budget unit in which the program or function was placed by the executive reorganization order to the budget unit in which the program or function resided prior to the reorganization action or in which it was placed by action of the 2006 Regular Session of the General Assembly.

**17. Budget Planning Report:** By August 15, 2007, the State Budget Director, in conjunction with the Consensus Forecasting Group, shall provide to each branch of government, pursuant to KRS 48.117, a budget planning report.

**18. Tax Expenditure Revenue Loss Estimates:** By October 15, 2007, the Office of State Budget Director shall provide to each branch of government detailed estimates for the General Fund and Road Fund for the current and next two fiscal years of the revenue loss effected by tax expenditures. The Department of Revenue shall provide assistance and furnish data which is not restricted by KRS 131.190. "Tax expenditure" means an exemption, exclusion, or deduction from the base of a tax, a credit against the tax, a deferral of a tax, or a preferential tax rate. The estimates shall include for each tax expenditure the amount of revenue loss, a citation of the legal authority for the tax expenditure, the year in which it was enacted, and the tax year in which it became effective.

**19. Duplicate Appropriations:** Any appropriation item and sum in Parts I to X of this Act and in an appropriation provision in any Act of the 2006 Regular Session which constitutes a duplicate appropriation shall be governed by KRS 48.312.

**20. Priority of Individual Appropriations:** KRS 48.313 shall control when a total or subtotal figure in this Act conflicts with the sum of the appropriations of which it consists.

**21. Severability of Budget Provisions:** Appropriation items and sums in Parts I to X of this Act shall conform to KRS 48.311. If any section, any subsection, or any provision is found by a court of competent jurisdiction in a final, unappealable order to be invalid or unconstitutional, the decision of the courts shall not affect or impair any of the remaining sections, subsections, or provisions.

**22. Unclaimed Lottery Prize Money:** For fiscal year 2006-2007 and fiscal year 2007-2008, all unclaimed lottery prize money under KRS 154A.110(3) shall be credited to the Kentucky Educational Excellence Scholarship Reserve Account to be held as a subsidiary account within the Finance and Administration Cabinet for the purpose of funding the KEES Program as appropriated in this Act. If the Kentucky Higher Education Assistance Authority certifies to the State Budget Director that the appropriations in this Act for the KEES Program under the existing award schedule are insufficient to meet funds required for eligible applicants, then the State Budget Director shall provide the necessary allotment of funds in the balance of the KEES Reserve Account to fund the KEES Program. Actions taken under this section shall be reported to the Interim Joint Committee on Appropriations and Revenue on a timely basis.

**23. Sales and Use Tax Collection and Remittance Compensation:** Notwithstanding KRS 139.570, for the periods after June 30, 2006, the total reimbursement allowed per taxpayer in any month shall not exceed \$1,500.



Notwithstanding KRS 139.240, 139.250 or 139.700, after the effective date of this Act, separate permit numbers for a taxpayer with different business locations shall not be issued.

**24. Abandoned Property Held by Financial Institutions:** Notwithstanding KRS 393.060, the dormancy period for property held or owing by a banking or financial institution, other than traveler's checks, shall be three years rather than seven years.

**25. Sale of Abandoned Property by Finance and Administration Cabinet:** Notwithstanding KRS 393.125, the department, within three years of the receipt of abandoned property that are securities, shall sell the securities. Unclaimed securities received by the department on or before June 30, 2004, shall be sold by June 30, 2007 with the receipts, net of estimated claims to be paid, available for appropriation to the General Fund. Unclaimed securities received by the department after June 30, 2004 and on or before June 30, 2005 shall be sold by June 30, 2008 with the receipts, net of estimated claims to be paid, available for appropriation to the General Fund.

**26. Premium and Retaliatory Taxes:** Notwithstanding KRS 304.17B-021(4)(d), premium taxes collected under KRS Chapter 136 from any insurer and retaliatory taxes collected under KRS 304.3-270 from any insurer shall be credited to the General Fund.

**27. Undesignated General Fund and Road Fund Carry Forward:** Notwithstanding KRS 48.700, and KRS 48.705 and other Parts of this Act, the Secretary of the Finance and Administration Cabinet shall determine and certify, within 30 days of the close of fiscal year 2006-2007, the actual amount of undesignated balance of the General Fund and the Road Fund for the year just ended. The amounts from the undesignated fiscal year 2006-2007 General Fund and Road Fund balances that are designated and carried forward for budgeted purposes in the 2006-2008 fiscal biennium shall be determined by the State Budget Director during the close of the respective fiscal year and shall be reported to the Interim Joint Committee on Appropriations and Revenue within 30 days of the close of the fiscal year. The General Fund undesignated balance in excess of the amount designated for budgeted purposes under this section shall be made available for the General Fund Surplus Expenditure Plan contained in Part VII of this Act unless otherwise provided in this Act. The Road Fund undesignated balance in excess of the amount designated for budgeted purposes under this section shall be made available for the Road Fund Surplus Expenditure Plan contained in Part IX of this Act unless otherwise provided in this Act.

**28. Workers' Compensation Surety Bond:** Notwithstanding KRS 342.340(1) or any other provision of law, public sector self-insured employers are not required to deposit funds as security, indemnity, or bond to secure the payment of compensation liabilities, provided that each public sector employer has the authority to impose taxes or raise tuition in an amount sufficient to recoup payments of compensation liabilities as they are incurred.

**29. Reduction In State Utility Costs:** The Finance and Administration Cabinet is hereby directed to continue to review current practices to reduce energy costs to achieve a government-wide savings of total utility costs. The Cabinet is empowered to utilize expertise in the Department of Natural Resources, the Public Service Commission, and other agencies to accomplish this goal.

**30. Cellular Telephones/Electronic Devices:** By 90 days after the effective date of this Act, the Secretary of the Finance and Administration Cabinet shall review the use of cellular telephones and other types of electronic communication devices and issue guidelines to state agencies specifying criteria to document the need for such equipment. A copy of the guidelines shall be transmitted to the Interim Joint Committee on Appropriations and Revenue at the time of issuance.

**31. Printing:** The General Assembly declares that the financial condition of the Commonwealth requires that the Secretary of the Finance and Administration Cabinet shall review all state printing, including publications and the associated cost of storage, distribution, and advertising and direct all state agencies to use Internet and other electronic technology in order to reduce costs.

**32. Travel Expenditures:** All state agencies shall continue to monitor all travel expenditures and shall utilize state parks or other state facilities to the fullest extent feasible. The Secretary of the Finance and Administration Cabinet shall review all out-of-state travel requests for three or more state employees to attend the same destination or event and shall approve the requests if deemed necessary.

**33. Horse Cave Repertory Theatre:** The Horse Cave Repertory Theatre located in Hart County, Kentucky is named and designated as the official state repertory theatre.

**34. Fiscal Year 2007-2008 Funds Expenditure Restriction:** Except in the case of a declared emergency, the Governor, all agency heads, and all other constitutional officers shall not expend or encumber in the aggregate more than 55 percent of the funds appropriated by this Act during the first half of fiscal year 2007-2008.

**35. Appropriation of Budget Reserve Trust Fund:** Pursuant to KRS 48.705, \$25,000,000 from the Budget Reserve Trust Fund is available in fiscal year 2007-2008 to be appropriated by the General Assembly in this Act.

**36. Civil War Reenactors:** Notwithstanding KRS 38.440, Civil War reenactors may associate, drill, and parade with firearms and/or swords without permission from the Governor before, during, and after Civil War reenactments and events.

**37. Voluntary Assignment of Escrow Payments:** Funds totaling \$35,000,000 in fiscal year 2006-2007 and \$20,000,000 in fiscal year 2007-2008 from the voluntary assignment of escrow payments by nonparticipating manufacturers shall be appropriated to the Budget Reserve Trust Fund. Beginning in fiscal year 2006-2007 and for fiscal year 2007-2008, the first \$2,200,000 in funds deposited in the Budget Reserve Trust Fund pursuant to the provisions of this section are hereby appropriated to the Cabinet for Health and Family Services, Department for Public Health, to be used for smoking prevention and cessation programs.

**38. General Fund Expenditure Reductions Through Efficiencies:** The Executive Office of the Governor shall reduce General Fund expenditures appropriated in this Act by \$38,500,000 in fiscal year 2006-2007 and by \$19,500,000 in fiscal year 2007-2008, by continuing to reduce waste, fraud, and abuse, and by creating additional savings through increased efficiencies. The biennial savings are in addition to the revenue measures directed by the Executive Branch.

**39. Abandonment of Traveler's Checks:** Notwithstanding KRS 393.060, traveler's checks held or owing by a banking or financial organization shall be presumed abandoned when the period of time the traveler's checks have been outstanding exceeds seven years, unless the owner has within seven years corresponded in writing with the banking or financial organization concerning the traveler's checks, or otherwise indicated an interest as evidenced by a memorandum on file with the banking or financial organization.

**(40) Kentucky Wine and Vine Fest:** The Kentucky Wine and Vine Fest of Nicholasville, Kentucky, is named and designated as the official state wine festival.

**(41) Lottery Receipt Dividend Payment:** Notwithstanding KRS 154A.130(4), the additional net lottery receipt dividend payment declared in March 2006 which exceeded the Consensus Forecast Group lottery funds estimate in December 2005 shall be credited to the General Fund.

#### PART IV

#### STATE SALARY/COMPENSATION AND EMPLOYMENT POLICY

**1. Maximum Filled Permanent Positions:** Notwithstanding KRS 18A.010(2), for the 2006-2008 fiscal biennium, the total number of filled permanent positions in the agencies of the Executive Branch is limited to the number authorized in the enacted State/Executive Budget of the Commonwealth for the 2006-2008 fiscal biennium. The provisions of this section do not apply to the employees of the General Assembly, the Legislative Research Commission, or the Court of Justice.

**2. Authorized Personnel Complement:** On July 1, 2006, the Personnel Cabinet and the Office of State Budget Director shall establish a record for each budget unit of authorized permanent and other positions based upon the enacted State/Executive Budget of the Commonwealth and any adjustments authorized by provisions in this Act. The total number of filled and vacant positions of permanent full-time, permanent part-time, and all other positions shall not exceed the authorized complements pursuant to this section. When an agency head certifies that an emergency employment situation exists for a limited time within a fiscal year, the State Budget Director may approve, and the Secretary of the Personnel Cabinet may authorize, the employment of individuals in addition to the authorized complement for the duration of the limited time period so authorized within the fiscal year. A copy of records, certifications, and actions authorized in this section shall be provided to the Interim Joint Committee on Appropriations and Revenue on a monthly basis.

**3. Salary Adjustments:** Notwithstanding KRS 18A.355~~{(4)}~~, (Veto #25) in fiscal year 2006-2007 and in fiscal year 2007-2008, a salary adjustment amounting to an annualized value on the base salary or wages of each eligible full-time and part-time employee on their anniversary date is provided. The amount of the salary adjustment is determined by each eligible employee's annual base salary or wages on their anniversary date, and the following table

reflects the annualized values of the salary adjustment for fiscal year 2006-2007 and fiscal year 2007-2008, except as provided by this section.

<b>Annual Base Salary or Wages</b>	<b>2006-07</b>	<b>2007-08</b>
\$0 to \$30,000.00	\$1,350	\$1,350
\$30,000.01 to \$50,000.00	\$1,200	\$1,200
\$50,000.01 to \$60,000.00	\$1,000	\$1,000
\$60,000.01 to \$80,000.00	\$600	\$600
\$80,000.01 and above	\$400	\$400

Commencing with an eligible employee's anniversary date, the salary adjustment shall be added to the eligible employee's base salary or wages and shall be disbursed by payroll period in a one-twenty-fourth installment for the duration of the employment. The Secretary of the Personnel Cabinet shall determine the pro rata amount of the salary adjustment to be provided to part-time employees. The salary adjustment shall be a part of the salary or wage base of the employee.

**4. State Salary and Compensation Fund:** The State Budget Director shall determine the amount of funds from the appropriation in Part I, Operating Budget, J. Personnel Cabinet, 4. State Salary and Compensation Fund, of this Act by budget unit necessary to provide for the salary adjustments. The State Salary and Compensation Fund shall be supplemented by Restricted Funds, Federal Funds, the Road Fund, and other General Fund amounts otherwise appropriated to state agencies in order to provide for the salary adjustments.

The State Budget Director shall notify the Secretary of the Finance and Administration Cabinet of the respective amount of General Fund from the State Salary and Compensation Fund to transfer to each affected budget unit and such funds shall be transferred. The State Budget Director shall report to the Interim Joint Committee on Appropriations and Revenue the implementation of these provisions.

**5. Monthly Per Employee Health Insurance Benefits Assessment:** The Personnel Cabinet shall collect a benefits assessment per month per employee eligible for health insurance coverage in the state group as contained in Appendix B of the budget instructions promulgated by the Legislative Research Commission pursuant to KRS 48.040 and communicated to agencies by the Office of State Budget Director for duly authorized use by the Personnel Cabinet in administering its statutory and administrative responsibilities, including but not limited to administration of the Commonwealth's health insurance program.

**6. Employee Cross-Reference:** The Personnel Cabinet shall permit married couples who are both eligible to participate in the state health insurance plan to be covered under one family health benefit plan. The annual percentage increase for the employee contribution for family coverage for married couples who cross-reference shall not exceed the annual percentage increase in the total premium for that coverage option.

**7. Public Employees Self-Insured Health Insurance Premiums:** Beginning with the employer premium due for coverage effective July 1, 2006, under the Public Employees Self-Insured Health Insurance Program, the employer rate shall be reduced by 12 percent for the balance of Plan Year 2006. For Plan Year 2007, the increase in employer and employee premiums for coverage under the Public Employees Self-Insured Health Insurance Program shall not exceed 10.4 percent for the Essential Plan and 9 percent for the Enhanced and Premium Plan over the Plan Year 2006 rates as adjusted by this Act.

**8. Employer Retirement Contribution Rates:** Notwithstanding KRS 61.565, the employer contribution rates for the Kentucky Employees Retirement Systems from July 1, 2006, through June 30, 2007, shall be 7.75 percent, consisting of 4.83 percent for pension and 2.92 percent for insurance, for nonhazardous duty employees and 22.0 percent, consisting of 8.75 percent for pension and 13.25 percent for insurance, for hazardous duty employees; for the same period the employer contribution for employees of the State Police Retirement System shall be no more than 25.5 percent, consisting of 12.44 percent for pension and 13.06 percent for insurance. Notwithstanding KRS 61.565, the employer contribution rates for the Kentucky Employees Retirement Systems from July 1, 2007, through June 30, 2008, shall be 8.5 percent, consisting of 5.47 percent for pension and 3.03 percent for insurance, for nonhazardous duty employees and 24.25 percent, consisting of 9.79 percent for pension and 14.46 percent for insurance for hazardous duty employees; for the same period the employer contribution for employees of the State Police Retirement System shall be no more than 28.0 percent, consisting of 14.23 percent for pension and 13.77 percent for insurance.

**9. Interest Earnings:** Interest accruing to the Public Employees Self-Insured Health Insurance Fund shall be credited to the fund.

**PART V**

**FUNDS TRANSFER**

The General Assembly finds that the financial condition of state government requires the following action.

Notwithstanding the statutes or requirements of the Restricted Funds enumerated below, there is transferred to the General Fund the following amounts in fiscal year 2005-2006, fiscal year 2006-2007, and fiscal year 2007-2008:

	<b>2005-06</b>	<b>2006-07</b>	<b>2007-08</b>
<b>A. GENERAL GOVERNMENT</b>			
<b>1. Office of the Governor</b>			
Agency Revenue Fund	5,600	-0-	-0-
<b>2. Office of the Governor</b>			
Other Special Revenue Fund	25,200	-0-	-0-
<b>3. Office of State Budget Director</b>			
Agency Revenue Fund	75,400	-0-	-0-
<b>4. Homeland Security</b>			
Agency Revenue Fund (KRS 65.7631)	351,400	-0-	-0-
<b>5. Department of Veterans' Affairs</b>			
Agency Revenue Fund	1,756,100	-0-	-0-
<b>6. Kentucky Infrastructure Authority</b>			
Solid Waste and Environmental Protection Revolving Loan Fund Program	3,600,000	-0-	-0-
<b>7. Military Affairs</b>			
Agency Revenue Fund	300,000	4,900,000	300,000
<b>8. Commission on Women</b>			
Agency Revenue Fund	1,800	-0-	-0-
<b>9. Local Government Economic Development Fund</b>			
Multi-County Fund (KRS 42.4588)	-0-	7,450,000	15,599,000
<b>10. Secretary of State</b>			
Agency Revenue Fund	350,000	900,000	900,000
<b>11. Attorney General</b>			
Agency Revenue Fund	521,200	-0-	-0-
<b>12. Treasury</b>			
Agency Revenue Fund	92,900	-0-	-0-
<b>13. Agriculture</b>			

	Agency Revenue Fund	-0-	479,500	337,800
<b>14.</b>	<b>Emergency Medical Services</b>			
	Agency Revenue Fund	162,500	-0-	-0-
	(KRS 311A.145(2))			
<b>B.</b>	<b>COMMERCE CABINET</b>			
<b>1.</b>	<b>Secretary</b>			
	Agency Revenue Fund	190,700	-0-	-0-
<b>2.</b>	<b>Artisans Center</b>			
	Other Special Revenue Fund	307,100	-0-	-0-
<b>3.</b>	<b>Energy Policy</b>			
	Agency Revenue Fund	506,300	-0-	-0-
	(KRS 132.020(5))			
<b>4.</b>	<b>Tourism</b>			
	Agency Revenue Fund	204,000	-0-	-0-
<b>5.</b>	<b>Horse Park Commission</b>			
	Kentucky Horse Park Fund	40,800	-0-	-0-
<b>6.</b>	<b>State Fair Board</b>			
	State Fair Board Fund	234,000	-0-	-0-
<b>7.</b>	<b>Historical Society</b>			
	Agency Revenue Fund	120,000	-0-	-0-
<b>8.</b>	<b>Arts Council</b>			
	Agency Revenue Fund	20,000	-0-	-0-
	(KRS 153.220(8))			
<b>C.</b>	<b>ECONOMIC DEVELOPMENT CABINET</b>			
<b>1.</b>	<b>Secretary</b>			
	Agency Revenue Fund	200,000	-0-	-0-
<b>2.</b>	<b>Financial Incentives</b>			
	Kentucky Economic Development			
	Finance Authority	-0-	-0-	700,000
	(KRS 154.20-010 to 154.20-150)			
<b>D.</b>	<b>DEPARTMENT OF EDUCATION</b>			
<b>1.</b>	<b>Operations and Support Services</b>			
	Agency Revenue Fund	150,000	-0-	-0-
<b>2.</b>	<b>Department of Education</b>			
	School Districts Flexible Spending			
	Account Expendable Trust Fund	7,000,000	12,000,000	12,000,000
<b>E.</b>	<b>EDUCATION CABINET</b>			
<b>1.</b>	<b>General Administration and Program Support</b>			

	Agency Revenue Fund	53,000	75,000	89,600
<b>2.</b>	<b>Environmental Education Council</b>			
	Agency Revenue Fund	874,600	-0-	-0-
	(KRS 224.43-505(2)(b))			
<b>3.</b>	<b>Career and Technical Education</b>			
	Agency Revenue Fund	656,800	-0-	-0-
<b>F.</b>	<b>ENVIRONMENTAL AND PUBLIC PROTECTION CABINET</b>			
<b>1.</b>	<b>Natural Resources</b>			
	Agency Revenue Fund	247,900	-0-	-0-
	(KRS 149.280(2) and 149.670)			
<b>2.</b>	<b>Public Protection Commissioner</b>			
	Agency Revenue Fund	400,000	175,000	150,000
<b>3.</b>	<b>Petroleum Storage Tank Environmental Assurance Fund</b>			
	Insurance Administration Fund	626,500	41,997,300	17,564,100
	(KRS 224.60-140, 224.60-145 and 224.60-150)			
<b>4.</b>	<b>Alcoholic Beverage Control</b>			
	Agency Revenue Fund	3,011,700	836,200	457,600
	(KRS 243.025)			
<b>5.</b>	<b>Charitable Gaming</b>			
	Agency Revenue Fund	1,100,000	-0-	-0-
	(KRS 238.570(2))			
<b>6.</b>	<b>Financial Institutions</b>			
	Agency Revenue Fund	3,295,100	1,851,300	1,900,900
	(KRS 287.485)			
<b>7.</b>	<b>Insurance</b>			
	Agency Revenue Fund	8,659,700	9,000,000	10,750,000
	(KRS 304.2-300, 304.2-400 and 304.2-440)			
<b>8.</b>	<b>Workers Compensation Funding Commission</b>			
	Insurance Administration Fund	-0-	3,735,500	1,618,900
	(KRS 342.1227)			
<b>9.</b>	<b>Environmental and Public Protection</b>			
	Kentucky Pride Trust Fund	-0-	18,000,000	-0-
	(KRS 224.43-505(1))			
<b>10.</b>	<b>Environmental and Public Protection</b>			
	Kentucky Pride Trust Fund	-0-	2,006,300	2,006,300

Pursuant to KRS 224.43-505(2)(a)5., these funds transfers to the General Fund support the General Fund debt service on the bonds sold as appropriated by 2003 Ky. Acts ch. 156, Part II, Capital Projects Budget, A. Government Operations, 3. Kentucky Infrastructure Authority, c. Kentucky Pride Fund Projects.

**G. FINANCE AND ADMINISTRATION CABINET**

**1. General Administration**

Agency Revenue Fund	58,800	3,779,800	3,784,800
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**2. Controller**

Agency Revenue Fund	1,200,000	204,300	215,800
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**3. Facilities and Support Services**

Agency Revenue Fund	232,500	200,800	583,400
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~~**4. Commonwealth Office of Technology**~~

<del>Agency Revenue Fund</del>	<del>0</del>	<del>0</del>	<del>1,000,000</del> (Veto #26)
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**5. Revenue**

Agency Revenue Fund	1,000,000	-0-	-0-
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(KRS 45.238(3), 132.320(3), 134.400,  
160.6154(2) and 365.390(2))

**6. Finance and Administration**

Capital Construction and Equipment Purchase

Contingency Fund	-0-	2,000,000	-0-
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(KRS 45.770)

**7. Finance and Administration**

Capital Construction

Investment Income	-0-	6,200,000	5,330,000
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(KRS 42.500)

**8. Finance and Administration**

Statewide Deferred Maintenance Fund	-0-	332,000	-0-
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(KRS 45.782)

**9. Finance and Administration**

Capital Construction Emergency

Repair and Maintenance Fund	-0-	1,000,000	-0-
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(KRS 45.780)

**H. HEALTH AND FAMILY SERVICES CABINET**

**1. General Administration and**

**Program Support**

Agency Revenue Fund	5,723,000	-0-	-0-
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(KRS 212.025(2))

**2. General Administration and**

**Program Support**

	Malt Beverage Education Fund	350,000	350,000	350,000
<b>3.</b>	<b>Children with Special Health Care Needs</b>			
	Agency Revenue Fund (KRS 212.025(2))	500	-0-	-0-
<b>4.</b>	<b>Public Health</b>			
	Agency Revenue Fund (KRS 194A.050(4), 211.350(7), 211.848(2), 212.025(2), 213.141(3), 217.125(2), 219.071 and 221.020(2))	4,657,000	542,800	483,000
<b>5.</b>	<b>Health Policy</b>			
	Agency Revenue Fund (KRS 212.025(2))	351,700	-0-	-0-
<b>6.</b>	<b>Human Support Services</b>			
	Agency Revenue Fund (KRS 212.025(2))	156,500	-0-	-0-
<b>7.</b>	<b>Ombudsman</b>			
	Agency Revenue Fund (KRS 212.025(2))	1,600	-0-	-0-
<b>8.</b>	<b>Disability Determination Services</b>			
	Agency Revenue Fund (KRS 212.025(2))	2,400	-0-	-0-
<b>I.</b>	<b>JUSTICE AND PUBLIC SAFETY CABINET</b>			
<b>1.</b>	<b>Justice Administration</b>			
	Agency Revenue Fund	109,100	-0-	-0-
<b>2.</b>	<b>Criminal Justice Training</b>			
	Kentucky Law Enforcement Foundation Program Fund (KRS 15.430)	-0-	-0-	2,000,000
<b>3.</b>	<b>Juvenile Justice</b>			
	Agency Revenue Fund	6,520,000	-0-	-0-
<b>4.</b>	<b>Community Services and Local Facilities</b>			
	Agency Revenue Fund	80,100	-0-	-0-
<b>5.</b>	<b>Public Advocacy</b>			
	Agency Revenue Fund (KRS 31.211(8) and 189A.050(3)(f))	162,700	-0-	-0-
<b>J.</b>	<b>PERSONNEL</b>			
<b>1.</b>	<b>General Operations</b>			
	Flexible Spending Account	323,000	1,000,000	1,000,000



	(KRS 18A.225(2)(g))			
<b>2.</b>	<b>General Operations</b>			
	Other Special Revenue Fund	333,300	-0-	-0-
<b>3.</b>	<b>General Operations</b>			
	Agency Revenue Fund	922,500	-0-	-0-
	(KRS 18A.225(2)(g))			
<b>4.</b>	<b>Workers Compensation</b>			
	<b>Benefits and Reserve</b>			
	Risk Management Fund	4,028,500	-0-	-0-
	(KRS 18A.375(3))			
<b>K.</b>	<b>POSTSECONDARY EDUCATION</b>			
<b>1.</b>	<b>Council on Postsecondary Education</b>			
	Agency Revenue Fund	300,000	-0-	-0-
<b>2.</b>	<b>Kentucky Higher Education Assistance Authority</b>			
	Osteopathic Medicine			
	Scholarship Trust Fund	390,000	-0-	-0-
	(KRS 164.7891(11))			
<b>3.</b>	<b>Kentucky Higher Education Assistance Authority</b>			
	Osteopathic Medicine			
	Repayment Fund	440,000	350,000	-0-
	(KRS 164.7891(11))			
<b>4.</b>	<b>Kentucky Community and Technical College System</b>			
	Firefighters Foundation			
	Program Fund	-0-	-0-	2,000,000
	(KRS 95A.220)			
<b>L.</b>	<b>TRANSPORTATION CABINET</b>			
<b>1.</b>	<b>Aviation</b>			
	Kentucky Aviation Economic			
	Development Fund	-0-	468,000	468,000
	Notwithstanding KRS 183.525(5), these funds transfers to the General Fund support the General Fund debt service on the bonds sold as appropriated by 2005 Ky. Acts ch. 173, Part II, Capital Projects Budget, C., 1., 002.			
<b>2.</b>	<b>Aviation</b>			
	Kentucky Aviation Economic			
	Development Fund	-0-	4,000,000	4,000,000
<b>3.</b>	<b>Highways</b>			
	<del>Federal</del> Funds (Veto #27)	-0-	9,000,000	-0-
<b>TOTAL - FUNDS TRANSFER</b>		<b>62,483,500</b>	<b>132,833,800</b>	<b>*84,589,200</b>

**PART VI****GENERAL FUND BUDGET REDUCTION PLAN**

Pursuant to KRS 48.130 and 48.600, a General Fund Budget Reduction Plan is enacted for state government in the event of an actual or projected deficit in estimated General Fund revenue receipts of \$8,514,872,500 in fiscal year 2006-2007 and \$8,879,172,400 in fiscal year 2007-2008 as modified by related Acts and actions of the General Assembly in an extraordinary or regular session. Direct services, obligations essential to the minimum level of constitutional functions, and other items that may be specified in this Act, are exempt from the requirements of this Plan. Each branch head shall prepare a specific plan to address a proportionate share of the General Fund revenue shortfall applicable to the respective branch. No budget revision action shall be taken by a branch head in excess of the actual or projected deficit.

The Governor, the Chief Justice, and the Legislative Research Commission shall direct and implement reductions in allotments and appropriations only for their respective branch budget units as may be necessary as well as take other measures which shall be consistent with the provisions of this Part and general branch budget bills.

In the event of a revenue shortfall under the provisions of KRS 48.120, General Fund budget reduction actions shall be implemented in the following sequence:

(1) The Local Government Economic Assistance and the Local Government Economic Development Funds shall be adjusted by the Secretary of the Finance and Administration Cabinet to equal revised estimates of receipts pursuant to KRS 42.4582 as modified by the provisions of this Act;

(2) Transfers of excess unappropriated Restricted Funds other than fiduciary funds shall be applied as determined by the head of each branch for its respective budget units;

(3) Excess General Fund appropriations which accrue as a result of personnel vacancies and turnover, and reduced requirements for operating expenses, grants, and capital outlay shall be determined and applied by the heads of the executive, judicial, and legislative departments of state government for their respective branches. The branch heads shall certify the available amounts which shall be applied to budget units within the respective branches and shall promptly transmit the certification to the Secretary of the Finance and Administration Cabinet and the Legislative Research Commission. The Secretary of the Finance and Administration Cabinet shall execute the certified actions as transmitted by the branch heads.

Branch heads shall take care, by their respective actions, to protect, preserve, and advance the fundamental health, safety, legal and social welfare, and educational well-being of the citizens of the Commonwealth;

(4) Funds available in the Budget Reserve Trust Fund shall be applied in an amount not to exceed 25 percent of the trust fund balance in fiscal year 2006-2007 and 50 percent of the trust fund balance in fiscal year 2007-2008; and

(5) Notwithstanding KRS 48.130 and 48.600, if the actions contained in subsections (1) to (4) of this section are insufficient to eliminate an actual or projected revenue shortfall in the enacted General Fund revenue receipts, then the Governor is empowered and directed to take necessary actions with respect to the Executive Branch budget units to balance the budget by such actions conforming with the criteria expressed in this Part.

**PART VII****GENERAL FUND SURPLUS EXPENDITURE PLAN**

(1) Pursuant to KRS 48.700 and notwithstanding KRS 48.140, there is established a plan for the expenditure of General Fund surplus moneys pursuant to a General Fund Surplus Expenditure Plan contained in this Part for fiscal years 2006-2007 and 2007-2008. Pursuant to the enactment of the Surplus Expenditure Plan, General Fund moneys in the General Fund undesignated fund balance in excess of the amount specified in Part III, General Provisions, Section 27, of this Act are appropriated to the following:

(a) Necessary Government Expenses, including but not limited to Emergency Orders formally declared by the Governor in an Executive Order;

(b) Increased support to the Budget Reserve Trust Fund;

(c) The Kentucky Retirement Systems to address a portion of the actuarially unfunded liability; and

(d) The Kentucky Teachers' Retirement System's medical insurance fund as established in KRS 161.420 to augment the state medical insurance stabilization contribution as established in KRS 161.550.

(2) The Secretary of the Finance and Administration Cabinet shall determine, within 30 days after the close of the fiscal year 2005-2006, and the close of fiscal year 2006-2007, based on the official financial records of the Commonwealth, the amount of actual General Fund undesignated fund balance for the General Fund Surplus Account that may be available for expenditure pursuant to the Plan respectively in fiscal year 2005-2006 and fiscal year 2006-2007. The Secretary of the Finance and Administration Cabinet shall certify the amount of actual General Fund undesignated fund balance available for expenditure to the Legislative Research Commission.

Subsequent to June 30, 2006, funds that are certified as being available in the actual General Fund undesignated fund balance for the General Fund Surplus Account are appropriated for expenditure in fiscal year 2005-2006 pursuant to the Plan.

## **PART VIII**

### **ROAD FUND BUDGET REDUCTION PLAN**

There is established a Road Fund Budget Reduction Plan for fiscal year 2006-2007 and fiscal year 2007-2008. Pursuant to KRS 48.130, in the event of an actual or projected shortfall in estimated Road Fund revenue receipts of \$1,238,685,300 in fiscal year 2006-2007 and \$1,261,931,900 in fiscal year 2007-2008 as determined by KRS 48.120(3), the Governor shall implement sufficient reductions as may be required to protect the highest possible level of service.

## **PART IX**

### **ROAD FUND SURPLUS EXPENDITURE PLAN**

Pursuant to KRS 48.710 and notwithstanding KRS 48.140, there is established a plan for the expenditure of the Road Fund surplus moneys pursuant to a Road Fund Surplus Expenditure Plan contained in this Part for fiscal years 2006-2007 and 2007-2008. Pursuant to the enactment of the Surplus Expenditure Plan, Road Fund moneys in the Road Fund undesignated fund balance in excess of the amount specified in Part III, General Provisions, Section 27, of this Act are appropriated to the State Construction Account and utilized to support projects in the fiscal biennium 2006-2008 Biennial Highway Construction Program.

## **PART X**

### **PHASE I TOBACCO SETTLEMENT**

(1) **General Purpose:** This Part prescribes the policy implementing aspects of the national settlement agreement between the tobacco industry and the collective states as described in KRS 248.701 to 248.727. In furtherance of that agreement, the General Assembly recognizes that the Commonwealth of Kentucky is a party to the Phase I Master Settlement Agreement (MSA) between the Participating Tobacco Manufacturers and 46 Settling States which provides reimbursement to states for smoking-related expenditures made over time.

(2) **State's MSA Share:** The Commonwealth's share of the MSA is equal to 1.7611586 percent of the total settlement amount. Payments under the MSA are made to the states annually in April of each year.

(3) **MSA Payment Amount Variables:** The total settlement amount to be distributed each payment date is subject to change pursuant to several variables provided in the MSA, including inflation adjustments, volume adjustments, previously settled states adjustments, and the nonparticipating manufacturers adjustment.

(4) **Distinct Identity of MSA Payment Deposits:** The General Assembly has determined that it shall be the policy of the Commonwealth that all Phase I Tobacco Settlement payments shall be deposited to the credit of the General Fund and shall maintain a distinct identity as Phase I Tobacco Settlement payments that shall not lapse to the credit of the General Fund surplus, but shall continue forward from each fiscal year to the next fiscal year to the extent that any balance is unexpended.

(5) **MSA Payment Estimates and Adjustments:** Based on the current estimates as reviewed by the Consensus Revenue Forecasting Group, the amount of MSA payments expected to be received in fiscal year 2005-2006 is \$91,300,000 and in fiscal year 2006-2007 is \$88,800,000 and in fiscal year 2007-2008 is \$94,000,000. It is recognized that payments to be received by the Commonwealth are estimated and are subject to change. Any appropriations made from the estimated receipts are subject to adjustments based on actual receipts as received and certified by the Secretary of the Finance and Administration Cabinet.

**a. State Enforcement:** Notwithstanding KRS 248.654, a total of \$175,000 of the MSA payments received each fiscal year of the 2006-2008 biennium is appropriated to the Finance and Administration Cabinet, Department of Revenue for the state's enforcement of noncompliant nonparticipating manufacturers.

**b. Agricultural Development Initiatives:** Fifty percent of the MSA payments, less the above enforcement appropriations, received in fiscal year 2006-2007, estimated to be \$44,312,500, and in fiscal year 2007-2008, estimated to be \$46,912,500, is appropriated to the Kentucky Agricultural Development Fund to be used for agricultural development initiatives.

**c. Early Childhood Development Initiatives:** Twenty-five percent of the MSA payments, less the above enforcement appropriations, received in fiscal year 2006-2007, estimated to be \$22,156,200, and in fiscal year 2007-2008, estimated to be \$23,456,300, is appropriated for Early Childhood Development Initiatives as specified below.

**d. Health Care Initiatives:** Twenty-five percent of the MSA payments received, less the above enforcement appropriations, in fiscal year 2006-2007, estimated to be \$22,156,300, and in fiscal year 2007-2008, estimated to be \$23,456,200, is appropriated to the Kentucky Health Care Improvement Fund for health care initiatives as specified below.

**(6) MSA Appropriation Adjustment:** The Consensus Forecasting Group reduced the fiscal year 2005-2006 Phase I Master Settlement Agreement revenue forecast from the enacted estimate of \$108,600,000 to \$91,300,000, a reduction of \$17,300,000. The revenue estimate reduction was based on the high probability of an adjustment for nonparticipating manufacturers. To accommodate this reduction in estimated revenues, the following fiscal year 2005-2006 appropriations are hereby reduced in accordance with 2005 Ky. Acts ch. 173, Part X, (5):

**a. Agricultural Development**

1. Finance - Debt Service - \$12,097,700
2. Natural Resources - Conservation - \$630,000

**b. Early Childhood Development**

1. Community Based Services - Child Care - \$1,041,000
2. Public Health - HANDS - \$393,000
3. Public Health - Healthy Start - \$50,000
4. Public Health - Immunizations - \$250,000
5. Commission for Children with Special Health Care Needs - Universal Newborn Hearing Screening - \$104,000
6. Commission for Children with Special Health Care Needs - Universal Newborn Vision Screening - \$5,000

**c. Health Care Improvement**

1. Insurance - Kentucky Access - \$1,139,100
2. Public Health - Smoking Cessation - \$184,200
3. Justice Administration - \$151,100
4. Council on Postsecondary Education - Lung Cancer Research Fund - \$368,600

**d. Enforcement**

1. Revenue - \$11,900

**(7) MSA Appropriation Adjustments - Prior Year Receipts Received:** In the event that Phase I Master Settlement Agreement revenues due from a prior fiscal year are received in a subsequent fiscal year, those revenues are hereby appropriated as follows: 50 percent to the Agricultural Development Fund, 25 percent to the Early Childhood Development Fund, and 25 percent to the Health Care Improvement Fund.

**a. Early Childhood Development:** From the 25 percent of the Phase I Master Settlement Agreement payments appropriated to the Early Childhood Development Fund, the Early Childhood Development Authority shall recommend to the State Budget Director for approval the specific appropriations to be made to the existing initiatives.

**b. Health Care Improvement:** From the 25 percent of the Phase I Master Settlement Agreement payments appropriated to the Health Care Improvement Fund, appropriations shall be made pursuant to KRS 304.17B-003(5).

#### **A. STATE ENFORCEMENT**

##### **GENERAL FUND - PHASE I TOBACCO SETTLEMENT FUNDS**

#### **1. FINANCE AND ADMINISTRATION CABINET**

<b>Budget Unit</b>	<b>2006-07</b>	<b>2007-08</b>
a. Revenue	175,000	175,000

#### **B. AGRICULTURAL DEVELOPMENT APPROPRIATIONS**

##### **GENERAL FUND - PHASE I TOBACCO SETTLEMENT FUNDS**

#### **1. GENERAL GOVERNMENT**

<b>Budget Unit</b>	<b>2006-07</b>	<b>2007-08</b>
a. Governor's Office of Agricultural Policy	17,469,800	20,065,100

**(1) Tobacco Settlement Funds - Allocations:** Notwithstanding KRS 248.711(2), and from the allocation provided therein, counties that are allocated in excess of \$20,000 annually may provide up to four percent of the individual county allocation, not to exceed \$15,000 annually, to the county council in that county for administrative costs.

**(2) Partial Phase II Litigation Proceeds:** Notwithstanding KRS 45.229, General Fund dollars of \$27,000,000 representing Partial Phase II Litigation proceeds that were appropriated in fiscal year 2005-2006 pursuant to 2005 House Bill 267 (2005 Ky. Acts ch. 173, Part X, Phase I Tobacco Settlement, B.3.a.(4), shall not lapse in fiscal years 2005-2006, 2006-2007, and 2007-2008. To the extent possible, all General Fund dollars shall be expended from the account prior to the expenditure of Tobacco Fund dollars.

**(3) Kentucky Tobacco Settlement Trust Corporation:** The Governor's Office of Agricultural Policy shall provide and make available the funds necessary, not to exceed \$4,000,000, for the Kentucky Tobacco Settlement Trust Corporation to carry out the provisions of the Phase II Amnesty Payment Program established in Part XX, Tobacco Amnesty Compensation, of this Act. General Fund and/or General Fund (Tobacco) continuing appropriations from the Governor's Office of Agricultural Policy shall be the source of funds provided to the Kentucky Tobacco Settlement Trust Corporation.

#### **2. ENVIRONMENTAL AND PUBLIC PROTECTION CABINET**

<b>Budget Unit</b>	<b>2006-07</b>	<b>2007-08</b>
a. Natural Resources - Conservation	9,000,000	9,000,000

**(1) Environmental Stewardship Program:** Included in the above General Fund (Tobacco) appropriation is \$9,000,000 in fiscal year 2006-2007 and \$9,000,000 in fiscal year 2007-2008 for the Environmental Stewardship Program.

#### **3. FINANCE AND ADMINISTRATION CABINET**

<b>Budget Unit</b>	<b>2006-07</b>	<b>2007-08</b>
a. Debt Service	17,842,700	17,847,400

**(1) Debt Service:** To the extent that revenues sufficient to support the required debt service appropriations are received from the Tobacco Settlement Program, those revenues shall be made available from those accounts to the appropriate account of the General Fund. All necessary debt service amounts shall be appropriated from the General Fund and shall be fully paid regardless of whether there is a sufficient amount available to be transferred from tobacco-supported funding program accounts to other accounts of the General Fund.

<b>TOTAL - AGRICULTURAL APPROPRIATIONS</b>	<b>44,312,500</b>	<b>46,912,500</b>
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#### **C. EARLY CHILDHOOD DEVELOPMENT**

##### **GENERAL FUND - PHASE I TOBACCO SETTLEMENT FUNDS**

**1. EDUCATION CABINET**

<b>Budget Unit</b>	<b>2006-07</b>	<b>2007-08</b>
a. Learning and Results Services	1,388,400	1,508,400

**2. CABINET FOR HEALTH AND FAMILY SERVICES**

<b>Budget Units</b>	<b>2006-07</b>	<b>2007-08</b>
a. Community Based Services	6,970,400	7,420,400

**(1) Early Childhood Development Program:** Included in the above General Fund (Tobacco) appropriation is \$6,970,400 in fiscal year 2006-2007 and \$7,420,400 in fiscal year 2007-2008 for the Early Childhood Development Program.

b. Public Health	11,785,300	12,375,500
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**(1) HANDS Program, Healthy Start, Universal Children's Immunizations, Folic Acid Program, Early Childhood Mental Health, Early Childhood Oral Health, and Kentucky Early Intervention Services First Steps:** Included in the above General Fund (Tobacco) appropriation is \$7,149,800 in fiscal year 2006-2007 and \$7,599,900 in fiscal year 2007-2008 for the Health Access Nurturing Development Services (HANDS) Program; \$1,000,000 in fiscal year 2006-2007 and \$1,140,100 in fiscal year 2007-2008 for Healthy Start initiatives; \$1,750,000 in each fiscal year for Universal Children's Immunizations; \$400,000 in each fiscal year for the Folic Acid Program; \$775,000 in each fiscal year for Early Childhood Mental Health; \$210,500 in each fiscal year for Early Childhood Oral Health; and \$500,000 in each fiscal year for the Kentucky Early Intervention Services First Steps Program.

c. Mental Health and Mental Retardation Services	800,000	800,000
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**(1) Substance Abuse Prevention and Treatment:** Included in the above General Fund (Tobacco) appropriation is \$800,000 in each fiscal year for substance abuse prevention and treatment.

d. Commission for Children with Special Health Care Needs	312,100	352,000
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**(1) Universal Newborn Hearing Screening and Vision Screening:** Included in the above General Fund (Tobacco) appropriation is \$310,100 in fiscal year 2006-2007 and \$350,000 in fiscal year 2007-2008 for Universal Newborn Hearing Screening and \$2,000 in each fiscal year for Vision Screening.

e. Human Support Services	100,000	100,000
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**(1) Children's Advocacy Centers:** Included in the above General Fund (Tobacco) appropriation is \$100,000 in each fiscal year for Children's Advocacy Centers.

**3. POSTSECONDARY EDUCATION**

<b>Budget Unit</b>	<b>2006-07</b>	<b>2007-08</b>
a. Kentucky Higher Education Assistance Authority	800,000	900,000

**(1) Early Childhood Scholarships:** Included in the above General Fund (Tobacco) appropriation is \$800,000 in fiscal year 2006-2007 and \$900,000 in fiscal year 2007-2008 for Early Childhood Scholarships.

TOTAL - EARLY CHILDHOOD APPROPRIATIONS	22,156,200	23,456,300
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**D. HEALTH CARE IMPROVEMENT APPROPRIATIONS****GENERAL FUND - PHASE I TOBACCO SETTLEMENT FUNDS**

Notwithstanding KRS 304.17B-003(5), appropriations for health care improvement shall be as follows:

**1. ENVIRONMENTAL AND PUBLIC PROTECTION CABINET**

<b>Budget Unit</b>	<b>2006-07</b>	<b>2007-08</b>
a. Insurance	13,692,700	14,496,000

(1) **Kentucky Access Program:** Included in the above General Fund (Tobacco) appropriation is \$13,692,700 in fiscal year 2006-2007 and \$14,496,000 in fiscal year 2007-2008 for the Kentucky Access Program.

## 2. CABINET FOR HEALTH AND FAMILY SERVICES

Budget Unit	2006-07	2007-08
a. Public Health	2,215,600	2,345,600

(1) **Smoking Cessation Program:** Included in the above General Fund (Tobacco) appropriation is \$2,215,600 in fiscal year 2006-2007 and \$2,345,600 in fiscal year 2007-2008 for the Smoking Cessation Program.

## 3. JUSTICE AND PUBLIC SAFETY CABINET

Budget Unit	2006-07	2007-08
a. Justice Administration	1,816,800	1,923,400

(1) **Office of Drug Control Policy:** Included in the above General Fund (Tobacco) appropriation is \$1,816,800 in fiscal year 2006-2007 and \$1,923,400 in fiscal year 2007-2008 for the Office of Drug Control Policy.

## 4. POSTSECONDARY EDUCATION

Budget Unit	2006-07	2007-08
a. Council on Postsecondary Education	4,431,200	4,691,200

(1) **Ovarian Cancer Screening:** Notwithstanding KRS 164.476, General Fund (Tobacco) dollars in the amount of \$775,000 in fiscal year 2006-2007 and \$775,000 in fiscal year 2007-2008 shall be allotted from the Lung Cancer Research Fund to the Ovarian Cancer Screening Outreach Program at the University of Kentucky.

TOTAL - HEALTH CARE APPROPRIATIONS	22,156,300	23,456,200
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TOTAL - PHASE I TOBACCO SETTLEMENT

FUNDING PROGRAM	88,800,000	94,000,000
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## PART XI

### STATE/EXECUTIVE BRANCH BUDGET SUMMARY

#### OPERATING BUDGET

	2005-06	2006-07	2007-08
General Fund (Tobacco)	-0-	88,800,000	94,000,000
General Fund	86,848,200	8,377,397,500	9,013,922,400
Restricted Funds	7,669,300	4,848,685,800	4,725,186,100
Federal Funds	274,526,200	7,173,272,300	7,336,562,900
Road Fund	12,805,700	1,229,893,800	1,255,136,900
Highway Bonds	-0-	350,000,000	-0-
SUBTOTAL	381,849,400	22,068,049,400	22,424,808,300

#### CAPITAL PROJECTS BUDGET

	2005-06	2006-07	2007-08
General Fund (Tobacco)	-0-	-0-	-0-
General Fund-0-	22,145,800	11,103,000	
Restricted Funds	4,320,000	1,649,349,400	60,762,200
Federal Funds	-0-	179,082,000	22,190,000
Road Fund	-0-	10,285,000	6,795,000

## ACTS OF THE GENERAL ASSEMBLY

Bond Funds	-0-	*1,394,691,000	-0-
Agency Bonds	-0-	*267,537,000	-0-
Capital Construction Surplus	-0-	4,107,000	1,045,000
Investment Income	-0-	10,900,000	10,810,000
Other Funds	-0-	210,141,000	17,868,000
Deferred Maintenance	-0-	-0-	-0-
Emergency Repair Maintenance and Replacement	-0-	1,700,000	-0-
SUBTOTAL	4,320,000	*3,749,938,200	130,573,200

**BUDGET RESERVE TRUST FUND**

General Fund	-0-	35,000,000	20,000,000
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**TOTAL - STATE/EXECUTIVE BUDGET**

	<b>2005-06</b>	<b>2006-07</b>	<b>2007-08</b>
General Fund (Tobacco)	-0-	88,800,000	94,000,000
General Fund	86,848,200	8,434,543,300	9,045,025,400
Restricted Funds	11,989,300	6,498,035,200	4,785,948,300
Federal Funds	274,526,200	7,352,354,300	7,358,752,900
Road Fund	12,805,700	1,240,178,800	1,261,931,900
Highway Bonds	-0-	350,000,000	-0-
Bond Funds	-0-	*1,394,691,000	-0-
Agency Bonds	-0-	*267,537,000	-0-
Capital Construction Surplus	-0-	4,107,000	1,045,000
Investment Income	-0-	10,900,000	10,810,000
Other Funds	-0-	210,141,000	17,868,000
Deferred Maintenance	-0-	-0-	-0-
Emergency Repair Maintenance and Replacement	-0-	1,700,000	-0-
TOTAL FUNDS	386,169,400	*25,852,987,600	22,575,381,500

The above capital projects are directly funded in Part II, Capital Projects Budget, of this Act. The above Budget Reserve Trust Fund is directly funded in Part III, General Provisions, of this Act.

**PART XII****COMPENSATION OF GENERAL ASSEMBLY EMPLOYEES**

Notwithstanding KRS 48.310, the following statute is amended to read as follows and shall have permanent effect, subject to future actions by the General Assembly:

Section 1. KRS 6.230 is amended to read as follows:

Employees of the General Assembly shall receive a per diem as follows: chief clerk, one hundred **twenty dollars (\$120)**~~ten dollars (\$110)~~; assistant clerk, one hundred **ten dollars (\$110)**~~(\$100)~~; enrolling clerk, **one hundred five dollars (\$105)**~~ninety five dollars (\$95)~~; sergeant-at-arms, **eighty-five dollars (\$85)**~~seventy five dollars (\$75)~~; doorkeeper, **eighty-five dollars (\$85)**~~seventy five dollars (\$75)~~; janitors, **seventy-five dollars (\$75)**~~sixty five dollars (\$65)~~; cloakroom keeper, **seventy-five dollars (\$75)**~~sixty five dollars (\$65)~~; pages, thirty-five dollars (\$35) each.



Section 2. The provisions of Section 1 of this Part relative to the compensation of employees of the House and Senate shall apply to, and be paid for, covered employees of the 2006 Regular Session of the General Assembly effective January 3, 2006, provided that there shall be deducted from the amount due to each employee the amount already paid to the employee for services during the 2006 General Assembly which were rendered prior to the effective date of this Act.

### **PART XIII**

#### **INCOME TAX**

Notwithstanding KRS 48.310, the following statutes are amended to read as follows and shall have permanent effect, subject to future actions by the General Assembly:

Section 1. KRS 141.040 is amended to read as follows:

- (1) Every corporation doing business in this state, except those corporations listed in paragraphs (a) to (h) of this subsection, shall pay for each taxable year a tax to be computed by the taxpayer on taxable net income or the alternative minimum calculation computed under this section at the rates specified in this section:
  - (a) Financial institutions, as defined in KRS 136.500, except bankers banks organized under KRS 287.135;
  - (b) 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;
  - (c) Banks for cooperatives;
  - (d) Production credit associations;
  - (e) Insurance companies, including farmers or other mutual hail, cyclone, windstorm, or fire insurance companies, insurers, and reciprocal underwriters;
  - (f) Corporations or other entities exempt under Section 501 of the Internal Revenue Code;
  - (g) Religious, educational, charitable, or like corporations not organized or conducted for pecuniary profit; and
  - (h) Corporations whose only owned or leased property located in this state is located at the premises of a printer with which it has contracted for printing, provided that:
    1. The property consists of the final printed product, or copy from which the printed product is produced; and
    2. The corporation has no individuals receiving compensation in this state as provided in KRS 141.120(8)(b).
- (2) For tax years ending before January 1, 1990, the following rates shall apply:
  - (a) Three percent (3%) of the first twenty-five thousand dollars (\$25,000) of taxable net income;
  - (b) Four percent (4%) of the amount of taxable net income in excess of twenty-five thousand dollars (\$25,000), but not in excess of fifty thousand dollars (\$50,000);
  - (c) Five percent (5%) of the amount of taxable net income in excess of fifty thousand dollars (\$50,000), but not in excess of one hundred thousand dollars (\$100,000);
  - (d) Six percent (6%) of the amount of taxable net income in excess of one hundred thousand dollars (\$100,000), but not in excess of two hundred fifty thousand dollars (\$250,000); and
  - (e) Seven and twenty-five one hundredths percent (7.25%) of the amount of taxable net income in excess of two hundred fifty thousand dollars (\$250,000).
- (3) For tax years beginning after December 31, 1989, and before January 1, 2005, the following rates shall apply:
  - (a) Four percent (4%) of the first twenty-five thousand dollars (\$25,000) of taxable net income;
  - (b) Five percent (5%) of the amount of taxable net income in excess of twenty-five thousand dollars (\$25,000) but not in excess of fifty thousand dollars (\$50,000);

- (c) Six percent (6%) of the amount of taxable net income in excess of fifty thousand dollars (\$50,000), but not in excess of one hundred thousand dollars (\$100,000);
  - (d) Seven percent (7%) of the amount of taxable net income in excess of one hundred thousand dollars (\$100,000), but not in excess of two hundred fifty thousand dollars (\$250,000); and
  - (e) Eight and twenty-five one hundredths percent (8.25%) of the amount of taxable net income in excess of two hundred fifty thousand dollars (\$250,000).
- (4) For tax years beginning before January 1, 1990, and ending after December 31, 1989, the tax shall be the sum of the amounts determined in paragraphs (a) and (b) as follows:
- (a) Apply the tax rates in subsection (2) of this section to the taxable net income for the year and multiply the result by a fraction, the numerator of which is the number of days from the first day of the taxable year through December 31, 1989, and the denominator of which is the total number of days of the taxable year; and
  - (b) Apply the tax rates in subsection (3) of this section to the taxable net income for the year and multiply the result by a fraction, the numerator of which is the number of days from January 1, 1990, through the last day of the taxable year and the denominator of which is the total number of days of the taxable year.
- (5) For taxable years beginning~~on or~~ after **December 31, 2004, and before** January 1, ~~2007~~~~2005~~, corporations subject to the tax imposed by this section shall pay the greater of the tax computed under paragraph (a) of this subsection, the tax computed under paragraph (b)1. or 2. of this subsection, or the minimum tax imposed by subsection (7)~~((6))~~ of this section. The tax computed under this subsection is as follows:
- (a)
    1. Four percent (4%) of the first fifty thousand dollars (\$50,000) of taxable net income;
    2. Five percent (5%) of taxable net income over fifty thousand dollars (\$50,000) up to one hundred thousand dollars (\$100,000); *and*
    3. Seven percent (7%) of taxable net income over one hundred thousand dollars (\$100,000)~~for taxable years beginning on or after January 1, 2005, and prior to January 1, 2007; and~~
    4. ~~For taxable years beginning on or after January 1, 2007, six percent (6%) of taxable net income over one hundred thousand dollars (\$100,000); or~~
  - (b) An alternative minimum calculation of an amount equal to the lesser of the amount computed under subparagraph 1. or 2. of this paragraph:
    1. Nine and one-half cents (\$0.095) per one hundred dollars (\$100) of the corporation's gross receipts. For purposes of this paragraph, "gross receipts" means the numerator of the sales factor under the provisions of KRS 141.120(8)(c); or
    2. Seventy-five cents (\$0.75) per one hundred dollars (\$100) of the corporation's Kentucky gross profits.
- (6) *For taxable years beginning on or after January 1, 2007, corporations subject to the tax imposed by this section shall pay the greater of the tax computed under paragraph (a) of this subsection, the tax computed under paragraph (b)1. or 2. of this subsection, or the minimum tax imposed by subsection (7) of this section. The tax computed under this subsection is as follows:*
- (a)
    1. *Four percent (4%) of the first fifty thousand dollars (\$50,000) of taxable net income;*
    2. *Five percent (5%) of taxable net income over fifty thousand dollars (\$50,000) up to one hundred thousand dollars (\$100,000); and*
    3. *Six percent (6%) of taxable net income over one hundred thousand dollars (\$100,000); or*
  - (b) *An alternative minimum calculation of an amount equal to the lesser of the amount computed under subparagraph 1. or 2. of this paragraph:*
    1.
      - a. *If the corporation's gross receipts from all sources within and without this state are two million dollars (\$2,000,000) or less, the alternative minimum calculation shall be zero;*
      - b. *If the corporation's gross receipts from all sources within and without this state are greater than two million dollars (\$2,000,000) but less than ten million dollars (\$10,000,000), the alternative minimum calculation shall be nine and one-half cents*

*(\$0.095) per one hundred dollars (\$100) of the corporation's gross receipts from doing business in this state, reduced by an amount equal to one thousand nine hundred dollars (\$1,900) multiplied by a fraction, the numerator of which is ten million dollars (\$10,000,000) less the amount of the corporation's gross receipts from doing business in this state for the taxable year, and the denominator of which is eight million dollars (\$8,000,000), but in no case shall the result be less than zero;*

*c. If the corporation's gross receipts from all sources within and without this state are equal to or greater than ten million dollars (\$10,000,000), the alternative minimum calculation shall be nine and one-half cents (\$0.095) per one hundred dollars (\$100) of the corporation's gross receipts from doing business in this state; or*

*2. Seventy-five cents (\$0.75) per one hundred dollars (\$100) of the corporation's Kentucky gross profits. The entire amount of the corporation's gross receipts shall be considered when making the gross profits calculation.*

*3. For purposes of this paragraph, "gross receipts" means the numerator of the sales factor under the provisions of KRS 141.120(8)(c).*

(7) A minimum of one hundred seventy-five dollars (\$175) shall be due for the taxable year from each corporation subject to the tax imposed by this section, regardless of the application of any tax credits provided under this chapter or any other provision of the Kentucky Revised Statutes for which the business entity may qualify.

~~(8)(7)~~ The alternative minimum calculation portion of the tax computation provided in ~~subsections~~~~[subsection]~~ (5) **and** (6) of this section shall not apply to:

- (a) Public service corporations subject to tax under KRS 136.120;
- (b) Open-end registered investment companies organized under the laws of this state and registered under the Investment Company Act of 1940;
- (c) Any property or facility which has been certified as a fluidized bed energy production facility as defined in KRS 211.390; and
- (d) An alcohol production facility as defined in KRS 247.910.

~~(9)(8)~~ (a) As used in this subsection, "qualified exempt organization" means an entity listed in subsection (1)(a) to (h) of this section and shall not include any entity whose exempt status has been disallowed by the Internal Revenue Service.

- (b) Notwithstanding any other provisions of this section or KRS 141.010, any corporation of the type listed in KRS 141.010(24)(b) to (h) that is owned in whole or in part by a qualified exempt organization shall, in calculating its taxable net income, gross receipts, or Kentucky gross profits, exclude the proportionate share of its taxable net income, gross receipts, or Kentucky gross profits attributable to the ownership interest of the qualified exempt organization.
- (c) Any corporation that reduces taxable net income, gross receipts, or Kentucky gross profits in accordance with paragraph (b) of this subsection shall disregard the ownership interest of the qualified exempt organization in determining the amount of credit available under KRS 141.420.
- (d) The Department of Revenue may promulgate an administrative regulation to further define "qualified exempt organization" to include an entity for which exemption is constitutionally or legally required, or to exclude any entity created primarily for tax avoidance purposes with no legitimate business purpose.

~~(10)(9)~~ (a) To the extent that a corporation identified in KRS 141.010(24)(b) to (h) is doing business in this state, any member, shareholder or partner of the corporation may elect to pay, on behalf of the corporation, his, her or its proportionate share of the tax imposed by this section against the corporation. If an election is made, the electing member, shareholder or partner shall be treated in the same manner as the corporation regarding the proportionate part of the tax paid by the member, shareholder or partner. An election made pursuant to this subsection shall not:

- 1. Be used by the Department of Revenue or the taxpayer to assert that the party making the election is doing business in Kentucky;
- 2. Result in an increase of the amount of credit allowable under KRS 141.420; or

3. Apply to any corporation that is required to be included in a consolidated return under KRS 141.200(2) to (5) and (9) to (12).
- (b) The Department of Revenue shall prescribe forms and promulgate regulations to execute and administer the provisions of this subsection.

Section 2. KRS 141.011 is amended to read as follows:

- (1) Notwithstanding any other provision of this chapter, the net operating loss carryback-carryforward deduction, including casualty loss, allowed under Section 172 of the Internal Revenue Code shall apply only to such losses incurred in taxable years beginning after December 31, 1979, and no such loss shall be carried back to taxable years beginning before January 1, 1980. Any casualty loss carryforward authorized by this section as it existed before January 1, 1980, may be carried forward as an itemized deduction until it has been fully deducted.
- (2) The net operating loss carryback deduction shall not be allowed for losses incurred for taxable years beginning on or after January 1, 2005.
- (3) For taxable years when the tax due under KRS 141.040 is based on the alternative minimum calculation provided in KRS 141.040~~[(5)(b)]~~, any net operating loss carryforward deduction that is utilized for the taxable year shall be the amount of taxable net income that exceeds the taxable net income equivalent of the alternative minimum calculation. For purposes of this subsection, "taxable net income equivalent" means the taxable net income that would generate an income tax equal to the alternative minimum calculation liability computed under KRS 141.040~~[(5)(b)]~~.
- (4) For taxable years beginning on or after January 1, 2005, the net operating loss carryforward deduction of a corporation shall be reduced by the amount of distributive share income, loss, and deduction distributed to an individual or general partnership as defined in KRS 141.206.
- (5) The portion of a net operating loss that is not used to offset the income of an affiliate according to the limits in KRS 141.200(11) shall be available for carryforward, subject to the limitations contained in this section.

Section 3. KRS 141.200 is amended to read as follows:

- (1) Subsections (2) to (7) of this section shall apply for taxable periods ending before January 1, 2005, and election periods beginning prior to January 1, 2005.
- (2) As used in subsections (2) to (7) of 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;
  - (d) "Corporation" means "corporation" as defined in Section 7701(a)(3) of the Internal Revenue Code; and
  - (e) "Election period" means the ninety-six (96) month period provided for in subsection (4)(d) of this section.
- (3) 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 (4) of this section.
- (4) (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. The gross receipts received by a public service company that is a member of an affiliated group shall be excluded from the calculation of the alternative minimum calculation under the provisions of KRS 141.040~~(5)(b)~~. For purposes of this paragraph, "public service company" has the same meaning as provided in KRS 136.120.
  - (c) Any election made in accordance with paragraph (a) of this subsection shall be made on a form prescribed by the department and shall be submitted to the department on or before the due date of the return including extensions for the first taxable year for which the election is made.
  - (d) Notwithstanding subsections (9) to (15) of this section, any election to file a consolidated return pursuant to paragraph (a) of this subsection shall be binding on both the department 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.
- (5) 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.
  - (6) 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 may require a further or supplemental report of further information and data necessary for computation of the tax.
  - (7) 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 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 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 may require the return to show in detail the record of transactions between the corporation and any or all other related corporations or individuals.
  - (8) Subsections (9) to (14) of this section shall apply for taxable years beginning on or after January 1, 2005.
  - (9) As used in subsections (9) to (14) of this section:
    - (a) 1. "Affiliated group" means one (1) or more chains of includible corporations connected through stock ownership, membership interest, or partnership interest with a common parent corporation if:
      - a. The common parent owns directly an ownership interest meeting the requirements of subparagraph 2. of this paragraph in at least one (1) other includible corporation; and
      - b. An ownership interest meeting the requirements of subparagraph 2. of this paragraph in each of the includible corporations, excluding the common parent, is owned directly by one (1) or more of the other corporations.
    - 2. The ownership interest of any corporation meets the requirements of this paragraph if the ownership interest encompasses at least eighty percent (80%) of the voting power of all classes of ownership interests and has a value equal to at least eighty percent (80%) of the total value of all ownership interests;

- (b) "Common parent corporation" means the member of an affiliated group that meets the ownership requirement of paragraph (a)1. of this subsection;
  - (c) "Foreign corporation" means a corporation that is organized under the laws of a country other than the United States and is related to a member of an affiliated group through stock ownership;
  - (d) "Includible corporation" means any corporation that is doing business in this state except:
    - 1. Corporations exempt from corporation income tax under KRS 141.040(1)(a) to (h);
    - 2. Foreign corporations;
    - 3. Corporations with respect to which an election under Section 936 of the Internal Revenue Code is in effect for the taxable year;
    - 4. Real estate investment trusts as defined in Section 856 of the Internal Revenue Code;
    - 5. Regulated investment companies as defined in Section 851 of the Internal Revenue Code;
    - 6. A domestic international sales company as defined in Section 992(a)(1) of the Internal Revenue Code;
    - 7. An S corporation as defined in Section 1361(a) of the Internal Revenue Code;
    - 8. Any corporation that realizes a net operating loss whose Kentucky property, payroll, and sales factors pursuant to KRS 141.120(8) are de minimis; and
    - 9. Any corporation for which the sum of the property, payroll and sales factors described in KRS 141.120(8) is zero;
  - (e) "Ownership interest" means stock, a membership interest in a limited liability company, or a partnership interest in a limited partnership or limited liability partnership;
  - (f) "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 the Internal Revenue Code and related regulations, except as required by differences between this chapter and the Internal Revenue Code; and
  - (g) "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.
- (10) Every corporation doing business in this state except those exempt from taxation under KRS 141.040(1)(a) to (h) shall, for each taxable year, file a separate return unless the corporation was, for any part of the taxable year:
- (a) An includible corporation in an affiliated group;
  - (b) A common parent corporation doing business in this state;
  - (c) A qualified subchapter S Subsidiary that is included in the return filed by the Subchapter S parent corporation; or
  - (d) A qualified real estate investment trust subsidiary that is included in the return filed by the real estate investment trust parent.
- (11) (a) An affiliated group, whether or not filing a federal consolidated return, shall file a consolidated return which includes all includible corporations.
- (b) An affiliated group required to file a consolidated return under 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. Includible corporations that have incurred a net operating loss shall not deduct an amount that exceeds, in the aggregate, fifty percent (50%) of the income realized by the remaining includible corporations that did not realize a net operating loss. The portion of any net operating loss limited by the application of this subsection shall be available for carryforward in

accordance with KRS 141.011. The Department of Revenue shall promulgate administrative regulations to establish the manner and extent to which net operating losses attributable to tax periods ending prior to January 1, 2005, may offset income of affiliated groups. The gross receipts received by a public service company that is a member of an affiliated group shall be excluded from the calculation of the alternative minimum calculation under KRS 141.040~~(5)(b)~~. For purposes of this paragraph, "public service company" has the same meaning as provided in KRS 136.120.

- (12) Each includible 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 includible 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.
  - (13) Every corporation return or report required by this chapter shall be executed by one (1) of the following officers or management of the corporation: the president, vice president, secretary, treasurer, assistant secretary, assistant treasurer, chief accounting officer, manager, member, or partner. The Department of Revenue may require a further or supplemental report of further information and data necessary for computation of the tax.
  - (14) In the case of a corporation doing business in this state that carries on transactions with stockholders, members or partners, or with other corporations related by ownership, by interlocking directorates, or by some other method, the department shall require that information necessary to make possible an accurate assessment of the income derived by the corporation from sources within this state be provided. To make possible this assessment, the department 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 may require the return to show in detail the record of transactions between the corporation and any or all other related corporations or individuals.
  - (15) For any taxable year ending on or after December 31, 1995, except as provided under this section and KRS 141.205, 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.
  - (16) 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.
  - (17) 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.
  - (18) 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.
  - (19) This section shall not be construed to limit or otherwise impair the department's authority under KRS 141.205.
- Section 4. 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; and
    - (d) "Gross receipts" means gross receipts as defined in KRS 141.040(5)(b) **and (6)(b)**.
  - (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 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 ~~whichever of KRS 141.040(5)(a) or (b) applies~~ on net income as defined by KRS 141.010(11), taxable net income as defined by KRS 141.010(14), gross receipts, or Kentucky gross profits, ~~as the case may be,~~ including income, gross receipts, or Kentucky gross profits from an economic development project; and
  - (b) Compute the ~~income~~ tax due at the applicable tax rates as provided by KRS 141.020 or ~~whichever of KRS 141.040(5)(a) or (b) applies~~ on net income as defined by KRS 141.010(11), taxable net income as defined by KRS 141.010(14), gross receipts, or Kentucky gross profits, ~~as the case may be,~~ excluding net income, gross receipts, or Kentucky gross profits 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 a general partnership not subject to tax under KRS 141.040 or a trust not subject to tax under KRS 141.040 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 partners or beneficiaries of the general partnership or trust, and shall be paid on behalf of the partners 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 general partnership or trust at the times provided by KRS 141.160 for filing the returns.
  - (e) Any estimated tax payment made by the general partnership or trust in satisfaction of the tax liability of partners or beneficiaries shall not be treated as taxable income subject to Kentucky income tax by the partner 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 partner's or beneficiary's distributive share of net income or credit of a general partnership or trust.
- (6) If the economic development project is a totally separate facility:
- (a) 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; and
  - (b) Gross receipts or Kentucky gross profits attributable to the project for the purposes of subsection (3) of this section shall be determined under the separate accounting method reflecting only the gross receipts or Kentucky gross profits directly attributable to the facility.
- (7) If the economic development project is an expansion to a previously existing facility:
- (a) 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; and
  - (b) Gross receipts or Kentucky gross profits attributable to the entire facility shall be determined under the separate accounting method reflecting only the gross receipts or Kentucky gross profits directly attributable to the facility, and gross receipts or Kentucky gross profits attributable to the economic



development project for the purposes of subsection (3) of this section shall be determined by apportioning the separate accounting gross receipts or Kentucky gross profits of the entire facility to the economic development project by a formula approved by the Department of Revenue.

- (8) If an approved company can show to the satisfaction of the Department of Revenue 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, gross receipts, or Kentucky gross profits from the facility at which the economic development project is located, the approved company shall determine net income, gross receipts, or Kentucky gross profits from the economic development project using an alternative method approved by the Department of Revenue.
- (9) The Department of Revenue may issue administrative regulations and require the filing of forms designed by the Department of Revenue 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 5. 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;
  - (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 an environmentally acceptable manner;
  - (d) "Recapture period" means:
    - 1. For qualified equipment with a useful life of five (5) or more years, the period from the date the equipment is purchased to five (5) full years from that date; or
    - 2. For qualified equipment with a useful life of less than five (5) years, the period from the date the equipment is purchased to three (3) full years from that date;
  - (e) "Useful life" means the period determined under Section 168 of the Internal Revenue Code;
  - (f) "Baseline tax liability" means the tax liability of the taxpayer for the most recent tax year ending prior to January 1, 2005; and
  - (g) "Major recycling project" means a project where the taxpayer:
    - 1. Invests more than ten million dollars (\$10,000,000) in recycling or composting equipment to be used exclusively in this state;
    - 2. Has more than seven hundred fifty (750) full-time employees with an average hourly wage of more than three hundred percent (300%) of the federal minimum wage; and
    - 3. Has plant and equipment with a total cost of more than five hundred million dollars (\$500,000,000).
- (2) (a) A taxpayer that 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, including any tax due under the provisions of KRS 141.040~~(5)(b))~~, 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.

- (b) For taxable years beginning after December 31, 2004, a taxpayer that has a major recycling project containing recycling or composting equipment to be used exclusively within this state for recycling or composting postconsumer waste material shall be entitled to a credit against the income taxes imposed pursuant to this chapter, including any tax due under the provisions of KRS 141.040~~(5)(b)~~, in an amount equal to fifty percent (50%) of the installed cost of the recycling or composting equipment. The credit described in this paragraph shall be limited to a period of ten (10) years commencing with the approval of the recycling credit application. In each taxable year, the amount of credits claimed for all major recycling projects shall be limited to:
    - 1. Fifty percent (50%) of the excess of the total of each tax liability over the baseline tax liability of the taxpayer; or
    - 2. Two million five hundred thousand dollars (\$2,500,000), whichever is less.
  - (c) A taxpayer with one (1) or more major recycling projects shall be entitled to a total credit including the amount computed in paragraph (a) of this subsection plus the amount of credit computed in paragraph (b) of this subsection.
  - (d) A taxpayer shall not be permitted to utilize a credit computed under paragraph (a) of this subsection and a credit computed under paragraph (b) of this subsection on the same recycling or composting equipment.
- (3) Application for a tax credit shall be made to the Department of Revenue on or before the first day of the seventh month following the close of the taxable 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 may require. The Department of Revenue 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. Any corporation as defined in KRS 141.010(24)(b) to (h) may elect to claim the balance of a recycling credit approved prior to March 18, 2005, against its tax liability imposed under KRS 141.040. The election shall be binding on the taxpayer and the Department of Revenue until the balance of the recycling credit is used.
  - (4) Except as provided in subsection (6) of this section, if a taxpayer that receives a tax credit under this section sells, transfers, or otherwise disposes of the qualifying recycling or composting equipment before the end of the recapture period, the tax credit shall be redetermined under subsection (5) of this section. If the total credit taken in prior taxable years exceeds the redetermined credit, the difference shall be added to the taxpayer's tax liability under this chapter for the taxable year in which the sale, transfer, or disposition occurs. If the redetermined credit exceeds the total credit already taken in prior taxable years, the taxpayer shall be entitled to use the difference to reduce the taxpayer's tax liability under this chapter for the taxable year in which the sale, transfer, or disposition occurs.
  - (5) The total tax credit allowable under subsection (2) of this section for equipment that is sold, transferred, or otherwise disposed of before the end of the recapture period shall be adjusted as follows:
    - (a) For equipment with a useful life of five (5) or more years that is sold, transferred, or otherwise disposed of:
      - 1. One (1) year or less after the purchase, no credit shall be allowed.
      - 2. Between one (1) year and two (2) years after the purchase, twenty percent (20%) of the total allowable credit shall be allowed.
      - 3. Between two (2) and three (3) years after the purchase, forty percent (40%) of the total allowable credit shall be allowed.
      - 4. Between three (3) and four (4) years after the purchase, sixty percent (60%) of the total allowable credit shall be allowed.
      - 5. Between four (4) and five (5) years after the purchase, eighty percent (80%) of the total allowable credit shall be allowed.
    - (b) For equipment with a useful life of less than five (5) years that is sold, transferred, or otherwise disposed of:

1. One (1) year or less after the purchase, no credit shall be allowed.
  2. Between one (1) year and two (2) years after the purchase, thirty-three percent (33%) of the total allowable credit shall be allowed.
  3. Between two (2) and three (3) years after the purchase, sixty-seven percent (67%) of the total allowable credit shall be allowed.
- (6) Subsections (4) and (5) of this section shall not apply to transfers due to death, or transfers due merely to a change in business ownership or organization as long as the equipment continues to be used exclusively in recycling or composting, or transactions to which Section 381(a) of the Internal Revenue Code applies.
- (7) The Department of Revenue may promulgate administrative regulations to carry out the provisions of this section.

Section 6. 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;
  - (c) "Tax credit" means the "tax credit" allowed in KRS 154.28-090; and
  - (d) "Gross receipts" means gross receipts as defined in KRS 141.040(5)(b) **and (6)(b)**.
- (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 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 ~~whichever of KRS 141.040(5)(a) or (b) applies~~ on net income as defined by KRS 141.010(11), taxable net income as defined by KRS 141.010(14), gross receipts, or Kentucky gross profits, ~~as the case may be,~~ including income, gross receipts, or Kentucky gross profits from an economic development project;
  - (b) Compute the ~~income~~ tax due at the applicable tax rates as provided by KRS 141.020 or ~~whichever of KRS 141.040(5)(a) or (b) applies~~ on net income as defined by KRS 141.010(11), taxable net income as defined by KRS 141.010(14), gross receipts, or Kentucky gross profits, ~~as the case may be,~~ excluding net income, gross receipts, or Kentucky gross profits 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 a general partnership not subject to tax under KRS 141.040, or a trust not subject to tax under KRS 141.040 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 partners or beneficiaries of the general partnership or trust, and shall be paid on behalf of the partners 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 general partnership or trust at the times provided by KRS 141.160 for filing the returns.
  - (e) Any estimated tax payment made by the general partnership or trust in satisfaction of the tax liability of partners or beneficiaries shall not be treated as taxable income subject to Kentucky income tax by the partner 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 partner's or beneficiary's distributive share of net income or credit of a partnership or trust.
- (6) If the economic development project is a totally separate facility:
  - (a) 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; and
  - (b) Gross receipts or Kentucky gross profits attributable to the project for purposes of subsection (3) of this section shall be determined under the separate accounting method reflecting only the gross receipts or Kentucky gross profits directly attributable to the facility.
- (7) If the economic development project is an expansion to a previously existing facility:
  - (a) 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; and
  - (b) Gross receipts or Kentucky gross profits attributable to the entire facility shall be determined under the separate accounting method reflecting only the gross receipts or Kentucky gross profits directly attributable to the facility, and gross receipts or Kentucky gross profits attributable to the economic development project for the purposes of subsection (3) of this section shall be determined by apportioning the separate accounting gross receipts or Kentucky gross profits of the entire facility to the economic development project by a formula approved by the Department of Revenue.
- (8) If an approved company can show to the satisfaction of the Department of Revenue 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, gross receipts, or Kentucky gross profits from the facility at which the economic development project is located, the approved company shall determine net income, gross receipts, or Kentucky gross profits from the economic development project using an alternative method approved by the Department of Revenue.
- (9) The Department of Revenue may issue administrative regulations and require the filing of forms designed by the Department of Revenue 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 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 7. 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;
  - (c) "Tax credit" means the "tax credit" allowed under KRS 154.23-005 to 154.23-079; and
  - (d) "Gross receipts" means gross receipts as defined in KRS 141.040(5)(b) **and (6)(b)**.
- (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 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 ~~whichever of KRS 141.040(5)(a) or (b) applies~~ on net income as defined by KRS 141.010(11), taxable net income as defined by KRS 141.010(14), gross receipts, or Kentucky gross profits, ~~as the case may be,~~ including income, gross receipts, or Kentucky gross profits from an economic development project; and
  - (b) Compute the ~~income~~ tax due at the applicable tax rates as provided by KRS 141.020 or ~~whichever of KRS 141.040(5)(a) or (b) applies~~ on net income as defined by KRS 141.010(11), taxable net income

as defined by KRS 141.010(14), gross receipts, or Kentucky gross profits,~~as the case may be,~~ excluding net income, gross receipts, or Kentucky gross profits 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 a general partnership not subject to the tax imposed by KRS 141.040 or trust not subject to the tax imposed by KRS 141.040 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 partners or beneficiaries of the general partnership or trust, and shall be paid on behalf of the partners 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 general partnership or trust at the times provided by KRS 141.160 for filing the returns.
  - (d) Any estimated tax payment made by the general partnership or trust in satisfaction of the tax liability of partners or beneficiaries shall not be treated as taxable income subject to Kentucky income tax by the partner 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 partner's or beneficiary's distributive share of net income or credit of a general partnership or trust.
- (6) If the economic development project is a totally separate facility:
  - (a) 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; and
  - (b) Gross receipts or Kentucky gross profits attributable to the project for the purposes of subsection (3) of this section shall be determined under the separate accounting method reflecting only the gross receipts or Kentucky gross profits directly attributable to the facility.
- (7) If the economic development project is an expansion to a previously existing facility:
  - (a) 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; and
  - (b) Gross receipts or Kentucky gross profits attributable to the entire facility shall be determined under the separate accounting method reflecting only the gross receipts or Kentucky gross profits directly attributable to the facility, and gross receipts or Kentucky gross profits attributable to the economic development project for the purposes of subsection (3) of this section shall be determined by apportioning the separate accounting gross receipts or Kentucky gross profits of the entire facility to the economic development project by a formula approved by the Department of Revenue.
- (8) If an approved company can show to the satisfaction of the Department of Revenue 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, gross receipts, or Kentucky gross profits from the facility at which the economic development project is located, the approved company shall determine net income, gross

receipts, or Kentucky gross profits from the economic development project using an alternative method approved by the Department of Revenue.

- (9) The Department of Revenue may issue administrative regulations and require the filing of forms designed by the Department of Revenue 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 8. 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; and
  - (d) "Gross receipts" means gross receipts as defined in KRS 141.040(5)(b) **and (6)(b)**.
- (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 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 ~~whichever of KRS 141.040(5)(a) or (b) applies~~ on net income as defined by KRS 141.010(11) or taxable net income as defined by KRS 141.010(14), gross receipts, or Kentucky gross profits, ~~as the case may be,~~ including income, gross receipts, or Kentucky gross profits from an economic revitalization project;
  - (b) Compute the ~~income~~ tax due at the applicable tax rates as provided by KRS 141.020 or ~~whichever of KRS 141.040(5)(a) or (b) applies~~ on net income as defined by KRS 141.010(11), taxable net income as defined by KRS 141.010(14), gross receipts, or Kentucky gross profits, ~~as the case may be,~~ excluding net income, gross receipts, or Kentucky gross profits 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 a general partnership not subject to the tax imposed by KRS 141.040 or trust not subject to the tax imposed KRS 141.040 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 partners or beneficiaries of the general partnership or trust, and shall be paid on behalf of the partners 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 general partnership or trust at the times provided by KRS 141.160 for filing the returns.
  - (e) Any estimated tax payment made by the general partnership or trust in satisfaction of the tax liability of partners or beneficiaries shall not be treated as taxable income subject to Kentucky income tax by the partner 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 partner's or beneficiary's distributive share of net income or credit of a general partnership or trust.
- (6) If the economic revitalization project is a totally separate facility:
  - (a) 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; and

- (b) Gross receipts or Kentucky gross profits attributable to the project for purposes of subsection (3) of this section shall be determined under the separate accounting method reflecting only the gross receipts or Kentucky gross profits directly attributable to the facility.
- (7) If the economic revitalization project is an expansion to a previously existing facility:
- (a) 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 revitalization 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 revitalization project by a formula approved by the Department of Revenue; and
  - (b) Gross receipts or Kentucky gross profits attributable to the entire facility shall be determined under the separate accounting method reflecting only the gross receipts or Kentucky gross profits directly attributable to the facility. Gross receipts or Kentucky gross profits attributable to the economic revitalization project for purposes of subsection (3) of this section shall be determined by apportioning the separate accounting gross receipts or Kentucky gross profits of the entire facility to the economic revitalization project pursuant to a formula approved by the Department of Revenue.
- (8) If an approved company can show to the satisfaction of the Department of Revenue 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, gross receipts, or Kentucky gross profits from the facility at which the economic revitalization project is located, the approved company shall determine net income, gross receipts, or Kentucky gross profits from the economic revitalization project using an alternative method approved by the Department of Revenue.
- (9) The Department of Revenue may issue administrative regulations and require the filing of forms designed by the Department of Revenue 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 9. 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;
  - (b) "Skills training investment credit" has the same meaning as set forth in KRS 154.12-2084; and
  - (c) "Gross receipts" means gross receipts as defined in KRS 141.040(5)(b) **and (6)(b)**.
- (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 ~~whichever of KRS 141.040(5)(a) or (b) applies~~ on net income as defined by KRS 141.010(11), taxable net income as defined by KRS 141.010(14), gross receipts, or Kentucky gross profits ~~as the case may be~~;
  - (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 a general partnership not subject to the tax imposed by KRS 141.040, the amount of the tax credit awarded by the Bluegrass State Skills Corporation in KRS 154.12-2088(6) shall be apportioned among the partners thereof at the same ratio as the 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 partner that may be claimed in any tax year of the partner shall be determined in accordance with KRS 154.12-2086.
- (5) (a) In the case of an approved company that is a trust not subject to the tax imposed by KRS 141.040, 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 KRS 154.12-2086.
- (6) The Department of Revenue 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 10. 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; and
  - (d) "Gross receipts" means gross receipts as defined in KRS 141.040(5)(b) **and (6)(b)**.
- (2) An approved company shall determine the tax credit as provided in this section.
- (3) 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:
  - (a) Compute the ~~income~~ tax due at the applicable tax rates as provided by KRS 141.020 or ~~whichever of KRS 141.040(5)(a) or (b) applies~~ on net income as defined by KRS 141.010(11), taxable net income as defined by KRS 141.010(14), gross receipts, or Kentucky gross profits, ~~as the case may be,~~ including income, gross receipts, or Kentucky gross profits from an economic development project;
  - (b) Compute the ~~income~~ tax due at the applicable tax rates as provided by KRS 141.020 or ~~whichever of KRS 141.040(5)(a) or (b) applies~~ on net income as defined by KRS 141.010(11), taxable net income as defined by KRS 141.010(14), gross receipts, or Kentucky gross profits, ~~as the case may be,~~ excluding net income, gross receipts, or Kentucky gross profits 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 a general partnership not subject to the tax imposed by KRS 141.040 or a trust not subject to the tax imposed by KRS 141.040 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 partners or beneficiaries of the general partnership or trust, and shall be paid on behalf of the partners 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 general partnership or trust at the times provided by KRS 141.160 for filing the returns.



- (e) Any estimated tax payment made by the general partnership or trust in satisfaction of the tax liability of partners or beneficiaries shall not be treated as taxable income subject to Kentucky income tax by the partner 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 partner's or beneficiary's distributive share of net income or credit of a general partnership or trust.
- (6) If the economic development project is a totally separate facility:
  - (a) 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; and
  - (b) Gross receipts or Kentucky gross profits attributable to the project for the purposes of subsection (3) of this section shall be determined under the separate accounting method reflecting only the gross receipts or Kentucky gross profits directly attributable to the facility.
- (7) If the economic development project is an expansion to a previously existing facility:
  - (a) 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; and
  - (b) Gross receipts or Kentucky gross profits attributable to the entire facility shall be determined under the separate accounting method reflecting only the gross receipts or Kentucky gross profits directly attributable to the facility, and gross receipts or Kentucky gross profits attributable to the economic development project for the purposes of subsection (3) of this section shall be determined by apportioning the separate accounting gross receipts or Kentucky gross profits of the entire facility to the economic development project by a formula approved by the Department of Revenue.
- (8) If an approved company can show to the satisfaction of the Department of Revenue 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, gross receipts, or Kentucky gross profits from the facility at which the economic development project is located, the approved company shall determine net income, gross receipts, or Kentucky gross profits from the economic development project using an alternative method approved by the Department of Revenue.
- (9) The Department of Revenue may promulgate administrative regulations and require the filing of forms designed by the Department of Revenue 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 11. KRS 141.410 is amended to read as follows:

As used in KRS 141.410 to 141.414, unless the context requires otherwise:

- (1) "Approved costs" means the costs incurred during the taxable year by a qualified farming operation for training and improving the skills of managers and employees involved in a networking project.
- (2) "Business network" means a formalized, collaborative mechanism organized by and operating among three (3) or more qualified farming operations, industrial entities, business enterprises, or private sector firms for the purposes of, but not limited to: pooling expertise; improving responses to changing technology or markets; lowering the risks to individual entities of accelerated modernization; encouraging new technology investments, new market development, and employee skills improvement; and developing a system of collective intelligence among participating entities.
- (3) "Food producing facilities" means establishments that manufacture or process foods and beverages for human consumption, and which are included under the three (3) digit NAICS code three hundred eleven (311).

- (4) "Networking project" means a project by which farmers and other entities involved in the production of food join together to form a network approved by the Cabinet for Economic Development for the purpose of producing or expanding the production of crops or livestock necessary for the establishment or expansion of secondary food-producing facilities in Kentucky.
- (5) "Qualified farming operation" means an individual, sole proprietorship, partnership, joint venture, trust, unincorporated organization, association, corporation, or institution, engaged in farming in Kentucky that provides raw materials for food-producing facilities in Kentucky, and that purchases new buildings or equipment, or that incurs training expenses, to support its participation in a networking project.
- (6) "NAICS code" means the classification system grouping business operations or enterprises as published in the North American Industry Classification System United States Manual published by Convergence Working Group and the United States Office of Management and Budget, 2002 edition.
- (7) "Gross receipts" means gross receipts as defined in KRS 141.040(5)(b) *or* (6)(b).

Section 12. 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~~(4)~~ shall:
  - (a) Compute the~~income~~ tax due at the applicable tax rates as provided by KRS 141.020 or~~whichever of KRS 141.040(5)(a) or (b) applies~~ on net income as defined by KRS 141.010(11), taxable net income as defined by KRS 141.010(14), gross receipts, or Kentucky gross profits,~~as the case may be,~~ including income, gross receipts, or Kentucky gross profits 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~~whichever of KRS 141.040(5)(a) or (b) applies~~ on net income as defined by KRS 141.010(11), taxable net income as defined by KRS 141.010(14), gross receipts, or Kentucky gross profits,~~as the case may be,~~ excluding net income, gross receipts, or Kentucky gross profits 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 a general partnership not subject to the tax imposed by KRS 141.040 or trust not subject to the tax imposed by KRS 141.040 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 general 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 partner's or beneficiary's distributive share of net income or credit of a partnership or trust.
- (4) If the networking entity is a separate facility:
  - (a) 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 facility; and
  - (b) Gross receipts or Kentucky gross profits attributable to the project for the purposes of subsection (1) of this section shall be determined under the separate accounting method reflecting only the gross receipts or Kentucky gross profits directly attributable to the facility.
- (5) If the networking project is an expansion to a previously existing farming operation:
  - (a) 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; and

- (b) Gross receipts or Kentucky gross profits attributable to the entire facility shall be determined under the separate accounting method reflecting only the gross receipts or Kentucky gross profits directly attributable to the facility, and gross receipts or Kentucky gross profits attributable to the economic development project for the purposes of subsection (1) of this section shall be determined by apportioning the separate accounting gross receipts or Kentucky gross profits of the entire facility to the economic development project by a formula approved by the Department of Revenue.
- (6) If an approved company can show to the satisfaction of the Department of Revenue 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, gross receipts, or Kentucky gross profits from the networking project, the approved farming operation shall determine net income, gross receipts, or Kentucky gross profits from its participation in the networking project using an alternative method approved by the Department of Revenue.
- (7) The Department of Revenue may promulgate administrative regulations pursuant to KRS Chapter 13A and require the filing of forms designed by the Department of Revenue 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 13. 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;
  - (c) "Tax credit" means the tax credit allowed in KRS 154.34-080; and
  - (d) "Gross receipts" means gross receipts as defined in KRS 141.040(5)(b) **and (6)(b)**.
- (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 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 ~~whichever of KRS 141.040(5)(a) or (b) applies~~ on net income as defined by KRS 141.010(11), taxable net income as defined by KRS 141.010(14), gross receipts, or Kentucky gross profits, ~~as the case may be,~~ including income, gross receipts, or Kentucky gross profits from a reinvestment project;
  - (b) Compute the ~~income~~ tax due at the applicable tax rates as provided by KRS 141.020 or ~~whichever of KRS 141.040(5)(a) or (b) applies~~ on net income as defined by KRS 141.010(11), taxable net income as defined by KRS 141.010(14), gross receipts, or Kentucky gross profits, ~~as the case may be,~~ excluding net income, gross receipts, or Kentucky gross profits 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 a general partnership not subject to the tax imposed by KRS 141.040 or trust not subject to the tax imposed by KRS 141.040 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 partners or beneficiaries of the general partnership or trust, and shall be paid on behalf of the partners 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 general partnership or trust at the times provided by KRS 141.160 for filing the returns.
  - (e) Any estimated tax payment made by the general partnership or trust in satisfaction of the tax liability of partners or beneficiaries shall not be treated as taxable income subject to Kentucky income tax by the partner 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 partner's or beneficiary's distributive share of net income or credit of a general partnership or trust.
- (6) If the reinvestment project is a totally separate facility:
- (a) 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; and
  - (b) Gross receipts or Kentucky gross profits attributable to the project for the purposes of subsection (3) of this section shall be determined under the separate accounting method reflecting only the gross receipts or Kentucky gross profits directly attributable to the facility.
- (7) If the reinvestment project is an expansion to a previously existing facility:
- (a) 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; and
  - (b) Gross receipts or Kentucky gross profits attributable to the entire facility shall be determined under the separate accounting method reflecting only the gross receipts or Kentucky gross profits directly attributable to the facility, and gross receipts or Kentucky gross profits attributable to the economic development project for the purposes of subsection (3) of this section shall be determined by apportioning the separate accounting gross receipts or Kentucky gross profits of the entire facility to the economic development project by a formula approved by the Department of Revenue.
- (8) If an approved company can show to the satisfaction of the Department of Revenue 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 or gross receipts from the facility at which the reinvestment project is located, the approved company shall determine net income or gross receipts from the reinvestment project using an alternative method approved by the Department of Revenue.
- (9) The Department of Revenue may issue administrative regulations and require the filing of forms designed by the Department of Revenue 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 14. KRS 141.420 is amended to read as follows:

- (1) (a) Every corporation identified in KRS 141.010(24)(b) to (h) that is doing business in this state shall, on or before the fifteenth day of the fourth month following the close of its annual accounting period, file a copy of its applicable federal return with the form prescribed and furnished by the department.
- (b) For a corporation filing a return under paragraph (a) of this subsection, the individual partner's, member's, or shareholder's distributive share of net income, gain, loss, or deduction shall be computed as nearly as practicable in a manner identical to that required for federal income tax purposes except to the extent required by differences between this chapter and the federal income tax law and regulations.

- (2) (a) Resident individuals who are members, partners, or shareholders of a corporation required to file a return under subsection (1)(a) of this section shall report and pay tax on the distributive share of net income, gain, loss, or deduction as determined in subsection (1)(b) of this section.
- (b) Nonresident individuals who are members, partners, or shareholders of a corporation required to file a return under subsection (1)(a) of this section shall report and pay tax on the distributive share of net income, gain, loss, or deduction as determined in subsection (1)(b) of this section multiplied by the apportionment fraction in KRS 141.120(8).
- (3) (a) Resident and nonresident individuals who are members, shareholders, or partners of a corporation required to file a return under paragraph (a) of subsection (1) of this section shall be entitled to a nonrefundable credit against the tax imposed under KRS 141.020.
- (b) The credit determined under this subsection shall be the member's, shareholder's, or partner's proportionate share of the tax due from the corporation as determined under KRS 141.040, before the application of any credits identified in KRS 141.0205(4) and reduced by the required minimum imposed by KRS 141.040(7)~~[(6)]~~.
- (c) Notwithstanding the provisions of paragraph (a) of this subsection, for taxable years beginning after December 31, 2004, and before January 1, 2007, the portion of the credit computed under paragraph (b) of this subsection that exceeds the credit that would have been utilized if the corporation's income were taxed at the rates in KRS 141.020 shall be refundable. The refundable portion of the credit shall be the individual member's, shareholder's, or partner's proportionate share of the amount computed by multiplying the amount the corporation's income exceeds two hundred sixteen thousand six hundred dollars (\$216,600) by one percent (1%).
- (d) The credit determined under paragraphs (a) and (b) of this subsection shall not operate to reduce the member's, shareholder's, or partner's tax due to an amount that is less than what would have been payable were the income attributable to doing business in this state by the corporation ignored.
- (4) For purposes of computing the basis of an ownership interest or stock in a corporation identified in KRS 141.010(24)(b) to (h), the basis attributable to a member, partner, or shareholder shall be adjusted by the distributive share of the items of net income, gain, loss and deduction as though the items had been passed through to the member, partner, or shareholder.
- (5) Except as otherwise provided in this chapter, distributions by or from a corporation shall be treated in the same manner as they are treated for federal tax purposes.

#### PART XIV

#### SALES AND USE TAX

Notwithstanding KRS 48.310, the following statutes are created or amended to read as follows and shall have permanent effect, subject to future actions by the General Assembly:

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

- (1) ***The county clerk shall collect any applicable sales and use tax for the following tangible personal property purchased out of state at the time the property is offered for titling or first registration:***
  - (a) ***Recreational vehicles as defined in KRS 186.650;***
  - (b) ***Manufactured homes as defined in KRS 186.650;***
  - (c) ***Motorboats as defined in KRS 235.010;***
  - (d) ***Vessels as defined in KRS 235.010; and***
  - (e) ***Any other tangible personal property offered for titling or first registration in Kentucky.***
- (2) ***The tax shall be collected unless the owner:***
  - (a) ***Presents a tax receipt from the seller verifying that the tax has been previously paid;***
  - (b) ***Demonstrates that the transfer of the property is exempt under KRS 139.470(4); or***

- (c) *Provides a properly executed resale certificate or certificate of exemption in accordance with KRS 139.270.*
- (3) *The tax collected by the county clerk shall be reported and remitted to the department on forms provided by the department.*
- (4) *For services provided in collecting the tax, the county clerk shall deduct a fee of three percent (3%) of the tax collected and remit the balance to the department as provided in Section 2 of this Part.*

Section 2. KRS 138.464 is amended to read as follows:

The county clerk shall report each Monday to the Department of Revenue 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 *and sales and use tax* collections not later than the next business day following receipt in a Commonwealth of Kentucky, Department of Revenue 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 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 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 *and Section 1 of this Part.*

Section 3. 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. 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.]~~

Section 4. The provisions of this Part shall be effective January 1, 2007.

## PART XV

### APPORTIONED VEHICLES

Notwithstanding KRS 48.310, the following statutes are created or amended to read as follows and shall have permanent effect, subject to future actions by the General Assembly:

SECTION 1. A NEW SECTION OF KRS CHAPTER 132 IS CREATED TO READ AS FOLLOWS:

- (1) *There shall be exempt from ad valorem tax for state and local purposes trucks, tractors, and buses used on routes or in systems that are partly within and partly outside Kentucky, and that are subject to the fee imposed by Section 2 of this Part.*
- (2) *There shall be exempt from ad valorem tax for state and local purposes semitrailers as defined in KRS 189.010(12) and trailers as defined in KRS 189.010(17) that are used on a route or in a system that is partly within and partly outside Kentucky. Semitrailers or trailers required to be registered under KRS 186.655 that are used only in Kentucky shall be subject to the ad valorem tax imposed by KRS 132.487.*

SECTION 2. A NEW SECTION OF KRS CHAPTER 136 IS CREATED TO READ AS FOLLOWS:

- (1) *Notwithstanding KRS 132.487, any truck, tractor, or bus which is operated on a route or as part of a system that is partly within and partly outside Kentucky shall be subject to an annual fee at the time the vehicle is registered with and the registration fee is paid to the Transportation Cabinet pursuant to KRS 186.020 and KRS 186.050(3) and (13). The fee shall be imposed on the vehicle's owner or the owner's legal designee as of January 1 of each year. Such payment shall be made to the Transportation Cabinet either directly, in the case of a vehicle based in Kentucky, or indirectly, through the International Registration Plan, in the case of a vehicle based outside of Kentucky.*
- (2) *The fee imposed by subsection (1) of this section replaces the state and local ad valorem property tax the Department of Revenue previously imposed and centrally collected against trucks, tractors, and buses operated on a route or as part of a system that is partly within and partly outside Kentucky. The fee imposed by subsection (1) of this section shall not be construed as a fee imposed upon the registration, operation, or use of the vehicles on public highways. The Department of Revenue shall use the following method for determining the rate for fixing the assessed value of the property and for determining the annual fee amount:*
  - (a) *The Department of Revenue shall determine the assessed value on an annual basis by multiplying the purchase price of the truck, tractor, or bus by a depreciation value expressed as a percentage of the original cost from an authoritative source that the Department of Revenue prescribes by promulgation of an administrative regulation;*
  - (b) *The Department of Revenue shall determine an aggregate state and local rate on an annual basis. The state rate shall be the weighted average commercial and industrial tangible personal property tax rate, and the local rate shall be determined using the method set forth in KRS 136.180(3) and (4);*
  - (c) *The Department of Revenue shall determine the amount subject to the annual fee by multiplying the total assessed value of all vehicles by an apportionment factor. The apportionment factor shall be determined as provided in KRS 186.050(13)(a); and*

- (d) *The annual fee shall be determined by multiplying the amount subject to the annual fee by the rate determined in paragraph (b) of this subsection.*

*The Department of Revenue shall provide the Transportation Cabinet with the information needed to collect the fee.*

- (3) *The Transportation Cabinet shall forward the money it collects from the fee imposed by subsection (1) of this section to the Department of Revenue on a monthly basis. The Department of Revenue shall divide and distribute the money among the state, counties, cities, urban-counties, charter counties, consolidated local governments, school districts, and special taxing districts in the same manner as the Department of Revenue divided and distributed the state and local ad valorem property tax previously imposed and centrally collected.*
- (4) *Pick-up and delivery vehicles operating from a terminal within this state and vehicles that do not leave the state in the normal course of business shall not be required to pay the fee imposed by subsection (1) of this section, but shall instead be subject to the ad valorem tax under KRS 132.487.*
- (5) *Any person paying the fee imposed by subsection (1) of this section shall have forty-five (45) days from the date the person is notified of the fee amount to protest. The protest shall be filed with the Commonwealth of Kentucky, Department of Revenue, in accordance with the provisions of KRS 131.110. Notification by any state's or Canadian province's or territory's registration authority of the amount due shall satisfy the notification requirement of KRS 131.110(1).*
- (6) *No protest or appeal shall delay the collection or payment of the fee imposed by subsection (1) of this section. The fee amount due as determined in subsection (2) of this section shall be paid at the time of registration. If the fee is not paid, the Commonwealth of Kentucky, Transportation Cabinet shall not register the vehicle for which registration is sought. Persons registering vehicles in other states or Canada shall be subject to requirements of those registration authorities.*

Section 3. KRS 136.1873 is amended to read as follows:

*The provisions of this section shall apply to assessments made prior to January 1, 2007.*

- (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 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 4. KRS 136.1875 is amended to read as follows:

On or before April 15, 1991, and *prior to January 1, 2007*~~[each year thereafter]~~, each person, corporation, partnership, or other business association owning or operating trucks, trailers, tractors, 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 provide the department 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 *on an annual basis*.

Section 5. KRS 136.1877 is amended to read as follows:

*The provisions of this section shall apply to assessments made prior to January 1, 2007.*

- (1) The Department of Revenue 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 in the manner outlined in KRS 136.1873 shall have forty-five (45) days from the date of the department'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.
- (4) The Department of Revenue 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 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 by any local taxing district under the provisions of KRS 136.180(6) shall be deducted.

Section 6. The provisions of this Part take effect on January 1, 2007.

## PART XVI

### ADMINISTRATIVE OFFSETS FOR DELINQUENT TAXES AND LIQUIDATED DEBTS

Notwithstanding KRS 48.310, the following statutes are created or amended to read as follows and shall have permanent effect, subject to future actions by the General Assembly:

Section 1. 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 ~~the person~~ *he* or ~~the person's~~ *his* assignor is indebted to the state *or any county, city, urban-county government, consolidated local government, or charter county government duly organized in this state*. The claim, to the extent it is allowed, shall *first* be credited to the account of the person so indebted *to the state*, and if there is any balance due ~~the person~~ *him* after settling the whole demand of the state, *any certified liquidated debts of any county, city, urban-county government, consolidated local government, or charter county government of this state shall be paid. If there is any balance due the person after settling the whole demand of the state, counties, cities, urban-county governments, consolidated local governments, or charter county governments, and if there are not liquidated debts certified against the claim pursuant to Section 2 of this Part, that balance shall be paid to the person* ~~him~~.
- (2) *In case of multiple claims by state agencies the claims shall be paid as follows:*
  - (a) *First, to any claim made by the Cabinet for Health and Family Services for past due child support obligations;*
  - (b) *Second, to any claim filed by the Finance and Administration Cabinet, Department of Revenue for taxes owed the Commonwealth; and*
  - (c) *Third, to all other state agencies in the order that the claims were filed with the Treasury.*
- (3) *In the case of multiple claims filed by any county, city, urban-county government, consolidated local government, or charter county government duly organized in this state, the claims shall be paid in the order that the claims were filed with the Treasury.*
- (4) The Finance and Administration Cabinet shall provide the Cabinet for Health and Family Services with a quarterly report of all tort claims made against the state by individuals that the Cabinet for Health and Family Services shall compare with the child support database to match individuals who have a child support arrearage and may receive a settlement from the state.
- ~~(5)(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 for collection under KRS 45.241.

~~(6)(4)~~ Each agency and the Court of Justice shall provide information to the State Treasurer concerning any debt referred to the Department of Revenue for collection under KRS 45.237.

SECTION 2. A NEW SECTION OF KRS CHAPTER 44 IS CREATED TO READ AS FOLLOWS:

- (1) *Notwithstanding any other provision of the Kentucky Revised Statutes, and pursuant to the provisions of 31 U.S.C. sec. 3716(b) and (h)(1), the Finance and Administration Cabinet, at the request of any executive, judicial, or legislative agency of the Commonwealth, may enter into a reciprocal agreement with the United States government to offset the claim of any person against the Commonwealth to any debt of that person owed to the United States government which has been certified by the United States government as final, due, and owing, with all appeals and legal actions having been waived or exhausted, and to offset any nontax claim of any person against the United States government to any liquidated debt of that person owed to the Commonwealth.*
- (2) *Notwithstanding any other provision of the Kentucky Revised Statutes, the Finance and Administration Cabinet, at the request of any executive, judicial, or legislative agency of the Commonwealth, may enter into a reciprocal agreement with any state, as defined in KRS 446.010(30), to offset the claim of any person against the Commonwealth to any debt of that person owed to any state which has certified the debt as final, due, and owing, with all appeals and legal actions having been waived or exhausted, and to offset any claim of any person against any state to any liquidated debt of that person owed to the Commonwealth.*
- (3) *In the case of multiple creditors who have certified liquidated debt against the same person on a claim against the Commonwealth, pursuant to this section and Section 1 of this Part, the debts of the Commonwealth, counties, cities, urban-county governments, consolidated local governments, and charter county governments shall be credited first in the priority established in Section 1 of this Part, and if there is any balance due the claimant after settling the whole demands of the Commonwealth, counties, cities, urban-county governments, consolidated local governments, and charter county governments, the balance shall be credited to the liquidated debts certified by the United States government and any other state, as defined in KRS 446.010(30), in the order that the claims were filed with the Treasury. If there is a balance due the claimant after satisfaction of all liquidated debts as itemized in this section or any court-ordered payments, the balance shall be paid to the claimant.*

Section 3. KRS 131.560 is amended to read as follows:

Notwithstanding the provisions of KRS 44.030 or 131.190, the Department of Revenue 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, *or any county, city, urban-county government, consolidated local government, or charter county government duly organized in this state*, which has complied with the requirements of KRS 131.565. After satisfaction of any undisputed delinquent tax liability due the Department of Revenue 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, *or the county, city, urban-county government, consolidated local government, or charter county government duly organized in this state*, having established a claim therefor. In the case of multiple state agency *or any county, city, urban-county government, consolidated local government, or charter county government duly organized in this state*, claims against the same tax refund, the *state* agency having the larger pending claim shall have priority after satisfaction of any undisputed delinquent tax liabilities due the Department of Revenue, *followed by other state agency claims. After all state agency claims have been satisfied, the claims of any county, city, urban-county government, consolidated local government, or charter county government duly organized in this state shall be satisfied with the larger pending claims satisfied first, and other claims satisfied in descending order.*

## PART XVII

### ELECTRONIC LEVIES FOR DELINQUENT TAX COLLECTIONS

Notwithstanding KRS 48.310, the following statutes are created to read as follows and shall have permanent effect, subject to future actions by the General Assembly:

SECTION 1. A NEW SECTION OF KRS CHAPTER 131 IS CREATED TO READ AS FOLLOWS:

*As used in Sections 1 to 4 of this Part:*

- (1) *"Debt" means a liquidated debt as defined in KRS 45.241(1)(b);*
- (2) *"Debtor" means any person liable for a debt;*

- (3) *"Department" means the Department of Revenue;*
- (4) *"Delinquent taxpayer" means a person who has been assessed for a tax, the collection of which is administered by the Department of Revenue, and who has not sought administrative or judicial review of the assessment as provided in KRS 131.110, or who has sought but exhausted all administrative and judicial review so that the assessment is final, due, and owing. For a person to be considered a "delinquent taxpayer," the following conditions must also be met:*
  - (a) *The tax remains unpaid after thirty (30) days from demand for payment by the department; and*
  - (b) *The person is not making current timely installment payments on the tax liability under agreement with the department; and*
- (5) *"Financial institution" means:*
  - (a) *A depository institution and an institution-affiliated party as defined in 12 U.S.C. sec. 1813(c) and (u);*
  - (b) *Any federal or state credit union, including an institution-affiliated party as defined in 12 U.S.C. secs. 1752 and 1786(r); or*
  - (c) *Any benefit association, insurance company, safe deposit company, money market mutual fund, brokerage firm, trust company, or similar entity authorized to do business in the Commonwealth.*

SECTION 2. A NEW SECTION OF KRS CHAPTER 131 IS CREATED TO READ AS FOLLOWS:

- (1) *To assist the department in the collection of delinquent taxes and debts owed to the Commonwealth, the department shall design, develop, implement, and operate a financial institution match system for the purpose of identifying and seizing the financial assets of delinquent taxpayers and debtors as identified by the department. The provisions of Sections 1 to 4 of this Part shall be applied uniformly to all financial institutions within the Commonwealth as feasible.*
- (2) *Each financial institution in the Commonwealth shall, in conjunction with the department, develop and operate a data match system to facilitate the identification and seizure of financial assets of delinquent taxpayers and debtors identified by the department. If a financial institution has a data match system developed pursuant to KRS 205.774(2) for the purpose of administering the child support enforcement programs of the Commonwealth, and if the system is compatible with the requirements of Sections 1 to 4 of this Part, the financial institution may utilize that system to comply with the provisions of this subsection.*
- (3)
  - (a) *When the department 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 delinquent taxpayer or debtor, a lien or levy shall, subject to the provisions of subsection (4) 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.*
  - (b) *The department shall provide notice of the following to the debtor or delinquent taxpayer and the financial institution:*
    - 1. *The match;*
    - 2. *The lien or levy arising therefrom; and*
    - 3. *The action to be taken to surrender or encumber the account with the lien or levy for delinquent taxes.*

*Notice shall be provided to the debtor or delinquent taxpayer within two (2) business days of the date the notice is sent to the financial institution.*
- (4) *A financial institution ordered to surrender 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 seized or encumbered.*
- (5) *A financial institution may charge an account levied on by the department a fee of not more than twenty dollars (\$20) which may be deducted from the account prior to remitting any funds to the department.*

- (6) *The department shall bear the cost or, if paid by the delinquent taxpayer or debtor, reimburse the delinquent taxpayer or debtor for any bank charges incurred as a result of any erroneous lien or levy by the department, provided the erroneous lien or levy was caused by department error and, prior to the issuance of the erroneous lien or levy, the delinquent taxpayer or debtor timely responded to all contacts by the department and provided information or documentation sufficient to establish his or her position.*
- (7) *The department may promulgate administrative regulations to implement Sections 1 to 4 of this Part.*

SECTION 3. A NEW SECTION OF KRS CHAPTER 131 IS CREATED TO READ AS FOLLOWS:

- (1) *Financial institutions doing business in the Commonwealth shall provide identifying information each calendar quarter to the department for each delinquent taxpayer or debtor identified by the department that is indebted to the Commonwealth for delinquent taxes or debts and who maintains an account at the institution.*
- (2) *The financial institution shall be paid a fee for conducting data matches from the delinquent taxpayer's account, not to exceed the actual cost.*
- (3) *Except for the exchange of information between the department and financial institutions necessary for the enforcement of Sections 1 to 4 of this Part, any information obtained by the department from financial institutions shall be subject to confidentiality restrictions imposed on the department by KRS 131.190.*
- (4) *A financial institution shall not be liable for encumbering or surrendering any assets held by the financial institution in response to a lien or notice of levy issued by the department, or any other action taken in good faith to comply with the requirements of Sections 1 to 4 of this Part.*

SECTION 4. A NEW SECTION OF KRS CHAPTER 131 IS CREATED TO READ AS FOLLOWS:

- (1) *A financial institution furnishing a report or providing asset information about a delinquent taxpayer or debtor to the department shall not disclose to the delinquent taxpayer or debtor that the name of that person has been received from or furnished to the department. A financial institution may disclose to its depositors or account holders that under the financial institution match system the department has the authority to request certain identifying information on certain depositors or account holders.*
- (2) *If a financial institution willfully violates the provisions of this section, the institution shall pay to the department the lesser of one thousand dollars (\$1,000) or the amount on deposit or in the account of the person to whom the disclosure was made.*
- (3) *A financial institution shall incur no obligation or liability to a depositor or account holder or any other person arising from the furnishing of a report or information to the department pursuant to Sections 1 to 4 of this Part, or from the failure to disclose to a depositor or account holder that the name of the person was included in a list or report furnished by the financial institution to the department.*
- (4) *A financial institution shall not give notice to an account holder or customer of the financial institution that the financial institution has provided information or taken any action pursuant to Sections 1 to 4 of this Part and shall not be liable for failure to provide that notice; provided, however, that a financial institution may disclose to its depositors or account holders that, under the data match system, the department has the authority to request certain identifying information on certain depositors or account holders. The department shall notify, not less than annually, affected depositors or account holders who have not otherwise received notification.*

## PART XVIII

### MOTOR FUELS TAX

Notwithstanding KRS 48.310, the following statutes are amended to read as follows and shall have permanent effect, subject to future actions by the General Assembly:

Section 1. 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 in a manner and form prescribed by the department, supported by proper evidence which in the sole judgment of the department substantiates the alleged loss or contamination and which is confirmed in writing to the

reporting dealer by the department. The department 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, 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" means the Department of Revenue;
  - (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 Elliott 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 department; 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 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;
    - (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 *thirty-four and two-tenths cents (\$1.342)*~~twenty-two cents (\$1.22)~~ 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 2. 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. For the purposes of the allocations in KRS 177.320(1) and (2) and 177.365, the amount calculated under this subsection shall be reduced by the amount calculated in subsection (3) of this section. 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 (4) 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 (4) 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 subsections (1) and (3) of this section shall constitute the tax on motor fuels imposed by KRS 138.220.
- (3) Effective July 1, 2005, one cent (\$0.01), *and effective July 1, 2006, two and one-tenth cents (\$0.021)*, of the tax collected under subsection (1) of this section shall be excluded from the calculations in KRS 177.320(1) and (2) and 177.365. The funds identified in this subsection shall be deposited into the state road fund.
- (4) Effective with the calendar quarter beginning July 1, 1980, the department 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.
- (5) 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 shall promulgate such rules and regulations to properly administer this provision.

## PART XIX

### VOLUNTARY ASSIGNMENT OF MSA TOBACCO ESCROW PAYMENTS

Notwithstanding KRS 48.310, the following statute is amended to read as follows and shall have permanent effect, subject to future actions by the General Assembly:

Section 1. KRS 131.602 is amended to read as follows:

- (1) Any tobacco product manufacturer selling cigarettes to consumers within this state, whether directly or through a distributor, retailer, or similar intermediary or intermediaries, after June 30, 2000, shall do one (1) of the following:
  - (a) Become a participating manufacturer, as that term is defined in section II(jj) of the master settlement agreement, and generally perform its financial obligations under the master settlement agreement; or
  - (b) Place into a qualified escrow fund by April 15 of the year following the year in question the following amounts, as such amounts are adjusted for inflation:
    1. For 2000: \$0.0104712 per unit sold after June 30, 2000;
    2. For each of 2001 and 2002: \$0.0136125 per unit sold;
    3. For each of 2003 through 2006: \$0.0167539 per unit sold; and
    4. For 2007 and each year thereafter: \$0.0188482 per unit sold.
- (2) A tobacco product manufacturer that places funds into escrow pursuant to subsection (1)(b) of this section shall receive the interest or other appreciation on such funds as earned. Such funds themselves shall be released from escrow only under the following circumstances:
  - (a) To pay a judgment or settlement on any released claim brought against such tobacco product manufacturer by Kentucky or any releasing party located or residing in Kentucky. Funds shall be released from escrow under this paragraph in the order in which they were placed into escrow and only to the extent and at the time necessary to make payments required under such judgment or settlement;
  - (b) To the extent that a tobacco product manufacturer establishes that the amount it was required to place into escrow on account of units sold in the state in a particular year was greater than the master settlement agreement payments, as determined pursuant to section IX(i) of that agreement, including after final determination of all adjustments, that such manufacturer would have been required to make on account of such units sold had it been a participating manufacturer, the excess shall be released from escrow and revert back to such tobacco product manufacturer; or
  - (c) To the extent not released from escrow under paragraph (a) or (b) of this subsection, funds shall be released from escrow and revert back to such tobacco product manufacturer twenty-five (25) years after the date on which they were placed into escrow.
- (3) Each tobacco product manufacturer that elects to place funds into escrow pursuant to subsection (1)(b) of this section shall annually certify to the Attorney General that it is in compliance with subsections (1)(b) and (2) of this section. The Attorney General may bring a civil action on behalf of Kentucky against any tobacco product manufacturer that fails to place into escrow the funds required under this section. Any tobacco product manufacturer that fails in any year to place into escrow the funds required under this section shall:
  - (a) Be required within fifteen (15) days to place such funds into escrow as shall bring it into compliance with this section. The court, upon a finding of a violation of subsection (1)(b) or (2) of this section, may impose a civil penalty, to be paid to the general fund of Kentucky, in an amount not to exceed five percent (5%) of the amount improperly withheld from escrow per day of the violation and in a total amount not to exceed one hundred percent (100%) of the original amount improperly withheld from escrow;
  - (b) In the case of a knowing violation, be required within fifteen (15) days to place such funds into escrow as shall bring it into compliance with this section. The court, upon a finding of a knowing violation of subsection (1)(b) or (2) of this section, may impose a civil penalty, to be paid to the general fund of Kentucky, in an amount not to exceed fifteen percent (15%) of the amount improperly withheld from escrow per day of the violation and in a total amount not to exceed three hundred percent (300%) of the original amount improperly withheld from escrow; and
  - (c) In the case of a second knowing violation, be prohibited from selling cigarettes to consumers within Kentucky, whether directly or through a distributor, retailer, or similar intermediary, for a period not to exceed two (2) years.

Each failure to make an annual deposit required under this section shall constitute a separate violation.

- (4) *Notwithstanding the provisions of subsection (2) of this section, a tobacco product manufacturer that elects to place funds into escrow pursuant to subsection (1)(b) of this section may make an irrevocable assignment*



*of its interest in the funds to the benefit of the Commonwealth of Kentucky. Such assignment shall be permanent and apply to all funds in the subject escrow account or that may subsequently come into such account, including those deposited into the escrow account prior to the assignment being executed, those deposited into the escrow account after the assignment is executed, and interest or other appreciation on such funds. The tobacco product manufacturer, the Attorney General, and the financial institution where the escrow account is maintained may make such amendments to the qualified escrow account agreement as may be necessary to effectuate an assignment of rights executed pursuant to this subsection or a withdrawal of funds from the escrow account pursuant to subsection (5) of this section. An assignment of rights executed pursuant to this subsection shall be in writing, signed by a duly authorized representative of the tobacco product manufacturer making the assignment, and shall become effective upon delivery of the assignment to the Attorney General and the financial institution where the escrow account is maintained.*

- (5) *Notwithstanding the provisions of subsection (2) of this section, any escrow funds assigned to the Commonwealth pursuant to subsection (4) of this section shall be withdrawn by the Commonwealth upon request by the Treasurer of the Commonwealth and approval of the Attorney General. Any funds withdrawn pursuant to this subsection shall be deposited in the general fund and shall be calculated on a dollar-for-dollar basis as a credit against any judgment or settlement described in subsection (2)(a) of this section which may be obtained against the tobacco product manufacturer who has assigned the funds in the subject escrow account. Nothing in this subsection or in subsection (4) of this section shall be construed to relieve a tobacco product manufacturer from any past, current, or future obligations the manufacturer may have pursuant to this chapter.*
- (6) *Notwithstanding subsections (4) and (5) of this section, no assignment of escrows created pursuant to subsection (1)(b) of this section shall be made by a tobacco product manufacturer, or shall be accepted by the Treasurer of the Commonwealth, unless and until the Attorney General has provided an opinion to the Treasurer, with a copy of the opinion provided to the Governor and the Legislative Research Commission, that amendments to KRS 131.600 and subsections (4) and (5) of this section will not jeopardize the Commonwealth's payments under the master settlement agreement in the form of a nonparticipating manufacturer adjustment.*

## PART XX

### TOBACCO AMNESTY COMPENSATION

Notwithstanding KRS 48.310, the following statute is amended to read as follows and shall have permanent effect, subject to future actions by the General Assembly:

Section 1. KRS 248.480 is amended to read as follows:

- (1) As used in this section:
  - (a) "Settlement trust" means the national tobacco grower settlement trust established between tobacco companies and states with tobacco growers and tobacco quota owners in accordance with the master settlement agreement between certain tobacco companies and states' attorneys general dated November 23, 1998;
  - (b) "Settlement trust agreement" means the agreement to provide economic assistance from the national tobacco grower settlement trust directly to tobacco growers and tobacco quota holders in the Commonwealth;
  - (c) "Trustee of the settlement trust" means the entity legally responsible for management of the national tobacco grower settlement trust; and
  - (d) "Corporation" means the Kentucky Tobacco Settlement Trust Corporation created by this section.
- (2) The Kentucky Tobacco Settlement Trust Corporation is created and established as a de jure municipal corporation and political subdivision of the Commonwealth to perform essential governmental and public functions by assisting in the implementation of the national tobacco grower settlement trust agreement. The corporation shall be attached to the Finance and Administration Cabinet for administrative purposes. The corporation shall be a public agency within the meaning of KRS 61.805, KRS 61.870, and other applicable statutes.
- (3) The corporation shall be directed by a board of directors, which shall include:

- (a) The Governor, who shall serve as chair of the corporation;
  - (b) The Commissioner of Agriculture, who shall serve as vice chair of the corporation;
  - (c) The Attorney General, who shall serve as secretary of the corporation;
  - (d) One (1) member of the Senate appointed by the President of the Senate to serve as an ex officio, nonvoting member of the board;
  - (e) One (1) member of the House of Representatives appointed by the Speaker of the House of Representatives to serve as an ex officio, nonvoting member of the board;
  - (f) Six (6) citizen members who are tobacco growers or tobacco quota owners appointed by the Governor for a term of four (4) years;
  - (g) One (1) citizen member with a distinguished record of public service appointed by the Governor for a term of four (4) years; and
  - (h) Two (2) members appointed by the Governor for a term of four (4) years from a list of six (6) nominees selected and submitted to the Governor by the state's congressional delegation.
- (4) Members of the board shall not receive compensation for their services but be reimbursed for necessary travel and lodging expenses incurred in the performance of their duties.
- (5) A quorum of the board shall consist of six (6) voting members. A majority of the voting members present may act upon any matter legally before the corporation. The board shall keep minutes and records of all meetings of the corporation and shall record all official actions.
- (6) The corporation shall be a body corporate with full corporate powers. The board may develop articles of incorporation and other appropriate documentation to establish the corporation's existence as a corporation authorized by law. The corporation shall not in any form hold, receive, or manage any proceeds from the National Tobacco Growers Settlement Trust.
- (7) The corporation's duties shall include, but not be limited to:
- (a) Performing all duties and responsibilities of a state certification body as defined and directed under the terms of the settlement trust agreement;
  - (b) Preparing and submitting a plan to the trustee of the settlement trust for its approval. The plan shall identify those tobacco growers and tobacco quota owners who are to receive direct payment from the settlement trust and shall determine the respective amount each of the tobacco growers or tobacco quota owners is to receive;
  - (c) Determining the amount of any administrative expenses to be paid to the corporation under the terms of the settlement trust agreement;
  - (d) Appointing an officer to conduct executive functions for the corporation. The officer may be a state officer or employee who shall serve as a borrowed servant at no cost to the corporation;
  - (e) Requesting the trustee of the settlement trust to set aside reserve amounts in anticipation of a decrease in annual payments;
  - (f) Submitting information required by the trustee of the settlement trust;
  - (g) Establishing policies and procedures and contracting with other persons or entities if necessary to effectuate its purposes and functions;
  - (h) Discharging additional powers, duties, and functions as necessary or convenient to carry out the purposes of this section;
  - (i) Enacting bylaws concerning the conduct of its business and other administrative procedures as it deems necessary;~~and~~
  - (j) Provide for the distribution of state funds appropriated in 2005 Ky. Acts ch. 173, Parts I and II to the beneficiaries of the National Tobacco Growers Settlement Trust in a manner consistent with this section; *and*
  - (k) *Provide for the distribution of one-time payments under the amnesty compensation program described in subsection (8) of this section.*

- (8) (a) *The corporation shall establish an amnesty compensation program for tobacco quota owners who did not receive payments under the plan adopted by the corporation on March 22, 2004. The program shall grant one-time payments to eligible tobacco quota owners, defined in the March 22, 2004, plan, who did not attain certification status with the corporation in 2004. Tobacco quota owners who attained certification with the corporation in 2004 shall not be eligible for the amnesty compensation payments for any 2003 basic quota pounds that were certified previously by the corporation. The program developed by the corporation shall:*
1. *Determine those quota owners not certified previously under the March 22, 2004, plan and institute an application process for those noncertified quota owners;*
  2. *Make a one-time payment to newly certified quota owners under the amnesty compensation program at the same rate per pound as those quota owners who were certified previously under the March 22, 2004, plan provisions; and*
  3. *Limit the application process to ninety (90) days, with an ending date no later than October 31, 2006, and make payments to certified beneficiaries within ninety (90) days after the application process has ended.*
- (b) *Funds required under the amnesty compensation program, including administrative costs of the plan, shall be provided by the Governor's Office of Agricultural Policy under Part X, Section B.1.a.(3) of this Act. In the event funds provided under Part X of this Act are insufficient to fully carry out the provisions of paragraph (a)2. of this subsection, then the one-time payments to newly certified quota owners shall be made in accordance with paragraph (a)2. of this subsection, on a proportionate basis, until all available funds provided in Part X of this Act are expended.*
- (c) *The provisions of this subsection shall expire on June 30, 2007.*
- (9) There shall be no liability on the part of, and no cause of action for damages shall arise against, the corporation or any member, officer, administrator, agent, or employee of the corporation, either as a part of the corporation's operations or as an individual as a result of any act, omission, proceeding, conduct, or decision relating to the official duties, functions, and responsibilities of the corporation.

## PART XXI

### LEGAL NOTICES

Notwithstanding KRS 48.310, the following statute is amended to read as follows and shall have permanent effect, subject to future actions by the General Assembly:

Section 1. KRS 424.180 is amended to read as follows:

Any advertisement which a state officer, department or agency is required by law to have published shall, if intended to give statewide notice, be published in such newspaper or newspapers, to be designated by the Finance and Administration Cabinet, as will provide reasonable statewide coverage, ***unless the Finance and Administration Cabinet approves an alternative and cost-effective method of delivery.*** If the advertisement particularly affects a local area it shall be published, for each county in the area, in a newspaper qualified under KRS 424.120 to publish advertisements for such county, ***unless the Finance and Administration Cabinet approves an alternative and cost-effective method of delivery.*** The latter publication shall be in addition to the former, if the advertisement affects the state at large as well as the local area.

## PART XXII

### HOME INCARCERATION

Notwithstanding KRS 48.310, the following statute is amended to read as follows and shall have permanent effect, subject to future actions by the General Assembly:

Section 1. KRS 532.260 is amended to read as follows:

- (1) Any Class C or Class D felon who is serving a sentence in a state-operated prison, ***contract facility, or county jail*** shall, at the discretion of the commissioner, be eligible to serve the remainder of his or her sentence outside the walls of the detention facility under terms of home incarceration using an approved monitoring device as defined in KRS 532.200, if the felon:

- (a) 1. Has not been convicted of, pled guilty to, or entered an Alford plea to a violent felony as defined by the Department of Corrections classification system; or
  - 2. Has not been convicted of, pled guilty to, or entered an Alford plea to a sex crime as defined in KRS 17.500;
  - (b) Has **ninety (90)**~~sixty (60)~~ days or less to serve on his or her sentence;
  - (c) Has voluntarily participated in a discharge planning process with the department to address his or her:
    - 1. Education;
    - 2. Employment, technical, and vocational skills; and
    - 3. Housing, medical, and mental health needs; and
  - (d) Has needs that may be adequately met in the community where he or she will reside upon release.
- (2) A person who is placed under terms of home incarceration pursuant to subsection (1) of this section shall remain in the custody of the Department of Corrections. Any unauthorized departure from the terms of home incarceration may be prosecuted as an escape pursuant to KRS Chapter 520 and shall result in the person being returned to prison.
- (3) The Department of Corrections shall promulgate administrative regulations to implement the provisions of this section.

### PART XXIII

#### INSURANCE COVERAGE, AFFORDABILITY AND RELIEF TO SMALL EMPLOYERS (ICARE) PROGRAM

**Section 1.** As used in Sections 1 to 8 of this Part, unless the context requires otherwise:

(1) "Consumer-driven health plan" means a health benefit plan, including a high deductible health plan as defined in 26 U.S.C. sec. 223(c)(2)(A), or a health reimbursement arrangement that meets the requirements of Internal Revenue Code, Notice 2002-45, 2002-2 C.B. 93;

(2) "Eligible employer" or "employer" means an individual that employs two to 25 employees, a corporation, including a foreign corporation, other than a governmental entity, that employs one or more residents of the Commonwealth, or a corporation or an unincorporated entity that is exempt from taxation under the provisions of 26 U.S.C. sec. 501(c), as amended and in effect for the taxable year. An eligible employer must employ no more than 25 employees and meet the eligibility requirements set forth in administrative regulations promulgated by the office. The method of determining the number of employees an employer has and the amount and types of subsidies shall be determined by the office or a third-party administrator selected in accordance with Section 5 of this Part;

(3) "Eligible employee" or "employee" means an employee of an eligible employer whose business is located in the Commonwealth, who has not attained age 65 or is Medicare eligible, and who meets the financial and other eligibility standards set forth in administrative regulations promulgated by the office;

(4) "Health risk assessment" means an assessment to prevent or minimize risk factors for disease and maintain wellness;

(5) "High-cost condition" means a diagnosed specific list of conditions representing the top 20 high-cost conditions in the small group market;

(6) "ICARE Program participating insurer" means any insurer who offers a health benefit plan in the small group market;

(7) "Office" means the Office of Insurance; and

(8) "Qualified health benefit plan" means a health benefit plan as described in Section 3(2) of this Part.

**Section 2.** (1) There is hereby created and established, under the supervision of the Office of Insurance, the Insurance Coverage, Affordability and Relief to Small Employers (ICARE) Program, which is designed to make health insurance more affordable for small employer groups. The program shall be piloted for a four year period in the small group market and shall be limited to those employer groups with two to 25 employees, including small groups with two to 25 employees who are members of an employer-organized association.

(2) All insurers that issue health benefit plans to employers with two to 25 employees, including employers participating in an employer-organized association, as a condition of doing business in Kentucky, shall be deemed an ICARE Program participating insurer.

(3) The Office of Insurance may, subject to the provisions of this section, establish an employer health care incentive program for certain employers for the purpose of reducing the amount of contributions or payments made by those employers and employees toward the cost of qualified medical insurance and which shall consist of the following two programs:

(a) An employer health care incentive program for the purpose of reducing the cost to employers and employees for providing qualified health benefit plan coverage under Section 3(2)(a) or (b) of this Part for an eligible employer with low-income employees if the eligible employer pays 50 percent or more of the premium cost of that qualified health benefit plan coverage and meets the insurers participation requirements as allowed under KRS 304.17A-200(3). The office may limit premium payments or enrollment under this program, to the extent funding is available. The ICARE Program shall be available to employer groups that have not provided employer-sponsored health benefit plan coverage to their employees within the previous 12 months; and

(b) An employer health care incentive program for the purpose of reducing the cost to employers and employees for the purpose of obtaining or maintaining qualified health benefit plan coverage under Section 3(2)(a), (b), or (c) of this Part for an eligible employer and employees if the eligible employer pays 50 percent or more of the premium cost of that health benefit plan coverage and meets the insurers participation requirements as allowed under KRS 304.17A-200(3). The office may limit premium payments or enrollment under this program, to the extent funding is available. The ICARE Program shall be available to employer groups that have at least one employee with a high-cost condition. The office shall promulgate administrative regulations to establish a list of high-cost conditions for the ICARE Program.

(4) In order for an eligible employer to qualify for the ICARE Program, the average annual salary of the employer group shall not exceed 300 percent of the federal poverty level. This shall not include the annual salary of any person with an ownership interest in the employer group.

(5) The office shall promulgate administrative regulations to establish guidelines for determination of preference for employer groups based upon federal poverty level, eligibility criteria, health care incentive payment procedures, program participating insurer and employer reporting requirements, and administrative guidelines for the ICARE Program.

**Section 3.** (1) Sections 1 to 8 of this Part shall not apply to an insurer that provides coverage solely to Medicaid recipients, Medicare beneficiaries, CHAMPUS insureds, or self-insured groups.

(2) Each ICARE Program participating insurer shall offer at least three qualified health benefit plans to employers. A qualified health benefit plan shall be:

(a) A consumer-driven health benefit plan, including a health reimbursement arrangement or health savings account;

(b) A basic health benefit plan, as described in KRS 304.17A-096 and 304.17A-097; or

(c) An enriched health benefit plan.

(3) Each ICARE Program participating insurer shall offer at least one of each of the plans listed in subsection (2)(a), (b), or (c) of this section. These plans shall be subject to the provisions of KRS 304.17A-220.

(4) An ICARE Program participating insurer shall conduct a health risk assessment for each employee enrolled in the ICARE Program and offer a wellness program, case management services, and disease management services.

(5) On and after July 1, 2007, an insurer shall be required to offer a premium rate that includes a healthy lifestyle discount for employers participating in the ICARE Program.

(6) A separate class of business may be established for health benefit plan rate filings offered under the ICARE Program in accordance with KRS 304.17A-0952(8)(b).

**Section 4.** (1) The amount of health care incentive paid shall be as follows:

(a) Forty dollars per employee per month for eligible employers as defined in Section 2(3)(a) of this Part. The amount shall be reduced annually, at the time of renewal, in incremental rates of ten dollars; and

(b) Sixty dollars per employee per month for eligible employers as defined in Section 2(3)(b) of this Part. The amount shall be reduced annually, at the time of renewal, in incremental rates of \$15.

(2) The office may, in lieu of cash payments, issue to individuals vouchers or other documents certifying that the office will pay a specified amount for health benefit plan coverage under specified circumstances.

(3) Any allocated surplus remaining in the ICARE Program shall be carried forward to the next fiscal year and be used for the ICARE Program in subsequent years through the end of the pilot period as provided for under Section 2(1) of this Part.

(4) The office may limit enrollment for the ICARE Program so not to exceed annual program funding.

(5) A group shall be determined ineligible if the most recent coverage under any health benefit plan terminated or nonrenewed because of any of the following:

(a) The group failed to pay premiums or contributions in accordance with the terms of the plan or the insurer had not received timely premium payments;

(b) The group or any individual in the group performed an act or practice that constitutes fraud or made an intentional misrepresentation of material fact under the terms of the coverage; or

(c) The group or any individual engaged in intentional and abusive noncompliance with health benefit plan provisions.

**Section 5.** (1) The office may select a third-party administrator to administer the ICARE Program. The third-party administrator shall be an administrator licensed under this chapter by the office. The office shall consider criteria in selecting a third-party administrator that shall include but not be limited to the following:

(a) A third-party administrator's proven ability to demonstrate performance of the following: eligibility determinations, enrollment, payment issuance, reconciliation processes, and data collection and reporting;

(b) The total cost to administer the ICARE Program;

(c) A third-party administrator's proven ability to demonstrate that the ICARE Program be administered in a cost-efficient manner; and

(d) A third-party administrator's financial condition and stability.

(2) In addition to any duties and obligations set forth in the contract with the third-party administrator, the third-party administrator shall:

(a) Develop and establish policies and procedures for eligibility determinations, enrollment, payment issuance, reconciliation processes, data collection and reporting, and other responsibilities determined by the office;

(b) Submit reports to the office regarding the operation and financial condition of the ICARE Program. The frequency, content, and form of the reports shall be determined by the office; and

(c) Submit a monthly and annual report to the office. Both reports shall include:

1. Number of applicants;

2. Enrolled employer groups by insurance company;

3. Number of groups previously uninsured for a period of 12 months by insurance company;

4. Average premium per group by insurance company;

5. Number of groups eligible due to an individual with a high-cost condition by insurance company;

6. Total amount of health care incentive paid listed by insurance company; and

7. Any other information requested by the office.

(3) The third-party administrator shall be paid for necessary and reasonable expenses as provided in the contract between the office and the third-party administrator.

**Section 6.** (1) The office shall establish and maintain the ICARE Program fund. All funds shall be held at interest, in a single depository designated in accordance with KRS 304.8-090(1) under a written trust agreement in accordance with KRS 304.8-095. All expense and revenue transactions of the fund shall be posted to the Management Administrative Reporting System (MARS) and its successors; and

(2) The office shall work with the Office of Health Policy within the Cabinet for Health and Family Services to review the availability of federal funds for the ICARE Program.

**Section 7.** (1) The office may implement Sections 1 to 8 of this Part through arrangements with other agencies of the Commonwealth.

(2) The provisions of this section shall not give rise to, nor be construed as giving rise to, enforceable legal rights for any party or an enforceable entitlement to benefits other than to the extent that such rights or entitlements exist pursuant to the administrative regulations of the executive director of insurance.

**Section 8.** (1) Each insurer authorized to offer health benefit plans in the Commonwealth shall disclose the availability of the health insurance purchasing program as authorized in 42 U.S.C. sec. 1396e to eligible employer groups. In connection with the initial offering and renewal of any health benefit plan, an insurer shall make a disclosure as part of its solicitation, sales material, and renewal information of the availability of the ICARE Program;

(2) The manner and content of the disclosure as described in subsection (1) of this section shall be established through promulgation of administrative regulations by the Office of Insurance in coordination with the Cabinet for Health and Family Services.

**Section 9.** (1) All insurers as defined in KRS 304.17A-005(24) shall provide upon request to the Cabinet for Health and Family Services, by electronic means and in the format prescribed by the cabinet, information in accordance with KRS 205.623.

(2) All information obtained by the cabinet pursuant to this section shall be confidential and shall not be open to public inspection.

**Section 10.** Pursuant to terms and conditions of Subtitle 17A of KRS Chapter 304, the Commonwealth of Kentucky seeks to explore the feasibility of an Interstate Reciprocal Health Benefit Plan Compact (IRHBPC) with contiguous states to allow the residents of the Commonwealth of Kentucky and the residents of contiguous states to purchase health benefit plan coverage among the states participating with the compact. The purposes of this compact are, through means of joint and cooperative action among the compacting states:

(1) To promote and protect the interest of consumers purchasing health benefit plan coverage;

(2) To develop uniform minimum standards for health benefit plan products covered under the compact, while ensuring that the standards established in Kentucky law and regulation are maintained and protected;

(3) To improve coordination of regulatory resources and expertise between state insurance departments regarding the setting of uniform minimum standards; and

(4) To perform these and such other related functions as may be consistent with the state regulation of the business of insurance.

**Section 11.** (1) The Office of Insurance shall conduct a study to determine the impact on the insured of being billed by health care providers for the amount between the health care provider's regular charges and the amount that the health care provider has agreed to through a contractual relationship with an insurer. The report based on the study shall include:

(a) Statistical information related to the prevalence of inappropriate billing to insured, by region; and

(b) Recommendations to prevent inappropriate billing by health care providers.

(2) The Office of Insurance shall submit the report on the study no later than December 31, 2006, to the Interim Joint Committee on Banking and Insurance, the Interim Joint Committee on Health and Welfare, the Interim Joint Committee on Licensing and Occupations, and the Governor.

**Section 12.** Any insurer violating Section 9 of this Part shall be fined not less than one hundred dollars (\$100) for each offense. Failure to respond to each request made by the Cabinet for Health and Family Services, as required under Section 9 of this Part, shall constitute a separate offense.

**Section 13.** Notwithstanding KRS 304.17A.0952(8)(b), an insurer may establish a separate class of business to reflect substantial differences in expected claims experience or administrative cost because the insurer is offering a qualified health benefit plan under the ICARE Program pursuant to Section 3(3) of this Part.

**Section 14.** Notwithstanding KRS 216.2921(1), the Cabinet for Health and Family Services shall make every effort to make health data findings that can serve as a basis to educate consumers on the cost and quality of health care and providers for the purpose of improving patient morbidity and mortality outcomes available to the public, and state and local leaders in health policy, through the cost-effective and timely use of the media and the Internet and through distribution of the findings to health facilities and health-care providers for further dissemination to their patients.

**Section 15.** Notwithstanding KRS 216.2923(2)(a), for the purposes of carrying out the provisions of KRS 216.2920 to 216.2929, the Secretary of the Cabinet for Health and Family Services shall publish and make publicly available, pursuant to Section 18 of this Part, information on charges, quality, and outcomes of health care services provided, and information that relates to the health care financing and delivery system and health insurance premiums and benefits that is in the public interest.

Notwithstanding KRS 216.2923(2)(f), the cabinet advisory committee shall utilize the Health Services Data Advisory Committee as a subcommittee, which shall include a member of the Division of Women's Physical and Mental Health, to define quality outcome measurements and to advise the cabinet on technical matters including review of administrative regulations promulgated pursuant to KRS Chapter 13A, proper interpretation of the data, and the most cost-effective manner in which it should be published and disseminated to the public. The Health Services Data Advisory Committee shall review and make recommendations to the secretary's advisory committee regarding exploration of technical matters related to data from other health care providers. The committee shall make recommendations on methods for risk adjusting any data prepared and published by the cabinet.

**Section 16.** Notwithstanding KRS 216.2925(1), every hospital and ambulatory facility shall be required to report, on a quarterly basis, information regarding the charge for, quality, and outcomes of the procedures and health-care services performed therein, and as stipulated by administrative regulations promulgated pursuant to KRS Chapter 13A. The cabinet shall accept data which, at the option of the provider is submitted through a third party, including but not limited to organizations involved in the processing of claims for payment, so long as the data elements conform to the requirements established by the cabinet. On at least a biennial basis, the cabinet shall conduct a statistical survey that addresses the status of women's health, specifically including data on patient age, ethnicity, geographic region, and payor sources. The cabinet shall rely on data from readily available reports and statistics whenever possible.

Notwithstanding KRS 216.2925(2), the cabinet shall require for quarterly submission to the cabinet by any group of providers, except for physicians providing services or dispensaries, first aid stations, or clinics located within business or industrial establishments maintained solely for the use of their employees, including those categories within the definition of provider contained in KRS 216.2920 and any further categories determined by the cabinet, as provided by cabinet promulgation of administrative regulations pursuant to KRS Chapter 13A, the following:

- (a) A list of medical conditions, health services, and procedures for which data on charge, quality, and outcomes shall be collected and published;
- (b) A timetable for filing the information provided for under paragraph (a) above on a quarterly basis;
- (c) A list of data elements that are necessary to enable the cabinet to analyze and disseminate risk-adjusted charge, quality, and outcome information, including mortality and morbidity data;
- (d) An acceptable format for data submission which shall include use of the uniform:
  - 1. Health claim form pursuant to KRS 304.14-135 or any other universal health claim form to be determined by the cabinet, if in the form of hard copy; or
  - 2. Electronic submission formats as required under the federal Health Insurance Portability and Accountability Act of 1996, 42 U.S.C. Chapter 6A, sec. 300gg et seq., in the form of magnetic computer tape, computer diskettes, or other electronic media through an electronic network;
- (e) Procedures to allow health-care providers at least thirty (30) days to review information generated from any data required to be submitted by them, with any reports generated by the cabinet to reflect valid corrections by the provider before the information is released to the public; and
- (f) Procedures pertaining to the confidentiality of data collected.

Notwithstanding KRS 216.2925(3), the data-gathering activities of the cabinet shall be coordinated with and not duplicative of other data-collection activities conducted by the Office of Insurance, as well as other state and national agencies and organizations that collect the same or substantially similar health-related service, utilization,



quality, outcome, financial, or health-care personnel data, and shall review all administrative regulations promulgated pursuant to KRS 216.2920 to 216.2929 to prevent duplicate filing requirements. The cabinet shall periodically review the use of all data collected under KRS 216.2920 to 216.2929 to assure its use is consistent with legislative intent.

Notwithstanding KRS 216.2925(4), the cabinet shall conduct outcome analyses and effectiveness studies and prepare other reports pertaining to issues involving health-care charges and quality.

Notwithstanding KRS 216.2925(7), the Cabinet for Health and Family Services shall collect all data elements under this section using only the uniform health insurance claim form pursuant to KRS 304.14-135, the Professional 837 (ASC X12N 837) format or its successor as adopted by the Centers for Medicare and Medicaid Services, or the Institutional 837 (ASC X12N 837) format or its successor as adopted by the Centers for Medicare and Medicaid Services.

**Section 17.** Notwithstanding KRS 216.2927(3), no less than 60 days after reports are published and except as otherwise provided, the Cabinet for Health and Family Services shall make all aggregate data which does not allow disclosure of the identity of any individual patient, and which was obtained for the annual period covered by the reports, available to the public. The Health Services Data Advisory Committee shall review at least annually current protocols related to the release of data referenced in this section and shall make recommendations to the cabinet advisory committee referenced in KRS 216.2923. Persons or organizations requesting use of these data shall agree to abide by a public use data agreement and by HIPAA privacy rules referenced in 45 C.F.R. 164. The public use data agreement shall include at a minimum:

- (a) A prohibition against the sale or further release of data; and
- (b) Guidelines for the use and analysis of the data released to the public related to provider quality, outcomes, or charges.

Notwithstanding KRS 216.2925(3), the cabinet may impose a fee for providing electronic or multiple printed copies of the data.

**Section 18.** Notwithstanding KRS 216.2929(1), the Cabinet for Health and Family Services shall make available on its Web site information on charges for health care services, which is updated at least annually, in understandable language with sufficient explanation to allow consumers to draw meaningful comparisons between every hospital and ambulatory facility in the Commonwealth, and other provider groups as relevant data become available. Any charge information compiled and reported by the cabinet shall include the median charge and other percentiles to describe the typical charges for all of the patients treated by a provider and the total number of patients represented by the charges, and shall be risk adjusted according to the recommendations of the Health Data Advisory Committee. The report shall clearly identify the sources of data used in the report and explain limitations of the data and why differences between provider charges may be misleading. Every provider that is specifically identified in any report shall be given 30 days to verify the accuracy of its data prior to public release and shall be afforded the opportunity to submit comments on its data that shall be included on the Web site and as part of any printed report of the data. The cabinet shall only provide linkages to organizations that publicly report comparative charge data for Kentucky providers using data for all patients treated regardless of payor source, which may be adjusted for outliers, is risk adjusted, and permits identified providers the opportunity to comment on their data and includes such comments on the Web site and as part of any printed report of the data.

The Cabinet for Health and Family Services shall make information available on its Web site, describing quality and outcome measures, in understandable language with sufficient explanation to allow consumers to draw meaningful comparison between every hospital and ambulatory facility in the Commonwealth, and other provider groups as relevant data become available.

(a) The cabinet shall utilize only national quality indicators that have been endorsed and adopted by the Agency for Healthcare Research and Quality, the National Quality Forum, or the United States Centers for Medicare and Medicaid Services, or shall provide linkages only to the following organizations that publicly report quality and outcome measures on Kentucky providers:

1. The United States Centers for Medicare and Medicaid Services;
2. The Agency for Healthcare Research and Quality;
3. The Joint Commission on the Accreditation of Health Care Organizations; and

4. Other organizations that publicly report relevant outcome data for Kentucky health care providers, as determined by the Health Services Data Advisory Committee.

(b) The cabinet shall utilize or refer the general public to only those nationally endorsed quality indicators that:

1. Are based upon current scientific evidence or relevant national professional consensus; and
2. Have definitions and calculation methods openly available to the general public at no charge.

Any report the cabinet disseminates or refers the public to shall:

(a) Not include data for a provider whose caseload of patients is insufficient to make the data a reliable indicator of the provider's performance;

(b) Afford providers specifically identified in the report 30 days to verify the accuracy of their data prior to the data's public release and the opportunity to submit comments on their data, which shall be included on the Web site and as part of any printed report of the data;

(c) Clearly identify the sources of data used in the report and explain the analytical methods used in preparing the data included in the report; and

(d) Explain any limitations of the data and how the data should be used by consumers.

**Section 19.** Notwithstanding KRS 304.17A-700, as used in KRS 304.17A-700 to 304.17A-730 and KRS 205.593, 304.14-135, and 304.99-123, "health care provider" or "provider" means a provider licensed in Kentucky as defined in KRS 304.17A-005 and, for the purposes of KRS 304.17A-700 to 304.17A-730 and KRS 205.593, 304.14-135, and 304.99-123 only, shall include physical therapists licensed under KRS Chapter 327, psychologists licensed under KRS Chapter 319, social workers licensed under KRS Chapter 335, and durable medical equipment dealers holding an active Medicare DME provider number. Nothing contained in KRS 304.17A-700 to 304.17A-730 and KRS 205.593, 304.14-135, and 304.99-123 shall be construed to include physical therapists, psychologists, social workers, and durable medical equipment dealers holding an active Medicare DME provider number as a health care provider or provider under KRS 304.17A-005.

**Section 20.** Notwithstanding KRS 304.17A-704, within five business days from the time of acknowledgment under KRS 304.17A.704(1)(a), an insurer, its agent, or designee shall notify the provider, its billing agent, or designee that submitted the claim electronically, of all information that is missing from the billing instrument, of any errors in the billing instrument, or of any other circumstances which preclude it from being a clean claim.

Notwithstanding KRS 304.17A-704(2), at the time of acknowledgment under paragraph (b) of KRS 304.17A-704(1), an insurer, its agent, or designee, shall notify the provider, its billing agent, or designee that submitted the claim, in writing, of all information that is missing from the billing instrument, any errors in the billing instrument, or of any other circumstances which preclude it from being a clean claim.

**Section 21.** Notwithstanding KRS 304.17A-730(1), an insurer that fails to pay, deny, or settle a clean claim in accordance with KRS 304.17A-700 to 304.17A-730 and KRS 205.593, 304.14-135, and 304.99-123 shall pay interest according to the following schedule on the amount of the claim that remains unpaid:

(a) For claims that are paid between one and 30 days from the date that payment was due under KRS 304.17A-702, interest at a rate of 12 percent per annum shall accrue from the date payment was due under KRS 304.17A-702; and

(b) For claims that are paid more than 31 days from the date that payment was due under KRS 304.17A-702, interest at a rate of 14 percent per annum shall accrue from the date payment was due under KRS 304.17A-702.

**Section 22.** Sections 1 to 8 of this Part take effect January 1, 2007.

## PART XXIV

### PHARMACY SCHOLARSHIP PROGRAM

Notwithstanding KRS 48.310, the following statute is created to read as follows and shall have permanent effect, subject to future actions by the General Assembly:

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

(1) *It is the intent of the General Assembly to establish a scholarship program to provide eligible Kentucky students the opportunity to attend an accredited school of pharmacy at a private four (4) year institution of*

*higher education with a main campus located in an Appalachian Regional Commission county in the Commonwealth and become certified pharmacists in the Commonwealth.*

- (2) *The Kentucky Higher Education Assistance Authority may award scholarships, to the extent funds are available for that purpose, to persons who declare an intent to enroll in a Pharm.D. program at an institution in the Commonwealth and practice in the Commonwealth and who are eligible under subsection (3) of this section.*
- (3) *The authority may award scholarships to students who meet the following criteria:*

  - (a) *Kentucky residents who are United States citizens as determined by the institution in accordance with criteria established by the Council on Postsecondary Education for the purposes of admission and tuition assessment;*
  - (b) *Students who are enrolled or accepted for enrollment in an eligible program of study, on a full-time basis, or eligible students who have a disability defined by Title II of the Americans with Disabilities Act, 42 U.S.C. secs. 12131 et seq., certified by a licensed physician to be unable to attend the eligible program of study full-time because of the disability;*
  - (c) *Students who agree to render one (1) year of qualified service in the Commonwealth for each year the scholarship was awarded. "Qualified service" means a full-time practice in the Commonwealth of Kentucky as a licensed pharmacist for a majority of the calendar year, except that an individual having a disability defined by Title II of the Americans with Disabilities Act, 42 U.S.C. secs. 12131 et seq., whose disability, certified by another licensed physician, prevents him or her from practicing full-time, shall be deemed to perform qualified service by practicing the maximum time permitted by the attending physician; and*
  - (d) *Students who sign a promissory note as evidence of the scholarship awarded and the obligation to repay the scholarship amount or render medical service as agreed in lieu of payment.*
- (4) *The amount of the scholarship awarded to an eligible student by the authority shall be equal to the difference between:*

  - (a) *The amount charged for in-state tuition at the University of Kentucky College of Pharmacy; and*
  - (b) *The prevailing amount charged for tuition at the institution in which the student is enrolled.*
- (5) *The authority shall require a promissory note to be executed by the student as evidence of the obligation. The recipient shall render one (1) year of qualified service for each year the scholarship was awarded. Upon completion of each year of qualified service, the authority shall cancel the appropriate number of promissory notes. Promissory notes shall be canceled by qualified service in the order in which the promissory notes were executed. Service credit shall not include residency service. In the event a recipient fails to complete an eligible program of study, or fails to render service as a pharmacist as agreed in subsection (3) of this section, the recipient shall be liable for the total repayment of the sum of all outstanding promissory notes and accrued interest.*
- (6) *A scholarship shall not be awarded or a promissory note cancellation shall not be granted to any person who is in default on any obligation to the authority under any program administered by the authority under KRS 164.740 to 164.785 until financial obligations to the authority are satisfied, except that ineligibility for this reason may be waived by the authority for cause.*
- (7) *A repayment obligation imposed by this section shall not be voidable by reason of the age of the recipient at the time of executing the promissory note.*
- (8) *Failure to meet repayment obligations imposed by this section shall be cause for the revocation of the scholarship recipient's license to practice pharmacy, subject to the procedures set forth in KRS Chapter 311.*
- (9) *Notwithstanding KRS 164.753(3), the authority shall establish by administrative regulation procedures or the terms of promissory notes from the administration of this program, including the execution of appropriate contracts and promissory notes, cancellation of the obligation, the rate of repayment and deferment of repayment of outstanding debt, and the priority of awarding scholarships if funds are insufficient to honor all requests.*

- (10) *Notwithstanding any other statute to the contrary, the maximum interest rate applicable to repayment of a promissory note under this section shall be twelve percent (12%) per annum, except that if a judgment is rendered to recover payment, the judgment shall bear interest at the rate of five percent (5%) greater than the rate actually charged on the promissory note.*
- (11) (a) *The Pharmacy Scholarship Program is hereby created as a special trust fund in the State Treasury administered by the Kentucky Higher Education Assistance Authority for the purpose of providing funds for scholarships to eligible students studying pharmacy in schools in the Commonwealth.*
- (b) *Funding shall be transferred to the special trust fund from the coal severance tax revenue levied under KRS 143.020 in an amount that permits each Kentucky resident eligible under subsection (3) of this section to be awarded a scholarship in the amount established under subsection (4) of this section. No more than four percent (4%) of the coal severance tax revenues levied under KRS 143.020 and collected annually shall be transferred to the trust fund. To the extent this appropriation and other funds are available, the authority shall award scholarships to all renewal applicants and eligible students in accordance with the formula for determining the amount of the scholarship award established in this section.*
- (c) *The trust fund may also receive state appropriations, gifts, and grants from public and private sources, and federal funds. Any unallotted or unencumbered balances in the trust fund shall be invested as provided in KRS 42.500(9). Income earned from the investments shall be credited to the trust fund. Any fund balance at the close of the fiscal year shall not lapse but shall be carried forward to the next fiscal year and continuously appropriated only for the purposes specified in this section. A general statement that all continuing appropriations are repealed, discontinued, or suspended shall not operate to repeal, discontinue, or suspend this fund or to repeal this action.*
- (d) *All moneys repaid to the authority under this section shall be added to the appropriations made for purposes of this section, and the funds and unobligated appropriations shall not lapse.*
- (12) *On or before August 1 of each year, sixty-five percent (65%) of the amount of funding provided in subsection (11)(b) of this section shall be transferred to the special trust fund, and the remaining thirty-five percent (35%) shall be transferred on or before December 1 of each year. The revenue transfers shall be based upon the revenue estimates prevailing at the time each transfer is due.*
- (13) *The calculation and transfer of funds under subsection (11) of this section shall be made only after the quarterly installment of the annual nineteen million dollars (\$19,000,000) allocation of coal severance tax revenues has been credited to the benefit reserve fund within the Workers' Compensation Funding Commission as required by KRS 342.122.*

## PART XXV

### BLOCK GRANTS

Notwithstanding KRS 48.310, the following statute is amended to read as follows and shall have permanent effect, subject to future actions by the General Assembly:

Section 1. KRS 45.3511 is amended to read as follows:

- (1) State administering agencies shall not have continuation block grant application requests. Each application for a block grant shall be deemed a new application.
- (2) No state administering agency shall receive or expend any block grant or other funds included in a block grant application to a federal administering agency, which has not previously been specifically approved as a block grant by the General Assembly in the biennial budget process as having complied with the criteria specified in KRS 45.353, unless the application is found to be in compliance with the standards and criteria as prescribed in KRS 45.353, as well as the applicable federal and state laws.
- (3) *If a county contains no incorporated area, that county shall be permitted to submit two (2) applications per year, one (1) as a county and one (1) as a city, for any block grant program or any category of a block grant program that provides funding on a competitive basis.*

## PART XXVI

### AMUSEMENT RIDES AND ATTRACTIONS

Notwithstanding KRS 48.310, the following statutes are amended to read as follows and shall have permanent effect, subject to future actions by the General Assembly:

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

As used in KRS 247.232 to 247.236:

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

Section 2. KRS 247.234 is amended to read as follows:

- (1) No amusement ride or attraction shall be operated in this state without a permit of operation issued by the Commissioner to the owner of the equipment. The permit shall be kept on site and viewable upon request.
- (2) (a) The permit of operation required by this section shall be valid for a period of one (1) year and shall be issued in accordance with administrative regulations promulgated by the Commissioner;
- (b) A permit shall be issued to each owner to operate any amusement ride or attraction in this state. **An inspection fee, which shall be determined by administrative regulations promulgated by the Commissioner,**~~[A fee of fifty dollars (\$50)]~~ shall be levied for each amusement ride or attraction. **The fee shall be based on the complexity of the ride or attraction and shall not be less than ten dollars (\$10) nor more than five hundred dollars (\$500). The cost of all inspections shall be paid by the owner of the amusement ride or attraction and may be prepaid, but shall be paid no later than the day of the inspection;**
- (c) The applicant shall furnish proof of liability insurance in effect on the operation of each amusement ride or attraction providing coverage, with an insurer authorized to issue a policy in this state, in the amount of **not less than five hundred thousand dollars (\$500,000)**~~[three hundred thousand dollars (\$300,000)]~~ due to all bodily injuries or deaths per occurrence, or in lieu thereof, if the applicant's amusement ride or amusement attraction is one that is permanently located or erected on a site in this state, the applicant shall be required only to provide proof of ~~liability insurance in the sum of one hundred thousand dollars (\$100,000) or proof of~~ financial responsibility in the sum of **five hundred thousand dollars (\$500,000)**~~[one hundred thousand dollars (\$100,000)]~~. Every insurance carrier of these policies shall notify the Commissioner at least thirty (30) days prior to cancellation of a policy for mobile amusement rides or attractions and at least ten (10) days prior to cancellation of a policy for permanent amusement rides or attractions. In addition to proof of adequate insurance coverage, the applicant shall furnish any other information the Commissioner may require, including, but not limited to, written notice of each intended operating site to be received by the Commissioner at least fourteen (14) days prior to operation at that site. In cases of emergency, notice of a change in future plans may be given to the Commissioner by telephone. Insurance requirements for amusement rides and attractions operated at the Kentucky

State Fair may be adjusted by the Commissioner to any amount reasonably necessary to ensure adequate coverage;

- (d) The Commissioner shall provide for an inspection of each amusement ride or attraction before it may be operated in this state. The Commissioner shall designate persons qualified by education or experience, who are capable of determining amusement safety in accordance with administrative regulations promulgated in accordance with KRS 247.232 to 247.236, as amusement safety inspectors; and
  - (e) A Kentucky inspection seal shall be affixed to every individual amusement ride or attraction, or other location as determined by the Commissioner, before it may be operated in this state.
- (3) (a) In addition to a mandatory initial inspection, required in subsection (2)(d) of this section, the Commissioner may inspect amusement rides and attractions without notice at any time while operating in this state. There will be no charge for additional inspections in which safety violations are not found. In regard to situations in which safety violations are found, the Commissioner may charge an inspection fee not to exceed five hundred dollars (\$500) for any future inspection necessary. The corrections of these safety violations shall comply with accepted standards of safety, and shall be accomplished prior to operating the equipment in this state;
- (b) In regard to situations in which safety violations are found that cannot be corrected immediately, the amusement ride or attraction shall cease to operate in this state by order of the amusement safety inspector. In addition, the amusement safety inspector shall conspicuously post a public notice on or near the amusement ride or attraction. The notice shall adequately inform the public of the safety violation present. Only an amusement safety inspector employed by the department may remove the public notice;
- (c) Any owner who continues to operate an amusement ride or attraction after an order to cease operation has been issued shall have his permit of operation revoked and may be subject to further penalties provided in KRS 247.990 and this section. In addition, the county attorney of each county and the Commissioner of Agriculture or his agents are hereby authorized to seek an injunction against the owner or operator of any amusement ride or attraction being operated in violation of KRS 247.232 to 247.236; and
- (d) Revenue generated by this section shall be used for the implementation and administration of KRS 247.232 to 247.236; the balance, if any, shall *not lapse but shall be carried forward to the next fiscal year* ~~be paid into the general fund of this state~~.

Section 3. Sections 1 and 2 of this Part take effect January 1, 2007.

## PART XXVII

### JUDICIAL BRANCH CAPITAL PROJECTS BUDGET

#### 1. Local Facilities Projects

##### a. Authorized Local Facilities Projects and Deferred Use Allowance

Rank	Project	Project Scope	Maximum	Total Funds
			Annualized	
			Use Allowance	
001.	Campbell	29,284,000	2,621,000	4,886,000
002.	Wolfe	11,395,000	1,020,000	1,772,000
003.	Todd	9,537,000	854,000	1,469,000
004.	Garrard	11,598,000	1,038,000	1,793,000
005.	Franklin	29,114,000	2,606,000	4,701,000
006.	Hancock	11,715,000	1,049,000	1,793,000
007.	Mercer	11,963,000	1,071,000	1,929,000
008.	Russell	11,720,000	1,049,000	1,813,000

009.	Hopkins	20,492,000	1,834,000	3,305,000
010.	Owen	11,471,000	1,027,000	1,791,000
011.	Breckinridge	11,481,000	1,027,600	1,756,000
012.	Fleming	11,536,000	1,033,000	1,778,000
013.	Whitley	18,901,000	1,692,000	2,953,000
014.	Monroe	11,207,000	1,003,000	1,710,000
015.	Rowan	13,044,000	1,168,000	2,024,000
016.	Pike	28,413,000	2,545,000	4,606,000
017.	Marion	11,781,000	1,055,000	1,821,000

(1) **Deferred Funding:** General Fund support to provide operating support totaling \$4,927,300, annualized use allowance payments totaling \$23,692,600, and non-recurring furniture and equipment costs totaling \$15,560,000, less offsetting payments made for existing facilities totaling \$2,279,600, for the above local facilities projects is deferred to the 2008-2010 fiscal biennium pending action of the 2008 General Assembly.

## 2. Local Facility Project – Additional Scope

a.	Pendleton – Additional Scope	8,010,100	-0-
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## 3. Bond Refinancings

Any savings realized from bonds refinanced after November 1, 2005, associated with a court facility constructed or renovated after July 1, 1994, shall be shared by the local unit of government and the Court of Justice based on the proportional share of the original project costs borne by the local unit of government and the Court of Justice. The length of the term of the refinancing shall not extend beyond the original maturity date of the prior bonds.

The local unit of government may use the savings to make needed improvements to the court facility, if the annual lease payment of the state is not increased as a result of the refinancing. Improvements may consist of but are not limited to holding cells, additional parking, removing physical barriers in order to comply with the American Disabilities Act requirements, space additions for the holding of family court, and other needed improvements as determined by the local unit of government after consulting with the Administrative Office of the Courts.

~~[Any debt obligations issued by or on behalf of a unit of government to finance a court facility leased to the Administrative Office of the Courts shall be publicly bid by the owner of the court facility in accordance with KRS 66.141.] (Veto #28)~~

## PART XXVIII

### OMNIBUS ASSISTANCE TO VETERANS AND MILITARY FAMILIES

Notwithstanding KRS 48.310, the following statutes are created or amended to read as follows and shall have permanent effect, subject to future actions by the General Assembly:

SECTION 1. A NEW SECTION OF KRS CHAPTER 36 IS CREATED TO READ AS FOLLOWS:

- (1) *The military family assistance trust fund is created as a separate revolving fund. The trust fund shall consist of grants, contributions, appropriations, or other moneys made available for the purpose of the trust fund.*
- (2) *Trust fund amounts not expended at the close of a fiscal year shall not lapse but shall be carried forward to the next fiscal year.*
- (3) *Any interest earnings of the trust fund shall become a part of the trust fund and shall not lapse.*

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

- (1) (a) *The Military Family Assistance Trust Fund Board is hereby created for the purpose of administering the trust fund created under Section 1 of this Part. The board shall be attached to the Department of Military Affairs for administrative purposes. The board shall be composed of six (6) members as follows:*

1. *Three (3) members, expert in military family matters, appointed by the Governor;*
  2. *One (1) member, expert in military family matters, appointed by the President of the Senate;*
  3. *One (1) member, expert in military family matters, appointed by the Speaker of the House of Representatives; and*
  4. *The adjutant general who shall serve as a nonvoting member.*
- (b) *Appointments referred to in paragraph (a) of this subsection shall be made within sixty (60) days of the effective date of this Act.*
- (2) *The adjutant general, or a majority of the board members, shall arrange for the first board meeting as soon as possible after all board members are appointed, but no later than June 15, 2006.*
  - (3) *Appointed board members shall serve without compensation but may receive reimbursement for their actual and necessary expenses incurred in the performance of their duties.*
  - (4) *The term of each appointed member shall be four (4) years.*
  - (5) *An appointed member whose term has expired may continue to serve until a successor is appointed and qualifies. A member who is appointed to an unexpired term shall serve the rest of the term and until a successor is appointed and qualifies. A member may serve two (2) consecutive four (4) year terms and shall not be reappointed for four (4) years after the completion of those terms.*
  - (6) *A majority of the full membership of the board shall constitute a quorum.*
  - (7) (a) *Except as provided in paragraph (b) of this subsection, at the first meeting, the board shall elect, by majority vote, a president who shall preside at all meetings and coordinate the functions and activities of the board. The president shall be elected or reelected each calendar year thereafter.*  
 (b) *The adjutant general shall not serve as the president of the board.*
  - (8) *The board shall meet at least two (2) times annually but may meet more frequently, as deemed necessary, subject to call by the president or by request of a majority of the board members.*

SECTION 3. A NEW SECTION OF KRS CHAPTER 36 IS CREATED TO READ AS FOLLOWS:

- (1) *During active duty of a regular member of the United States Armed Forces deployed outside the United States who names Kentucky as Home of Record for military purposes, or any federal active duty of a member of a state National Guard or a Reserve component, who names Kentucky as Home of Record for military purposes, and for ninety (90) days following the end of deployment outside the United States or deactivation, as appropriate, trust fund moneys shall be used to support:*
  - (a) *The person who names Kentucky Home of Record for military purposes;*
  - (b) *The person's Kentucky resident spouse; and*
  - (c) *The person's dependent or dependents.*
- (2) *An application for a trust fund grant may be filed by the member who names Kentucky as Home of Record for military purposes or his or her Kentucky resident spouse. The application shall be accompanied by an appropriate authorization to access personnel information contained in the military database Defense Enrollment Reporting System (DEERS) for verification purposes.*
- (3) *Subject to the availability of trust fund moneys, the adjutant general shall award a grant to an applicant if that person's application is need-based, and the amount of the grant does not exceed the dollar cap established by the board through the promulgation of administrative regulations. An application shall be need-based if:*
  - (a) *Funds are requested for necessary expenses incurred, or to be incurred. Necessary expenses shall include but not be limited to:*
    1. *Housing;*
    2. *Utilities;*
    3. *Groceries;*
    4. *Health insurance copay; and*



5. *Child care;*
  - (b) *The necessary expenses created, or will create, an undue hardship on a person referred to in subsection (1) of this section;*
  - (c) *The undue hardship is directly related to the member's deployment outside the United States or federal active duty, as appropriate;*
  - (d) *The applicant does not have reasonable access to any other funding source, whether public or private; and*
  - (e) *The military family assistance trust fund is the last resort.*
- (4) (a) *The adjutant general shall award or decline to award a grant within sixty (60) days of receiving an application.*
  - (b) *If the adjutant general awards or declines to award a grant, he or she shall state in writing the reason for the decision and keep the writing on file.*
  - (c) *If the adjutant general declines to award a grant, he or she shall provide the applicant with a copy of the writing referred to in paragraph (b) of this subsection. In addition, if the adjutant general declines to award a grant due to the availability of public or private funds, the adjutant general shall identify the source of available funds for the applicant and provide assistance with regard to seeking funds from that source.*
- (5) *No later than August 15, 2006, the Military Family Assistance Trust Fund Board shall promulgate emergency administrative regulations to carry out the provisions of this section. These emergency regulations shall, at a minimum, enhance administrative efficiency and limit the dollar amount that a person may receive in grants per twelve (12) month period.*

SECTION 4. A NEW SECTION OF KRS CHAPTER 36 IS CREATED TO READ AS FOLLOWS:

*Each year between August 15 and September 1, the Military Family Assistance Trust Fund Board shall provide a written report to the Governor, the Legislative Research Commission, and the Interim Joint Committee on Seniors, Veterans, Military Affairs, and Public Protection. The written report shall provide:*

- (1) *The board's activities during the previous fiscal year;*
- (2) *What moneys were spent out of the military family assistance trust fund for what purposes;*
- (3) *The amount of money left in the fund; and*
- (4) *Any recommendations for future initiatives with regard to the trust fund and its administration.*

SECTION 5. A NEW SECTION OF KRS CHAPTER 36 IS CREATED TO READ AS FOLLOWS:

- (1) *The Department of Military Affairs shall establish a Mission: Welcome Home Program to ensure that a supportive community shall meet every member of a state National Guard, who names Kentucky as Home of Record for military purposes, returning from federal active duty.*
- (2) *The department shall employ any appropriate means to carry out Mission: Welcome Home, including but not limited to:*
  - (a) *Providing every returning member of a state National Guard, who names Kentucky as Home of Record for military purposes, with a Mission: Welcome Home packet that states what will be done to help the member as he or she rejoins his or her Kentucky life;*
  - (b) *Identifying a veteran who will serve as the contact for the returning member and his or her family with regard to Mission: Welcome Home and other benefits and services; and*
  - (c) *Identifying National Guard members, veterans, civilians, businesses, and community organizations willing to provide hands-on assistance to the returning member and his or her family with regard to establishing or reestablishing a career and reentering civilian life.*

SECTION 6. A NEW SECTION OF KRS CHAPTER 36 IS CREATED TO READ AS FOLLOWS:

- (1) *The Kentucky Department of Military Affairs shall establish procedures to assist the spouses of military personnel acquiring and obtaining professional and occupational licenses, certificates, registrations,*

*permits, or other credentials. A person shall be eligible for assistance under this section if he or she is the spouse of a member of the United States Armed Forces, including a member of a state's National Guard or Reserve on federal active duty who moves into Kentucky when the member of the United States Armed Forces is reassigned by the military. The department shall:*

- (a) Establish a process by which the department shall verify whether or not the military spouse has relocated because of the reassignment of his or her spouse by the military;*
  - (b) Work directly with other states, testing providers, and organizations issuing credentials to accelerate the application process for obtaining state licenses, certifications, registrations, or permits. To fulfill this directive, the department shall seek input from and disseminate information to state agencies and credentialing boards on ways to accelerate the process by which eligible military spouses moving into the Commonwealth may obtain the credentials required for occupational and professional credentialing as expeditiously as possible; and*
  - (c) Coordinate the activities of other state agencies and credentialing boards to establish a clearinghouse by which information on obtaining licenses, certificates, registration, and permits may be accessed. In coordinating the information, the department shall compile information from other state agencies and credentialing boards on the occupations and professions requiring a state permit, registration, certification, license, or other qualifying document and the name, telephone number, and address of a contact person for each such occupation or profession.*
- (2) Any state agency or credentialing board issuing permits, registrations, certificates, or licenses that are a prerequisite to a person engaging in an occupation or profession shall assist the Kentucky Department of Military Affairs in expediting the application process for such permits, registrations, certificates, or licenses for military spouses who come into Kentucky because their spouses are reassigned by the military.*
  - (3) The department shall prepare and issue an annual report on its activities in meeting the directives of this section by June 1 of each year. A copy of the report shall be submitted to the Interim Joint Committee on Licensing and Occupations and the Interim Joint Committee on Seniors, Veterans, Military Affairs, and Public Protection.*

Section 7. KRS 198A.040 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 this chapter including, but without limiting the generality of the foregoing, the power:

- (1) To make or participate in the making of insured construction loans to sponsors of land development or residential housing; provided, however, that such loans shall be made only upon the determination by the corporation that construction loans have been refused in writing, wholly or in part, from private lenders in the Commonwealth of Kentucky upon reasonably equivalent terms and conditions;
- (2) To make or participate in the making of insured mortgage loans to sponsors of residential housing; provided, however, that such loans shall be made only upon the determination by the corporation that mortgage loans have been refused in writing, wholly or in part, from private lenders in the Commonwealth of Kentucky upon reasonably equivalent terms and conditions;
- (3) To purchase or participate in the purchase of insured mortgage loans made to sponsors of residential housing or to persons of lower and moderate income for residential housing; provided, however, that any such purchase shall be made only upon the determination by the corporation that mortgage loans have been refused in writing, wholly or in part, from private lenders in the Commonwealth of Kentucky upon reasonably equivalent terms and conditions;
- (4) To make temporary loans from the housing development fund;
- (5) 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;
- (6) To acquire real property, or any interest therein, by purchase, foreclosure, lease, sublease, or otherwise; to own, manage, operate, hold, clear, improve, and rehabilitate such real property; and to sell, assign, exchange, transfer, convey, lease, mortgage, or otherwise dispose of or encumber such real property where such use of real property is necessary or appropriate to the purpose of the Kentucky Housing Corporation;
- (7) To sell, at public or private sale, all or any part of any mortgage or other instrument or document securing a construction, land development, mortgage, or temporary loan of any type permitted by this chapter;

- (8) To procure insurance against any loss in connection with its operations in such amounts, and from such insurers, as it may deem necessary or desirable;
- (9) To consent, whenever it deems it necessary or desirable in the fulfillment of its corporate purposes, to the modification of the rate of interest, time of payment of any installment of principal or interest, or any other terms of any mortgage loan, mortgage loan commitment, construction loan, temporary loan, contract, or agreement of any kind to which the corporation is a party;
- (10) To acquire, establish, operate, lease, and sublease residential housing for persons and families of lower and moderate income and to enter into agreements or other transactions with any federal, state, or local governmental agency for the purpose of providing adequate living quarters for such persons and families in cities and counties where a need has been found for such housing and where no local housing authorities or other organizations exist to fill such need;
- (11) To include in any borrowing such amounts as may be deemed necessary by the corporation to pay financing charges, interest on the obligations for a period not exceeding two (2) years from their date, consultant, advisory, and legal fees and such other expenses as are necessary or incident to such borrowing;
- (12) To make and publish rules and regulations respecting its lending programs and such other rules and regulations as are necessary to effectuate its corporate purposes;
- (13) To provide technical and advisory services to sponsors of residential housing and to residents and potential residents thereof, including but not limited to, housing selection and purchase procedures, family budgeting, property use and maintenance, household management, and utilization of community resources;
- (14) To promote research and development in scientific methods of constructing low cost residential housing of high durability;
- (15) To encourage community organizations to participate in residential housing development;
- (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 this chapter;
- (17) To accept gifts, devises, bequests, grants, loans, appropriations, revenue sharing, other financing and 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, plead and be impleaded;
- (19) To maintain an office in the city of Frankfort and at such other place or places as it may determine;
- (20) To adopt an official seal and alter the same at pleasure;
- (21) To adopt bylaws for the regulation of its affairs and the conduct of its business and to prescribe rules, regulations, and policies in connection with the performance of its functions and duties;
- (22) To employ fiscal consultants, engineers, attorneys, real estate counselors, appraisers, and such other consultants 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, provided that any personal service contracts entered into shall be subject to review by the Government Contract Review Committee of the Legislative Research Commission;
- (23) To invest any funds held in reserve or in sinking fund accounts or any moneys not required for immediate disbursement in obligations guaranteed by the Commonwealth, the United States, or their agencies or instrumentalities; provided, however, that the return on such investments shall not violate any rulings of the Internal Revenue Service regarding the investment of the proceeds of any federally tax exempt bond issue;
- (24) To make or participate in the making of rehabilitation loans to the sponsors or owners of residential housing; provided, however, that any such rehabilitation loan shall be made only upon the determination by the corporation that the rehabilitation loan was not otherwise available wholly or in part from private lenders upon reasonably equivalent terms and conditions;

- (25) To insure or reinsure construction, mortgage, and rehabilitation loans on residential housing; provided, however, that any such insurance, reinsurance, or waiver shall be made only upon the determination by the corporation:
- (a) That such insurance or reinsurance is not otherwise available wholly or in part from private insurers upon reasonably equivalent terms and conditions; and
  - (b) That such loan is a reasonably sound business investment; and provided further that insurance may be waived only where the corporation finds that the amount of the loan does not exceed eighty-five percent (85%) of the development costs, or eighty-five percent (85%) of the value of the property secured by the mortgage as determined by at least two (2) appraisers who are independent of the sponsors, builders, and developers;
- (26) To make grants from appropriated funds, agency and trust funds, and any other funds from any source available to the corporation, to sponsors, municipalities, local housing authorities, and to owners of residential housing for the development, construction, rehabilitation, or maintenance of residential housing and such facilities related thereto as corporation shall deem important for a proper living environment, all on such terms and conditions as may be deemed appropriate by the corporation;
- (27) To make periodic grants to reduce principal and interest payments on mortgages or rentals payable by persons and families of lower and moderate income; and
- (28) (a) *To make a grant to reduce principal and interest payments on a mortgage or a rental payable by a member of a state National Guard or a Reserve component, who names Kentucky as Home of Record for military purposes, during that member's federal active duty. To qualify for a grant, a member of a state National Guard or a Reserve component shall meet reasonable standards established by the corporation, including having family income equal to or less than two hundred percent (200%) of the state or area median income; and*
- (b) *To provide a member of a state National Guard or a Reserve component, who names Kentucky as Home of Record for military purposes, and that member's Kentucky resident spouse with the educational, technical, and ombudsman services that are necessary to maintain a mortgage during that member's federal active duty.*

The Kentucky Housing Corporation shall be exempt from the regulations of the Office of Insurance and the laws of the Commonwealth relating thereto.

Section 8. KRS 18A.190 is amended to read as follows:

- (1) State offices shall be closed and state employees shall be given a holiday on the following days:
- (a) The first day of January plus one (1) extra day;
  - (b) The third Monday in January;
  - (c) Good Friday, one-half (1/2) day;
  - (d) The last Monday in May;
  - (e) The fourth day of July;
  - (f) The first Monday in September;
  - (g) The eleventh day of November;
  - (h) Presidential election day as required under KRS 2.190;
  - (i) The fourth Thursday in November plus one (1) extra day; and
  - (j) The twenty-fifth day of December plus one (1) extra day.
- (2) When any of the days enumerated in subsection (1) falls on a Saturday, the preceding Friday shall be observed as the holiday, and when any of the days enumerated in subsection (1) falls on a Sunday, the following Monday shall be observed as the holiday. When one (1) extra day is mentioned in paragraphs (a), (i) and (j) of subsection (1), the Governor shall designate the extra day.
- (3) *Any state employee who is the spouse of a member of the United States Armed Forces, including a member of a state National Guard or a Reserve component on federal active duty, shall receive, at the discretion of*

*the state employee, one (1) day off, with pay, from work when the member is deployed and one (1) day off, with pay, from work when the member returns from deployment.*

- (4) The holidays set out in this section are in addition to vacation leave and other benefits of state employees.

Section 9. KRS 159.035 is amended to read as follows:

- (1) Notwithstanding the provisions of any other statute, any student in a public school who is enrolled in a properly organized 4-H club shall be considered present at school for all purposes when participating in regularly scheduled 4-H club educational activities, provided, the student is accompanied by or under the supervision of a county extension agent or the designated 4-H club leader for the 4-H club educational activity participated in.
- (2) Except as provided in paragraph (e) of this subsection, a public school principal shall give a student an excused absence of up to ten (10) school days to pursue an educational enhancement opportunity determined by the principal to be of significant educational value, including but not limited to participation in an educational foreign exchange program or an intensive instructional, experiential, or performance program in one (1) of the core curriculum subjects of English, science, mathematics, social studies, foreign language, and the arts.
  - (a) A student receiving an excused absence under this subsection shall have the opportunity to make up school work missed and shall not have his or her class grades adversely affected for lack of class attendance or class participation due to the excused absence.
  - (b) Educational enhancement opportunities under this subsection shall not include nonacademic extracurricular activities, but may include programs not sponsored by the school district.
  - (c) If a request for an excused absence to pursue an educational enhancement opportunity is denied by a school principal, a student may appeal the decision to the district superintendent, who shall make a determination whether to uphold or alter the decision of the principal. If a superintendent upholds a principal's denial, a student may appeal the decision to the local board of education, which shall make a final determination. A principal, superintendent, and local board of education shall make their determinations based on the provisions of this subsection and the district's school attendance policies adopted in accordance with KRS 158.070 and KRS 159.150.
  - (d) A student receiving an excused absence under the provisions of this subsection shall be considered present in school during the excused absence for the purposes of calculating average daily attendance as defined by KRS 157.320 under the Support Education Excellence in Kentucky program.
  - (e) A student shall not be eligible to receive an excused absence under the provisions of this subsection for an absence during a school's testing window established for assessments of the Commonwealth Accountability Testing System under KRS 158.6453 or during a testing period established for the administration of additional district-wide assessments at the school, except if a principal determines that extenuating circumstances make an excused absence to pursue an educational enhancement opportunity appropriate.
- (3) *(a) If a student's parent, de facto custodian, or other person with legal custody or control of the student is a member of the United States Armed Forces, including a member of a state National Guard or a Reserve component called to federal active duty, a public school principal shall give the student:*
  - 1. An excused absence for one (1) day when the member is deployed; and*
  - 2. An additional excused absence for one (1) day when the service member returns from deployment.*
  - (b) *A student receiving an excused absence under this subsection shall have the opportunity to make up school work missed and shall not have his or her class grades adversely affected for lack of class attendance or class participation due to the excused absence.*
  - (c) *A student receiving an excused absence under this subsection shall be considered present in school during the excused absence for the purposes of calculating average daily attendance as defined by KRS 157.320 under the Support Education Excellence in Kentucky program.*

Section 10. KRS 403.340 is amended to read as follows:

- (1) As used in this section, "custody" means sole or joint custody, whether ordered by a court or agreed to by the parties.

- (2) No motion to modify a custody decree shall be made earlier than two (2) years after its date, unless the court permits it to be made on the basis of affidavits that there is reason to believe that:
- (a) The child's present environment may endanger seriously his physical, mental, moral, or emotional health; or
  - (b) The custodian appointed under the prior decree has placed the child with a de facto custodian.
- (3) If a court of this state has jurisdiction pursuant to the Uniform Child Custody Jurisdiction Act, the court shall not modify a prior custody decree unless after hearing it finds, upon the basis of facts that have arisen since the prior decree or that were unknown to the court at the time of entry of the prior decree, that a change has occurred in the circumstances of the child or his custodian, and that the modification is necessary to serve the best interests of the child. When determining if a change has occurred and whether a modification of custody is in the best interests of the child, the court shall consider the following:
- (a) Whether the custodian agrees to the modification;
  - (b) Whether the child has been integrated into the family of the petitioner with consent of the custodian;
  - (c) The factors set forth in KRS 403.270(2) to determine the best interests of the child;
  - (d) Whether the child's present environment endangers seriously his physical, mental, moral, or emotional health;
  - (e) Whether the harm likely to be caused by a change of environment is outweighed by its advantages to him; and
  - (f) Whether the custodian has placed the child with a de facto custodian.
- (4) In determining whether a child's present environment may endanger seriously his physical, mental, moral, or emotional health, the court shall consider all relevant factors, including, but not limited to:
- (a) The interaction and interrelationship of the child with his parent or parents, his de facto custodian, his siblings, and any other person who may significantly affect the child's best interests;
  - (b) The mental and physical health of all individuals involved;
  - (c) Repeated or substantial failure, without good cause as specified in KRS 403.240, of either parent to observe visitation, child support, or other provisions of the decree which affect the child, except that modification of custody orders shall not be made solely on the basis of failure to comply with visitation or child support provisions, or on the basis of which parent is more likely to allow visitation or pay child support;
  - (d) If domestic violence and abuse, as defined in KRS 403.720, is found by the court to exist, the extent to which the domestic violence and abuse has affected the child and the child's relationship to both parents.
- (5) (a) *Except as provided in paragraph (b) of this subsection, any court-ordered modification of a child custody decree, based in whole or in part on:*
- 1. *The active duty of a parent or a de facto custodian as a regular member of the United States Armed Forces deployed outside the United States; or*
  - 2. *Any federal active duty of a parent or a de facto custodian as a member of a state National Guard or a Reserve component;*
- shall be temporary and shall revert back to the previous child custody decree at the end of the deployment outside the United States or the federal active duty, as appropriate.*
- (b) *A parent or de facto custodian identified in paragraph (a) of this subsection may consent to a modification of a child custody decree that continues past the end of the deployment outside the United States or the federal active duty, as appropriate.*
- (6) Attorney fees and costs shall be assessed against a party seeking modification if the court finds that the modification action is vexatious and constitutes harassment.

Section 11. KRS 341.370 is amended to read as follows:

- (1) A worker shall be disqualified from receiving benefits for the duration of any period of unemployment with respect to which:

- (a) He has failed without good cause either to apply for available, suitable work when so directed by the employment office or the secretary or to accept suitable work when offered him, or to return to his customary self-employment when so directed by the secretary; or
- (b) He has been discharged for misconduct or dishonesty connected with his most recent work, or from any work which occurred after the first day of the worker's base period and which last preceded his most recent work, but legitimate activity in connection with labor organizations or failure to join a company union shall not be construed as misconduct; or
- (c) He has left his most recent suitable work or any other suitable work which occurred after the first day of the worker's base period and which last preceded his most recent work voluntarily without good cause attributable to the employment. No otherwise eligible worker shall be disqualified from receiving benefits for:
  - 1. Leaving his next most recent suitable work which was concurrent with his most recent work;~~for~~
  - 2. Leaving work which is one hundred (100) road miles or more, as measured on a one (1) way basis, from his home to accept work which is less than one hundred (100) road miles from his home;~~for~~
  - 3. Accepting work which is a bona fide job offer with a reasonable expectation of continued employment; *or*
  - 4.
    - a. *Leaving work to accompany the worker's spouse to a different state when the spouse is reassigned by the military.*
    - b. *Subdivision a. of this subparagraph shall apply only if the state of relocation has adopted a statute substantially similar to that subdivision.*
- (2) A worker shall be disqualified from receiving benefits for any week with respect to which he knowingly made a false statement to establish his right to or the amount of his benefits, and, within the succeeding twenty-four (24) months, for the additional weeks immediately following the date of discovery, not to exceed a total of fifty-two (52), as may be determined by the secretary.
- (3) No worker shall be disqualified under paragraph (b) or (c) of subsection (1) of this section unless the employer, within a reasonable time as prescribed by regulations promulgated by the secretary, notifies the Cabinet for Workforce Development and the worker in writing of the alleged voluntary quitting or the discharge for misconduct. Nothing in this subsection shall restrict the right of the secretary to disqualify a worker whose employer has refused or failed to notify the Cabinet for Workforce Development of the alleged voluntary quitting or discharge for misconduct, if the alleged voluntary quitting or discharge for misconduct is known to the secretary prior to the time benefits are paid to the worker. The exercise of the right by the secretary, in the absence of timely notice from the employer, shall not relieve the employer's reserve account or reimbursing employer's account of benefit charges under the provisions of subsection (3) of KRS 341.530.
- (4) As used in this section and in subsection (3) of KRS 341.530, "most recent" work shall be construed as that work which occurred after the first day of the worker's base period and which last preceded the week of unemployment with respect to which benefits are claimed; except that, if the work last preceding the week of unemployment was seasonal, intermittent, or temporary in nature, most recent work may be construed as that work last preceding the seasonal, intermittent, or temporary work.
- (5) No worker shall be disqualified or held ineligible under the provisions of this section or KRS 341.350, who is separated from employment pursuant to a labor management contract or agreement, or pursuant to an established employer plan, program, or policy, which permits the employer to close the plant or facility for purposes of vacation or maintenance.
- (6) "Discharge for misconduct" as used in this section shall include but not be limited to, separation initiated by an employer for falsification of an employment application to obtain employment through subterfuge; knowing violation of a reasonable and uniformly enforced rule of an employer; unsatisfactory attendance if the worker cannot show good cause for absences or tardiness; damaging the employer's property through gross negligence; refusing to obey reasonable instructions; reporting to work under the influence of alcohol or drugs or consuming alcohol or drugs on employer's premises during working hours; conduct endangering safety of self

or co-workers; and incarceration in jail following conviction of a misdemeanor or felony by a court of competent jurisdiction, which results in missing at least five (5) days work.

- (7) "Duration of any period of unemployment," as that term is used in this section, shall be the period of time beginning with the worker's discharge, voluntary quitting, or failure to apply for or accept suitable work and running until the worker has worked in each of ten (10) weeks, whether or not consecutive, and has earned ten (10) times his weekly benefit rate in employment covered under the provisions of this chapter or a similar law of another state or of the United States.

Section 12. KRS 61.315 is amended to read as follows:

- (1) As used in this section, "police officer" means every paid police officer, sheriff, or deputy sheriff, corrections employee with the power of a peace officer pursuant to KRS 196.037, any auxiliary police officer appointed pursuant to KRS 95.445, or any citation or safety officer appointed pursuant to KRS 83A.087 and 83A.088, elected to office, or employed by any county, airport board created pursuant to KRS Chapter 183, city, or by the state; "firefighter" means every paid firefighter or volunteer firefighter who is employed by or volunteers his services to the state, airport board created pursuant to KRS Chapter 183, any county, city, fire district, or any other organized fire department recognized, pursuant to KRS 95A.262, as a fire department operated and maintained on a nonprofit basis in the interest of the health and safety of the inhabitants of the Commonwealth and shall include qualified civilian firefighters employed at Kentucky-based military installations.
- (2) The spouse of any police officer, sheriff, deputy sheriff, corrections employee with the power of a peace officer pursuant to KRS 196.037, any auxiliary police officer appointed pursuant to KRS 95.445, or any citation or safety officer appointed pursuant to KRS 83A.087 and 83A.088, firefighter, or member of the Kentucky National Guard on state active duty pursuant to KRS 38.030, ***or a member of a state National Guard or a Reserve component on federal active duty who names Kentucky as Home of Record for military purposes***, whose death occurs on or after July 1, 2002, as a direct result of an act in the line of duty shall receive a lump-sum payment of ***eighty thousand dollars (\$80,000)*** ~~seventy-five thousand dollars (\$75,000)~~ if there are no surviving children, which sum shall be paid by the State Treasurer from the general expenditure fund of the State Treasury. If there are surviving children and a surviving spouse, the payment shall be apportioned equally among the surviving children and the spouse. If there is no surviving spouse, the payment shall be made to the surviving children, eighteen (18) or more years of age. For surviving children less than eighteen (18) years of age, the State Treasurer shall:
- (a) Pay ~~thirty-five~~ ***thirty*** thousand dollars ~~(\$35,000)~~ ***(\$30,000)*** to the surviving children; and
  - (b) Hold forty-five thousand dollars (\$45,000) in trust divided into equal accounts at appropriate interest rates for each surviving child until the child reaches the age of eighteen (18) years.
- If a child dies before reaching the age of eighteen (18) years, his account shall be paid to his estate. If there are no surviving children, the payment shall be made to any parents of the deceased.
- (3) The Commission on Fire Protection Personnel Standards and Education shall be authorized to promulgate administrative regulations establishing criteria and procedures applicable to the administration of this section as it pertains to both paid and volunteer firefighters, including, but not limited to, defining when a firefighter has died in line of duty. Administrative hearings promulgated by administrative regulation under authority of this subsection shall be conducted in accordance with KRS Chapter 13B.
- (4) The Justice Cabinet may promulgate administrative regulations establishing criteria and procedures applicable to the administration of this section as it pertains to police officers, including, but not limited to, defining when a police officer has died in line of duty. Administrative hearings promulgated by administrative regulation under authority of this subsection shall be conducted in accordance with KRS Chapter 13B.
- (5) The Department of Corrections shall promulgate administrative regulations establishing the criteria and procedures applicable to the administration of this section as it pertains to correctional employees, including, but not limited to, defining which employees qualify for coverage and which circumstances constitute death in the line of duty.
- (6) The benefits payable under this section shall be in addition to any benefits now or hereafter prescribed under any police, sheriff, firefighter's, volunteer firefighter's, or National Guard ***or Reserve*** retirement or benefit fund established by the federal government or by any state, county, or any municipality.



- (7) Any funds appropriated for the purpose of paying the death benefits described in subsection (2) of this section shall be allotted to a self-insuring account. These funds shall not be used for the purpose of purchasing insurance.

SECTION 13. A NEW SECTION OF KRS CHAPTER 40 IS CREATED TO READ AS FOLLOWS:

***No later than June 30, 2008, the Kentucky Department of Veterans' Affairs shall employ no fewer than five (5) veterans' benefits regional administrators and no fewer than twenty (20) veterans' benefits field representatives.***

- (1) ***The duties of a veterans' benefits regional administrator shall include but not be limited to supervision of veterans' benefits field representatives in an assigned region and representation of veterans in administrative hearings and before the Board of Veterans' Appeals.***
- (2) ***The duties of a veterans' benefits field representative shall include but not be limited to providing assistance to veterans and their dependents with initiation, preparation, documentation, and adjudication of claims to benefits under federal, state, or local laws.***

Section 14. KRS 186.020 is amended to read as follows:

- (1) Before the owner of a motor vehicle, other than a motor vehicle engaged in the transportation of passengers for hire operating under a certificate of convenience and necessity, may operate it or permit its operation upon a highway, the owner shall apply for registration in accordance with administrative regulations promulgated by the cabinet, except that a person who purchases a motor vehicle, or brings a motor vehicle into the Commonwealth from another state shall make application for registration within fifteen (15) days. The bill of sale or assigned title must be in the motor vehicle during this fifteen (15) day period. If the owner of a motor vehicle is an individual and resides in the Commonwealth, the motor vehicle shall be registered with the county clerk of the county in which he resides. If the owner of a motor vehicle does not reside in the Commonwealth, the motor vehicle shall be registered with the county clerk of the county in which the motor vehicle is principally operated. If the owner of a motor vehicle is other than an individual and resides in the Commonwealth, the motor vehicle shall be registered with the county clerk of either county. The application when presented to the county clerk for registration shall be accompanied by:
- (a) A bill of sale and a manufacturer's certificate of origin if the application is for the registration of a new motor vehicle;
  - (b) The owner's registration receipt, if the motor vehicle was last registered in this state;
  - (c) A bill of sale and the previous registration receipt, if last registered in another state where the law of that state does not require the owner of a motor vehicle to obtain a certificate of title or ownership;
  - (d) A certificate of title, if last registered in another state where the law of that state requires the owner of a motor vehicle to obtain a certificate of title or ownership;
  - (e) An affidavit from an officer of a local government saying that the motor vehicle has been abandoned and that the provisions of KRS 82.630 have been complied with, for local governments which elect to use the provisions of KRS 82.600 to 82.640; and
  - (f) The application from a person who has brought a motor vehicle into the Commonwealth from another state shall be accompanied by proof that the motor vehicle is insured in compliance with KRS 304.39-080.
- (2) After that, ***except as provided in subsection (6) of this section***, the owner of any motor vehicle registered under KRS 186.050(1) or (2) shall register his motor vehicle on or before the date on which his certificate of registration expires. If, before operating the motor vehicle in this state, the owner registers it at some later date and pays the fee for the full year, he will be deemed to have complied with the law. Insofar as the owner is concerned, registration with the clerk shall be deemed to be registration with the cabinet.
- (3) After that, the owner of any commercial vehicle registered under KRS 186.050(3) to (14) shall register his commercial vehicle on or before April 1 of each year. If, before operating a commercial vehicle in this state, the owner registers it at some later date and pays the required fee, he will be deemed to have complied with the law. Insofar as the owner is concerned, registration with the clerk shall be deemed to be registration with the cabinet, except the owner of any commercial motor vehicle to be registered pursuant to the International Registration Plan under KRS 186.050(13) shall register his commercial motor vehicles on or before the last day of the month of registration established pursuant to KRS 186.051(3).

- (4) The application and documents presented therewith, including the sheriff's certificate of inspection, shall be affixed to the Transportation Cabinet copy of the certificate of title or registration and sent to the Transportation Cabinet by the clerk.
- (5) At least forty-five (45) days prior to the expiration of registration of any motor vehicle previously registered in the Commonwealth as provided by KRS 186A.035, the owner of the vehicle shall be notified by mail on the same notice required by KRS 134.805(5) of the date of expiration. In addition, the department shall provide appropriate forms and information to permit renewal of motor vehicle registration to be completed by mail. Any registration renewal by mail shall require payment of an additional two dollar (\$2) fee which shall be received by the county clerk. Nonreceipt of the notice herein shall not constitute a defense to any registration related offense.
- (6)
  - (a) *If an individual has been serving in the United States military stationed or assigned to a base or other location outside the boundaries of the United States, he or she shall renew the registration on the vehicle within thirty (30) days of his or her return, if:*
    - 1. *The motor vehicle has been stored on a military base during the time of deployment and has not been operated on the public highways during that time; and*
    - 2. *The vehicle's registration expired during the individual's absence.*
  - (b) *An individual who meets the criteria in paragraph (a) of this subsection shall not be convicted or cited for driving a vehicle with expired registration within thirty (30) days after the individual's return to the Commonwealth if the individual can provide proof of meeting the eligibility criteria under paragraph (a) of this subsection.*
  - (c) *When an individual presents evidence of meeting the criteria under paragraph (a) of this subsection when applying to renew the registration on the motor vehicle, the county clerk:*
    - 1. *Shall not charge the individual any penalties or interest or lien filing fees for delinquent ad valorem taxes that have accrued under Section 15 of this Part;*
    - 2. *Shall remove, without charge, any lien for delinquent taxes filed under the provisions of Section 15 of this Part; and*
    - 3. *Shall, when applicable, treat the registration as a prorated renewal under KRS 186.051, and charge the individual a registration fee only for the number of months of the registration year the vehicle will be used on the public highways.*

Section 15. 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) *Except as provided for in subsection (6) of Section 14 of this Part*, 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) *Except as provided for in subsection (6) of Section 14 of this Part*, 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, 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 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 16. KRS 141.010 is amended to read as follows:

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

- (1) "Commissioner" means the commissioner of the Department of Revenue;
- (2) "Department" means the Department of Revenue;
- (3) "Internal Revenue Code" means the Internal Revenue Code in effect on December 31, 2004, exclusive of any amendments made subsequent to that date, other than amendments that extend provisions in effect on December 31, 2004, that would otherwise terminate, and as modified by KRS 141.0101, except that for property placed in service after September 10, 2001, only the depreciation and expense deductions allowed under Sections 168 and 179 of the Internal Revenue Code in effect on December 31, 2001, exclusive of any amendments made subsequent to that date, shall be allowed, and including the provisions of the Military Family Tax Relief Act of 2003, Pub. L. No. 108-121, effective on the dates specified in that Act;
- (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) "Modified gross income" means adjusted gross income as defined in Section 62 of the Internal Revenue Code of 1986, including any subsequent amendments in effect on December 31 of the taxable year, and adjusted as follows:
  - (a) Include interest income derived from obligations of sister states and political subdivisions thereof; and
  - (b) Include lump-sum pension distributions taxed under the special transition rules of Pub. L. No. 104-188, sec. 1401(c)(2);
- (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. For taxable years ending prior to December 31, 2005, exclude the applicable amount of total distributions from pension plans, annuity contracts, profit-sharing plans, retirement plans, or employee savings plans.  
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.
  - 2. For taxable years beginning after December 31, 2005, exclude up to forty-one thousand one hundred ten dollars (\$41,110) of total distributions from pension plans, annuity contracts, profit-sharing plans, retirement plans, or employee savings plans.
  - 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 portion of 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;
  - (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;~~and~~
  - (s) Exclude state Phase II payments received by a producer of tobacco or a tobacco quota owner; *and*
  - (t) ***Exclude all income from all sources for active duty and reserve members and officers of the Armed Forces of the United States or National Guard who are killed in the line of duty, for the year during which the death occurred and the year prior to the year during which the death occurred. For the purposes of this paragraph, "all income from all sources" shall include all federal and state death benefits payable to the estate or any beneficiaries;***
- (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 or foreign taxes measured by gross or net income, including state and local general sales taxes allowed in lieu of state and local income taxes under the provisions of Section 164(b)(5) of the Internal Revenue Code;
  - (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;
  - (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;
  - (m) Exclude the distributive share income or loss received from a corporation subject to the tax imposed by KRS 141.040 ; and
  - (n) Exclude state Phase II payments received by a producer of tobacco or a tobacco quota owner;
- (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);
  - (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; and
  - (g) Any deduction prohibited by KRS 141.205;
- (14) (a) "Taxable net income," in the case of corporations that are taxable in this state, means "net income" as defined in subsection (13) of this section;
- (b) "Taxable net income," in the case of corporations that are taxable in this state and taxable in another state, means "net income" as defined in subsection (13) of this section and as allocated and apportioned under KRS 141.120. A corporation is taxable in another state if, in any state other than Kentucky, the corporation is required to file a return for or pay a net income tax, franchise tax measured by net income, franchise tax for the privilege of doing business, or corporate stock tax;
- (c) "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
- (d) "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 commissioner, "taxable year" means the period for which the 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:

- (a) "Corporations" as defined in Section 7701(a)(3) of the Internal Revenue Code;
- (b) S corporations as defined in Section 1361(a) of the Internal Revenue Code;
- (c) A foreign limited liability company as defined in KRS 275.015(6);
- (d) A limited liability company as defined in KRS 275.015(8);
- (e) A professional limited liability company as defined in KRS 275.015(19);
- (f) A foreign limited partnership as defined in KRS 362.401(4);
- (g) A limited partnership as defined in KRS 362.401(7);
- (h) A registered limited liability partnership as defined in KRS 362.155(7);
- (i) A real estate investment trust as defined in Section 856 of the Internal Revenue Code;
- (j) A regulated investment company as defined in Section 851 of the Internal Revenue Code;
- (k) A real estate mortgage investment conduit as defined in Section 860D of the Internal Revenue Code;
- (l) A financial asset securitization investment trust as defined in Section 860L of the Internal Revenue Code; and
- (m) Other similar entities created with limited liability for their partners, members, or shareholders.

"Corporation" shall not include any publicly traded partnership as defined by Section 7704(b) of the Internal Revenue Code that is treated as a partnership for federal tax purposes under Section 7704(c) of the Internal Revenue Code or its publicly traded partnership affiliates. "Publicly traded partnership affiliates" shall include any limited liability company or limited partnership for which at least eighty percent (80%) of the limited liability company member interests or limited partner interests are owned directly or indirectly by the publicly traded partnership;

(25) "Doing business in this state" includes but is not limited to:

- (a) Being organized under the laws of this state;
- (b) Having a commercial domicile in this state;
- (c) Owning or leasing property in this state;
- (d) Having one (1) or more individuals performing services in this state;
- (e) Maintaining an interest in a general partnership doing business in this state;
- (f) Deriving income from or attributable to sources within this state, including deriving income directly or indirectly from a trust doing business in this state; or
- (g) Directing activities at Kentucky customers for the purpose of selling them goods or services.

Nothing in this subsection shall be interpreted in a manner that goes beyond the limitations imposed and protections provided by the United States Constitution or Pub. L. No. 86-272;

(26) "Cost of goods sold" means the cost of goods sold calculated using the same method specified by the Internal Revenue Service for the purpose of computing federal income tax. In determining cost of goods sold:

- (a) Labor costs shall be limited to direct labor costs as defined in subsection (28) of this section; and
- (b) Bulk delivery costs as defined in subsection (29) of this section may be included;

(27) "Kentucky gross profits" means Kentucky gross receipts reduced by returns and allowances attributable to Kentucky gross receipts, less the cost of goods sold attributable to Kentucky gross receipts;

(28) "Direct labor" means labor that is incorporated into the product sold or is an integral part of the manufacturing process; and



- (29) "Bulk delivery costs" means the cost of delivering the product to the consumer if the product is delivered in bulk and requires specialized equipment that generally precludes commercial shipping and is taxable under KRS 138.220.

Section 17. The amendment in Section 12 of this Part shall apply retroactively to July 1, 2002.

Section 18. The amendment in Section 16 of this Part is applicable for tax years beginning after December 31, 2001.

## PART XXIX

### SELF-INSURED PLAN FOR STATE EMPLOYEES

Notwithstanding KRS 48.310, the following statute is created to read as follows and shall have permanent effect, subject to future actions by the General Assembly:

SECTION 1. A NEW SECTION OF KRS CHAPTER 18A IS CREATED TO READ AS FOLLOWS:

- (1) *Based on the recommendation of the secretary of the Personnel Cabinet, the secretary of the Finance and Administration Cabinet, in lieu of contracting with one (1) or more insurers licensed to do business in this state, shall procure, in compliance with KRS 45A.080, 45A.085, and 45A.090, and reviewed by the Government Contract Review Committee pursuant to KRS 45A.705, a contract with one (1) or more third-party administrators licensed to do business in the Commonwealth pursuant to KRS 304.9-052 to administer a self-insured plan offered to the Public Employee Health Insurance Program for public employees. The requirements for the self-insured plan shall be as follows:*
- (a) *The secretary of the Personnel Cabinet shall incorporate by reference in an administrative regulation, pursuant to KRS 13A.2251, the summary plan description for public employees covered under the self-insured plan. Prior to filing an administrative regulation with the Legislative Research Commission, the secretary of the Personnel Cabinet shall submit the administrative regulation to the secretary of the Cabinet for Health and Family Services for review;*
  - (b) *The self-insured plan offered by the program shall cover hospice care at least equal to the Medicare benefit;*
  - (c) *The Personnel Cabinet shall provide written notice of any formulary change to employees covered under the self-insured plan who are directly impacted by the formulary change and to the Kentucky Group Health Insurance Board fifteen (15) days before implementation of any formulary change. If, after consulting with his or her physician, the employee still disagrees with the formulary change, the employee shall have the right to appeal the change. The employee shall have sixty (60) days from the date of the notice of the formulary change to file an appeal with the Personnel Cabinet. The cabinet shall render a decision within thirty (30) days from the receipt of the request for an appeal. After a final decision is rendered by the Personnel Cabinet, the employee shall have a right to file an appeal pursuant to the utilization review statutes in KRS 304.17A-600 to 304.17A-633. During the appeal process, the employee shall have the right to continue to take any drug prescribed by his or her physician that is the subject of the formulary changes;*
  - (d) *The Personnel Cabinet shall develop the necessary capabilities to ensure that an independent review of each formulary change is conducted and includes but is not limited to an evaluation of the fiscal impact and therapeutic benefit of the formulary change. The independent review shall be conducted by knowledgeable medical professionals and the results of the independent review shall be posted on the Web sites of the Personnel Cabinet and the Cabinet for Health and Family Services and made available to the public upon request within thirty (30) days of the notice from the Personnel Cabinet required in paragraph (c) of this subsection;*
  - (e) *If the self-insured plan restricts pharmacy benefits to a drug formulary, the plan shall comply with and have an exceptions policy in accordance with KRS 304.17A-535;*
  - (f) *Premiums for all plans offered by the Public Employee Health Insurance Program to employees shall be based on the experience of the entire group;*
  - (g) *The plan year for the Public Employee Health Insurance Program, whether for fully insured or self-insured benefits, shall be on a calendar year basis.*

- (2) *In addition to any fully insured health benefit plans or self-insured plans, beginning January 1, 2007, the Personnel Cabinet shall offer a health reimbursement account for public employees insured under the Public Employee Health Insurance Program.*
- (a) *If a public employee waives coverage provided by his or her employer under the Public Employee Health Insurance Program, the employer shall forward a monthly amount to be determined by the secretary of the Personnel Cabinet, but not less than one hundred seventy-five dollars (\$175), for that employee as an employer contribution to the health reimbursement account.*
  - (b) *The administrative fees associated with the health reimbursement account shall be an authorized expense to be charged to the public employee health insurance trust fund.*
- (3) (a) *The public employee health insurance trust fund is established in the Personnel Cabinet. The purpose of the public employee health insurance trust fund is to provide funds to pay medical claims and other costs associated with the administration of the Public Employee Health Insurance Program self-insured plan under a competitively bid contract as provided by KRS Chapter 45A and reviewed by the Government Contract Review Committee pursuant to KRS 45A.705. The trust fund shall not utilize funds for any other purpose, except by approval of the General Assembly. The following moneys shall be directly deposited into the trust fund:*
- 1. *Employer and employee premiums collected under the self-insured plan;*
  - 2. *Interest and investment returns earned by the self-insured plan;*
  - 3. *Rebates and refunds attributed to the self-insured plan; and*
  - 4. *All other receipts attributed to the self-insured plan.*
- (b) *Any balance remaining in the public employee health insurance trust fund at the end of a fiscal year shall not lapse. Any balance remaining at the end of a fiscal year shall be carried forward to the next fiscal year and be used solely for the purpose established in paragraph (a) of this subsection. The balance of funds in the public employee health insurance trust fund shall be invested by the Office of Financial Management consistent with the provisions of KRS Chapter 42, and interest income shall be credited to the trust fund.*
- (c) *The Auditor of Public Accounts shall be responsible for a financial audit of the books and records of the trust fund. The audit shall be conducted in accordance with generally accepted accounting principles, ~~shall be paid for by the trust fund,~~ (Veto #29) and shall be completed within ninety (90) days of the close of the fiscal year. All audit reports shall be filed with the Governor, the President of the Senate, the Speaker of the House of Representatives, and the secretary of the Personnel Cabinet.*
- (d) ~~*Within thirty (30) days of the end of each calendar quarter,*~~ (Veto #30) *the secretary of the Personnel Cabinet shall file a report on the status of the trust fund with the Governor, the Interim Joint Committee on Appropriations and Revenue, the Kentucky Group Health Insurance Board, and the Advisory Committee of State Health Insurance Subscribers. The first status report shall be submitted no later than July 30, 2006. The report shall include the following:*
- 1. *The current balance of the trust fund;*
  - 2. *A detailed description of all income to the trust fund since the last report;*
  - 3. *A detailed description of any receipts due to the trust fund;*
  - 4. *A total amount of payments made for medical claims from the trust fund;*
  - 5. *A detailed description of all payments made to the third-party administrator of the self-insured plan by the trust fund;*
  - 6. *Current enrollment data, including monthly enrollment since the last report, of the Public Employee Health Insurance Program self-insured plan;*
  - 7. *Any other information the secretary may include;*
  - 8. *Any other information requested by the Interim Joint Committee on Appropriations and Revenue concerning the operation of the Public Employee Health Insurance Program self-funded plan or the trust fund; and*

9. *In addition to the information required under subparagraphs 1. to 8. of this paragraph, the quarterly report filed in July and January shall also include the following:*
- a. *A projection of the medical claims incurred but not yet reported that are considered liabilities to the trust fund;*
  - b. *A statement of any other trust fund liabilities;*
  - c. *A detailed calculation outlining proposed premium rates for the next plan year, including base claims, trend assumptions, administrative fees, and any proposed plan or benefit changes; and*
  - d. *A detailed description of the current in-state and out-of-state networks provided under the plan, any changes to the networks since the last report, and any proposed changes to the in-state or out-of-state networks during the next six (6) months.*
  - e. *Specific data regarding the third-party administrator's performance under the contract. The data shall include the following:*
    1. *Any results or outcomes of disease management and wellness programs;*
    2. *Results of case management audits and educational and communication efforts; and*
    3. *Comparison of actual measurable results to contract performance guarantees.*

### PART XXX

#### TAX INCREMENT FINANCING

Notwithstanding KRS 48.310, the following statute is amended to read as follows and shall have permanent effect, subject to future actions by the General Assembly:

Section 1. KRS 65.490 is amended to read as follows:

As used in KRS 65.490 to 65.499, unless the context otherwise requires:

- (1) "Agency" means an urban renewal and community development agency of a taxing district located within a county containing a consolidated local government or a city of the first class, established under KRS Chapter 99; a development authority located within a county containing a consolidated local government or a city of the first class established under KRS Chapter 99; a nonprofit corporation located within a county containing a consolidated local government or a city of the first class ~~established under KRS Chapter 58~~; or a designated department, division, or office of a county containing a consolidated local government or of a city of the first class;
- (2) "Development area" means an area no less than one (1) square mile, nor more than six (6) square miles, designated in need of public improvements by a local or state government in a county containing a consolidated local government or a city of the first class, a project area as defined in KRS 99.615, or a public project as defined in KRS 58.010 in a county containing a consolidated local government or a city of the first class. "Development area" includes an existing economic development asset;
- (3) "Increment" means that amount of money received by any taxing district or the state that is determined by subtracting the amount of old revenues from the amount of new revenues in any year for which a taxing district or the state and an agency have agreed upon under the terms of a contract of release or a grant contract;
- (4) "Local government" means a county containing a consolidated local government or a city of the first class;
- (5) "New revenues" means the revenues received by any taxing district or the state from a development area in any year after the establishment of the development area;
- (6) "Old revenues" means the amount of revenues received by any taxing district or the state from a development area in the last year prior to the establishment of the development area;

- (7) "Project" means any urban renewal, redevelopment, or public project undertaken in accordance with the provisions of KRS 65.490 to 65.497, any project undertaken in accordance with KRS 99.610 to 99.680, ~~for~~ any project undertaken in accordance with the provisions of KRS Chapter 58; *or any "public project" as that term is defined in KRS 58.010 undertaken by a nonprofit corporation located within a county containing a consolidated local government or a city of the first class;*
- (8) "Release" or "contract of release" or "grant contract" means that agreement by which a taxing district or the state permits the payment to an agency of a portion of increments or an amount equal to a portion of increments received by it in return for the benefits accrued to the taxing district or the state by reason of a project undertaken by an agency in a development area;
- (9) "Taxing district" means a consolidated local government, a county containing a city of the first class, a city of the first class that encompasses all or part of a development area, or the state, but does not mean a school district; and
- (10) "Pilot program" means a tax increment financing program or a grant program created by an agency within a consolidated local government or a county containing a city of the first class which shall exist for a period of twenty (20) years after which time it shall continue only after reauthorization by the General Assembly.

### PART XXXI

#### KENTUCKY PREPAID TUITION TRUST FUND

Notwithstanding KRS 48.310, the following statutes are amended or created to read as follows and shall have permanent effect, subject to future actions by the General Assembly:

Section 1. KRS 164A.700 is amended to read as follows:

As used in KRS 164A.700 to 164A.709, unless the context requires otherwise:

- (1) "Academic year" means the time period specified by each eligible educational institution;
- (2) "Board" means the board of directors of the Kentucky Higher Education Assistance Authority acting in the capacity of the board of directors of the Commonwealth postsecondary education prepaid tuition trust fund;
- (3) "Eligible educational institution" means an institution defined in the Internal Revenue Code of 1986, as amended, 26 U.S.C. sec. 529(e)(5);
- (4) "Fund" means the prepaid tuition payment fund created in KRS 164A.701 and known as the "Commonwealth Postsecondary Education Prepaid Tuition Trust Fund" ~~or which shall be marketed under the name~~ "Kentucky's Affordable Prepaid Tuition" (**KAPT**);
- (5) "Prepaid tuition" means the amount of tuition estimated by the board for the tuition plan under the prepaid tuition contract;
- (6) "Prepaid tuition academic year conversion" means the difference between the amount of prepaid tuition required in the original prepaid tuition contract and the amount of prepaid tuition required in an amended prepaid tuition contract as the result of the change in the academic year;
- (7) "Prepaid tuition academic year conversion shortfall" means the amount by which the prepaid tuition required in an amended prepaid tuition contract as the result of the change in the academic year exceeds the amount of prepaid tuition required in the original prepaid tuition contract;
- (8) "Prepaid tuition account" means the account for a qualified beneficiary as specified in the prepaid tuition contract;
- (9) "Prepaid tuition contract" means the contract entered into by the board and the purchaser for the purchase of prepaid tuition for a qualified beneficiary to attend any eligible educational institution as provided in KRS 164A.700 to 164A.709;
- (10) "Prepaid tuition conversion" means the difference between the value of a prepaid tuition account and the tuition at an eligible educational institution;
- (11) "Prepaid tuition conversion shortfall" means the amount by which the actual tuition cost at an eligible educational institution exceeds the amount of the value of a prepaid tuition account;
- (12) "Purchaser" means a person, corporation, association, partnership, or other legal entity who enters into a prepaid tuition contract;

- (13) "Qualified beneficiary" means a designated beneficiary, as defined in 26 U.S.C. sec. 529(e)(1), who is:
- (a) A Kentucky resident designated as beneficiary at the time a purchaser enters into a prepaid tuition contract; or
  - (b) A nonresident designated at the time a purchaser enters into a prepaid tuition contract who intends to attend an eligible institution in Kentucky; or
  - (c) A new beneficiary, in the case of a change of beneficiaries under provisions of KRS 164A.707; or
  - (d) An individual receiving a scholarship in the case of a prepaid tuition contract purchased by a state or local government or agency or instrumentality thereof or an organization described in 26 U.S.C. sec. 501(c)(3), and exempt from federal income taxation pursuant to 26 U.S.C. sec. 501(a) as part of a scholarship program offered by the government entity or the organization;
- (14) "Qualified postsecondary education expenses" means qualified higher education expenses as defined in 26 U.S.C. sec. 529(e)(3);
- (15) "Tuition" means the prevailing tuition and all mandatory fees charged as a condition of full-time enrollment in an undergraduate program for an academic year for a qualified beneficiary to attend an eligible educational institution;
- (16) "Tuition Account Program Office" or "office" means the office in the Kentucky Higher Education Assistance Authority that is responsible for administering the prepaid tuition program and its accounts;
- (17) "Tuition plan" means a tuition plan approved by the board and provided under a prepaid tuition contract; and
- (18) "Value of a prepaid tuition account" means the amount which the fund is obligated to pay for tuition for an academic period based on full payment of the purchaser's tuition plan; except, under a tuition plan for private colleges and universities, tuition shall be calculated based on the same percentage that University of Kentucky tuition is increased from the year the prepaid tuition contract is purchased to the year of payment.

SECTION 2. A NEW SECTION OF KRS 164A.700 TO 164A.709 IS CREATED TO READ AS FOLLOWS:

- (1) (a) *All prepaid tuition contracts in existence on the effective date of this Act shall be supported by the full faith and credit of the Commonwealth.*
- (b) *If the report of the actuary submitted under subsection (7) of Section 4 of this Part reflects that there will be a real liability expected to accrue for contracts in existence on the effective date of this Act during the next biennium, the secretary of the Finance and Administration Cabinet shall include in the budget request for the cabinet an appropriation to the board in an amount necessary to meet the real liability in each fiscal year of the biennium, and the General Assembly shall appropriate the necessary funds to meet the liability.*
- (2) (a) *New contracts entered into after the effective date of this Act for a tuition plan approved by the board shall contain actuarially sound premiums sufficient to prevent their contribution to a program fund deficit.*
- (b) *Payments received from contracts entered into after the effective date of this Act shall be maintained separately from contracts in existence on the effective date of this Act.*
- (c) *The Commonwealth shall have no obligation to support contracts entered into after the effective date of this Act with appropriations if a shortfall occurs.*

Section 3. KRS 164A.701 is amended to read as follows:

- (1) (a) There is hereby created an instrumentality of the Commonwealth to be known as the "Commonwealth postsecondary education prepaid tuition trust fund", to be governed by ~~the~~<sup>the</sup> ~~board~~<sup>board of directors</sup> and administered by the Tuition Account Program Office. The fund shall be attached to the Kentucky Higher Education Assistance Authority for administrative and reporting purposes, ~~and~~<sup>but</sup> shall be governed, managed, and administered as a separate and distinct instrumentality of the Commonwealth ***under the provisions of*** ~~[with its own powers specified in]~~ KRS 164A.700 to 164A.709.
- (b) The fund shall consist of payments received from prepaid tuition contracts under KRS 164A.700 to 164A.709. ***Payments received relating to contracts in existence on the effective date of this Act and***

*income earned from the investment of those payments shall be maintained separately from payments received relating to contracts entered into after the effective date of this Act and income earned from the investment of those payments. Income earned from the investment of payments to the fund shall remain in the fund and be credited to it.*

- (c) Notwithstanding any other statute to the contrary, all moneys received under the authority of KRS 164A.700 to 164A.709 and 393.015 shall be deemed to be trust funds to be held and applied solely for payment to qualified beneficiaries and purchasers and to meet the expenses necessary for the administration and maintenance of the fund as provided in KRS 164A.700 to 164A.709.
  - (d) The fund shall not constitute an investment company as defined in KRS 291.010.
  - (e) Obligations under a prepaid tuition contract incurred in accordance with the provisions of KRS 164A.700 to 164A.709 shall not be deemed to constitute a debt, liability, or obligation of the Kentucky Higher Education Assistance Authority, but shall be payable solely from the fund. Each prepaid tuition contract shall contain a statement that the obligation shall be payable solely from the fund.
- (2) The purposes of the fund are:
- (a) To provide affordable access to participating institutions for the qualified beneficiaries; and
  - (b) To provide students and their parents economic protection against rising tuition costs.
- (3) The Tuition Account Program Office and the facilities of the Kentucky Higher Education Assistance Authority shall be used and employed in the administration of the fund including, but not limited to, the keeping of records, the employment of staff to assist in the administration of the fund, the management of accounts and other investments, the transfer of funds, and the safekeeping of securities evidencing investments.~~[-The Kentucky Higher Education Assistance Authority shall jointly market, as appropriate, the Commonwealth Prepaid Tuition Plan and the Savings Plan established in KRS 164A.300.]~~
- (4) (a) Assets of the fund shall be invested in any of the following security types that are deemed appropriate by the board:
- 1. Government and agency bonds;
  - 2. Investment grade asset-backed securities and corporate bonds;
  - 3. Mortgages, excluding interest-only (IO), principal-only (PO), and inverse floaters; and
  - 4. Equities.
- (b) Equities shall constitute no greater than sixty percent (60%) of the entire portfolio, including up to ten percent (10%) in equities from outside the United States.
- (c) The duration of the fixed-income portion of the portfolio shall reflect the future liability of the fund for tuition payments.
- (d) Assets may be pooled for investment purposes with any other investment of the Commonwealth that is eligible for asset pooling.
- (e) Leveraging is strictly prohibited.
- (5) The board may receive and deposit into the fund gifts made by any individual or agency as deemed acceptable by the board together with funds that are obtained from sources legally available and determined by the board to be applicable for the purposes of KRS 164A.700 to 164A.709.
- (6) There is created a separate account within the Kentucky Higher Education Assistance Authority to be known as the prepaid postsecondary tuition administrative account for the purposes of implementing and maintaining the fund.
- (a) Moneys shall be transferred from the fund to the administrative account to meet the expenses necessary for the administration and maintenance of the fund. Expenses incurred by the board and the Tuition Account Program Office in carrying out the provisions of KRS 164A.700 to 164A.709 shall be made payable from the fund through the administrative account, and no administrative expenses shall be incurred by the Kentucky Higher Education Assistance Authority beyond those for which moneys are provided by the fund.

(b) ~~Funds may be transferred from the property abandoned under KRS Chapter 393 to the administrative account and shall be repaid to the abandoned property fund no later than three (3) years after the transfer.~~

(e) The board may establish administrative fees for handling prepaid tuition contracts and deposit the *funds attributable to the fees* ~~money~~ in the *administrative* ~~this~~ account.

Section 4. KRS 164A.704 is amended to read as follows:

The board shall:

- (1) Promulgate administrative regulations, set fees, and adopt procedures as are necessary to implement the provisions of KRS 164A.700 to 164A.709;
- (2) Enter into contractual agreements, including contracts for legal, actuarial, financial, and consulting services;
- (3) Invest moneys in the fund in any instruments, obligations, securities, or property as permitted by KRS 164A.701(4) and deemed appropriate by the board;
- (4) Procure insurance to protect against any loss in connection with the fund's property, assets, or activities and to indemnify board members from personal loss or accountability from liability arising from any action or inaction as a board member;
- (5) Make arrangements with eligible educational institutions in the Commonwealth to fulfill obligations under prepaid tuition contracts, including, but not limited to, payment from the fund of the tuition cost on behalf of a qualified beneficiary to attend an eligible educational institution in which the beneficiary is admitted and enrolled;
- (6) Develop requirements, procedures, and guidelines regarding prepaid tuition contracts, including but not limited to, the termination, withdrawal, or transfer of payments under a prepaid tuition contract; tuition shortfalls; number of participants; time limitations for prepaid tuition contracts and the use of tuition benefits; tuition conversions; payment schedules; payroll deductions; penalties for failure of purchasers to adhere to contracts; and transfer of prepaid tuition credits towards private education in the Commonwealth or for out-of-state institutions;
- (7) Have the actuarial soundness of the fund evaluated by a nationally recognized independent actuary ***annually, by October 1 of each year, to*** ~~on an annual basis and~~ determine ~~prior to each academic year~~:
  - (a) The amount of prepaid tuition for each tuition plan; and for each eligible educational institution for specific academic years, the corresponding value; ~~and~~
  - (b) Whether additional assets are necessary to defray the obligations of the ***portion of the fund relating to contracts entered into before the effective date of this Act, and when those funds will be needed.***
    1. ***For purposes of this paragraph, a "real liability expected to accrue during the next biennium" exists if the amount in the fund representing contracts entered into before the effective date of this Act is not sufficient to meet all anticipated distributions under contracts entered into before the effective date of this Act and the expense of maintaining and operating the fund for the upcoming biennium.***
    2. ***If the report of the actuary submitted in an odd-numbered year reflects that there will be a real liability expected to accrue during the next biennium, the secretary of the Finance and Administration Cabinet shall include in the budget request for the cabinet an appropriation to the board in an amount necessary to meet the real liability in each fiscal year of the biennium, and the General Assembly shall appropriate the necessary funds.***
  - (c) ***Whether additional assets are necessary to defray the obligations of the portion of the fund relating to contracts entered into after the effective date of this Act, and when those funds will be needed.*** If the assets of the ***portion of the fund relating to contracts entered into after the effective date of this Act*** are insufficient to ensure the actuarial soundness of ***that portion of the fund***, as reported by the actuary, the board shall adjust the price of subsequent purchases of prepaid tuition contracts to the extent necessary to restore the actuarial soundness of the fund. The board may suspend the sale of prepaid tuition contracts until the next annual actuarial evaluation is completed if the board determines the action is needed to restore the actuarial soundness of the fund. During a suspension of sales of

contracts, the board and Tuition Account Program Office shall continue to service existing contract accounts and meet all obligations under existing prepaid tuition contracts; **and**

- (8) Make an annual report each year **by November 1** to the Legislative Research Commission **and the Governor** showing the fund's condition, **and whether additional assets will be necessary to defray the obligations of the fund**;
- ~~(9) Market and promote participation in the fund; and~~
- ~~(10) Develop, sponsor, and maintain a scholarship program, if deemed feasible by the board, to provide the benefits of the fund to financially disadvantaged families and students of Kentucky under criteria established by the board to encourage students to obtain postsecondary education in Kentucky and otherwise consistent with the purposes of the fund.~~

Section 5. KRS 164A.705 is amended to read as follows:

- (1) The prepaid tuition contract entered into by the purchaser and the board shall constitute an irrevocable pledge and guarantee by the fund to pay for the tuition of a qualified beneficiary upon acceptance and enrollment at an eligible educational institution in accordance with the tuition plan purchased.
- (2) A board member~~, officer of the fund,~~ or **any** employee of the Tuition Account Program Office or the Kentucky Higher Education Assistance Authority shall not be subject to any personal liability by reason of his or her issuance or execution of a prepaid tuition contract under KRS 164A.700 to 164A.709.
- (3) Under a tuition plan for private colleges and universities, tuition shall be paid based on the same percentage that University of Kentucky tuition is increased from the year the prepaid tuition contract is purchased to the year of payment.
- (4) The purchaser or qualified beneficiary shall pay to the eligible educational institution the amount of any prepaid tuition academic year conversion shortfall and the amount of any prepaid tuition conversion shortfall.
- (5) A qualified beneficiary attending an eligible educational institution may apply the value of a prepaid tuition account to a specific academic year at the maximum course load or maximum number of credit hours generally permitted to full-time undergraduates at that institution.
- (6) The value of a prepaid tuition account remaining after tuition is paid may be used for other qualified educational expenses under administrative regulations promulgated by the board in compliance with 26 U.S.C. sec. 529. The board may permit the use of the value of a prepaid tuition account for part-time undergraduate enrollment or graduate programs at eligible educational institutions.
- (7) ~~If~~**In the event** a qualified beneficiary attends an eligible educational institution for which payment of tuition is not guaranteed by the fund in whole or in part, and if the cost of tuition exceeds the value of a prepaid tuition account, the fund shall have no responsibility to pay the difference. If the value of a prepaid tuition account exceeds the cost of tuition, the excess may be used for other qualified postsecondary education expenses as directed by the purchaser.
- (8) The value of a prepaid tuition account shall not be used in calculating personal asset contribution for determining eligibility and need for student loan programs, student grant programs, or other student aid programs administered by any agency of the Commonwealth, except as otherwise may be provided by federal law.

Section 6. KRS 164A.707 is amended to read as follows:

- (1) Purchasers buying prepaid tuition for a qualified beneficiary shall enter into prepaid tuition contracts with the board. These contracts shall be in a form as shall be determined by the office. The contract shall provide for the purchase of a tuition plan for prepaid tuition for the qualified beneficiary from one (1) to five (5) specific academic years. ~~[Beginning on March 20, 2005, new prepaid tuition contracts entered into for a tuition plan approved by the board shall contain actuarially sound premiums sufficient to prevent their contribution to a program fund deficit. No general fund moneys or abandoned property funds shall be available for the support of the Commonwealth postsecondary education prepaid tuition trust fund.]~~
- (2) Upon written notification to the office a purchaser may amend the prepaid tuition contract to change:
  - (a) The qualified beneficiary, in accordance with 26 U.S.C. sec. 529;
  - (b) The academic year or years for which prepaid tuition is purchased;



- (c) A tuition plan designation to another tuition plan designation;
  - (d) The number of years for which prepaid tuition is purchased; or
  - (e) Other provisions of the prepaid tuition contract as permitted by the board.
- (3) A prepaid tuition account shall not be subject to attachment, levy, or execution by any creditor of a purchaser or qualified beneficiary. Prepaid tuition accounts shall be exempt from all state and local taxes including, but not limited to, intangible personal property tax levied under KRS 132.020, individual income tax levied under KRS 141.020, and the inheritance tax levied under KRS Chapter 140. Payments from a prepaid tuition account used to pay qualified postsecondary education expenses, or disbursed due to the death or disability of the beneficiary, or receipt of a scholarship by the beneficiary shall be exempt from tax liabilities.
  - (4) Nothing in KRS 164A.700 to 164A.709 or in a prepaid tuition contract shall be construed as a promise or guarantee that a qualified beneficiary shall be admitted to an eligible educational institution, be allowed to continue to attend an eligible educational institution after having been admitted, or be graduated from an eligible educational institution.
  - (5) Prepaid tuition contract payments shall not be made in real or personal property other than cash and shall not exceed the prepaid tuition. Prepaid tuition contract payments may be made in *a* lump-sum *or* installments.
  - (6) The purchaser shall designate the qualified beneficiary at the time the purchaser enters into a prepaid tuition contract, except for a prepaid tuition contract purchased in accordance with KRS 164A.700(13)(d). In the case of gifts made to the fund, the board shall designate a qualified beneficiary at the time of the gift.
  - (7) The prepaid tuition contract shall provide that the purchaser and the qualified beneficiary shall not directly or indirectly or otherwise control the investment of the prepaid tuition account or earnings on the account. Payments made for prepaid tuition shall be accounted for separately for each qualified beneficiary. No interest or earnings on a prepaid tuition contract of the purchaser or qualified beneficiary shall be pledged or otherwise encumbered as security of a debt.
  - (8) A prepaid tuition contract does not constitute a security as defined in KRS 292.310 or an annuity as defined in KRS 304.5-030.
  - (9) Each prepaid tuition contract is subject to, and shall incorporate by reference, all operating procedures and policies adopted by the board, the statutes governing prepaid tuition contracts in KRS 164A.700 to 164A.709 and 393.015, and administrative regulations promulgated thereunder. Any amendments to statutes, administrative regulations, and operating procedures and policies shall automatically amend prepaid tuition contracts, with retroactive or prospective effect, as applicable.

Section 7. KRS 164A.709 is amended to read as follows:

- (1) A purchaser may terminate a prepaid tuition contract at any time upon written request to the office.
- (2) Upon termination of a prepaid tuition contract at the request of a purchaser, the office shall pay from the fund to the purchaser:
  - (a) The value of the prepaid tuition account if the contract is terminated for:
    1. The death of the qualified beneficiary; or
    2. The disability of the qualified beneficiary that, in the opinion of the office, would make attendance by the beneficiary at an eligible educational institution impossible or unreasonably burdensome; or
    3. A request made on or after July 1 of the initial projected year of enrollment of the qualified beneficiary; and
  - (b) The amounts paid on the purchaser's prepaid tuition contract if the contract is terminated and a request for refund is made before July 1 of the qualified beneficiary's initial projected year of enrollment. The board may determine a rate of interest to accrue for payment on the amount otherwise payable under this paragraph.
- (3) At the option of the purchaser, the value of the prepaid tuition account may be carried forward to another academic year or distributed by the fund upon the purchaser's request.

- (4) All refunds paid shall be net of administrative fees as determined by the board. The office may impose a fee upon termination of the account for administrative costs and deduct the fee from the amount otherwise payable under this section.
- (5) If a qualified beneficiary is awarded a scholarship that covers tuition costs included in a prepaid tuition contract, the purchaser may request a refund consisting of the amount of the value of the prepaid tuition account, not to exceed the amount of the scholarship.
- (6) If the purchaser wishes to transfer funds from the prepaid tuition account to the Kentucky Educational Savings Plan Trust, the purchaser may do so under administrative regulations promulgated by the board and the board of directors of the Kentucky Educational Savings Plan Trust under **KRS 164A.325**.
- (7) If the purchaser wishes to transfer funds from the prepaid tuition account to another qualified tuition program as defined in 26 U.S.C. sec. 529(b)(1), the purchaser may do so under administrative regulations promulgated by the board.
- (8) The board may terminate a prepaid tuition contract at any time due to the fraud or misrepresentation of a purchaser or qualified beneficiary with respect to the prepaid tuition contract.

SECTION 8. A NEW SECTION OF KRS 48.100 TO 48.195 IS CREATED TO READ AS FOLLOWS:

*Notwithstanding any other provision of law, if the report of the actuary submitted in an odd-numbered year pursuant to paragraph (b) of subsection (7) of Section 4 of this Part reflects that there will be a real liability expected to accrue during the upcoming biennium that cannot be met with existing resources of the Commonwealth postsecondary education prepaid tuition trust fund created pursuant to Section 3 of this Part, the Governor shall include in the budget recommendation for the executive branch and in the draft branch budget bill for the executive branch submitted to the General Assembly an appropriation to the board in an amount necessary to meet the real liability expected to accrue in each fiscal year of the biennium.*

## PART XXXII

### ROLL-YOUR-OWN TOBACCO EXCISE TAX

Notwithstanding KRS 48.310, the following statutes are amended to read as follows and shall have permanent effect, subject to future actions by the General Assembly:

Section 1. 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 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 2. KRS 138.140 is amended to read as follows:

- (1) A tax shall be paid on the sale of cigarettes within the state at a proportionate rate of three cents (\$0.03) on each twenty (20) cigarettes. This tax shall be paid only once, regardless of the number of times the cigarettes may be sold in this state.
- (2) Effective June 1, 2005, a surtax shall be paid in addition to the tax levied in subsection (1) of this section at a proportionate rate of twenty-six cents (\$0.26) on each twenty (20) cigarettes. This tax shall be paid only once, at the same time the tax imposed by subsection (1) of this section is paid, regardless of the number of times the cigarettes may be sold in the state.
- (3) Effective June 1, 2005, a surtax shall be paid in addition to the tax levied in subsection (1) of this section and in addition to the surtax levied by subsection (2) of this section, at a proportionate rate of one cent (\$0.01) on each twenty (20) cigarettes. This tax shall be paid only once, at the same time the tax imposed by subsection (1) of this section and the surtax imposed by subsection (2) of this section are paid, regardless of the number of times the cigarettes may be sold in the state.

- (4) (a) Effective August 1, 2005, ~~an excise~~ tax shall be imposed upon all wholesalers of other tobacco products at the rate of seven and one-half percent (7.5%) of the gross receipts of any wholesaler derived from wholesale sales made within the Commonwealth.
- (b) This *excise* tax shall be paid only once, regardless of the number of times the tobacco product may be sold in the state.
- (5) Effective August 1, 2005, a tax shall be imposed upon all wholesalers of snuff at a rate of nine and one-half cents (\$0.095) per unit. As used in this section unit means a hard container not capable of containing more than one and one-half (1-1/2) ounce. In determining the quantity subject to the tax under this subsection, if a package on which the tax is levied, contains more than an individual unit, the taxable quantity shall be calculated by multiplying the total number of individual units by the rate set in this subsection. The tax imposed under this subsection shall be paid only once, regardless of the number of times the snuff may be sold in this state.
- (6) The General Assembly recognizes that increasing taxes on tobacco products should reduce consumption, and therefore result in healthier lifestyles for Kentuckians. The relative taxes on tobacco products proposed in this section reflect the growing data from scientific studies suggesting that although smokeless tobacco poses some risks, those health risks are significantly less than the risks posed by other forms of tobacco products. Moreover, the General Assembly acknowledges that some in the public health community recognize that tobacco harm reduction should be a complementary public health strategy regarding tobacco products. Taxing tobacco products according to relative risk is a rational tax policy and may well serve the public health goal of reducing smoking-related mortality and morbidity and lowering health care costs associated with tobacco-related disease.

### PART XXXIII

#### CIGARETTE PAPERS EXCISE TAX

Notwithstanding KRS 48.310, the following statutes are amended to read as follows and shall have permanent effect, subject to future actions by the General Assembly:

Section 1. 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" means the Department of Revenue.
- (2) "Manufacturer" means any person who manufactures or produces cigarettes, snuff, or other tobacco products 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" means a sale to any person for any other purpose other than resale.
- (5) "Cigarettes" means 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 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.
- (6) "Sale" or "sell" means any transfer for a consideration, exchange, barter, gift, offer for sale, advertising for sale, soliciting an order for cigarettes, other tobacco products, or snuff, and distribution in any manner or by any means whatsoever.
- (7) "Tax evidence" means any stamps, metered impressions, or other indicia prescribed by the department by regulation as a means of denoting the payment of tax.
- (8) "Person" means any individual, firm, copartnership, joint venture, association, municipal or private corporation whether organized for profit or not, the Commonwealth of Kentucky or any of its political subdivisions, an estate, trust, or any other group or combination acting as a unit, and the plural as well as the singular.
- (9) "Resident wholesaler" means any person who purchases at least seventy-five percent (75%) of all cigarettes, other tobacco products, or snuff purchased by the wholesaler directly from the manufacturer on which the tax provided for in KRS 138.130 to 138.205 is unpaid, and who maintains an established place of business in this state where the wholesaler attaches cigarette tax evidence, or receives untaxed cigarettes, other tobacco products, or snuff.

- (10) "Nonresident wholesaler" means any person who purchases cigarettes, other tobacco products, or snuff 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" means any person who purchases cigarettes, other tobacco products, or snuff from a wholesaler licensed under KRS 138.195 on which the tax imposed by KRS 138.140 has been paid and makes them available to retailers for resale. No person shall be deemed to make cigarettes, other tobacco products, or snuff available to retailers for resale unless the person certifies and establishes to the satisfaction of the department that firm arrangements have been made to regularly supply at least five (5) retail locations with Kentucky tax-paid cigarettes, other tobacco products, or snuff for resale in the regular course of business.
- (12) "Vending machine operator" means any person who operates one (1) or more cigarette, other tobacco products, or snuff vending machines.
- (13) "Transporter" means any person transporting untax-paid cigarettes, other tobacco products, or snuff obtained from any source to any destination within this state, other than cigarettes, other tobacco products, or snuff transported by the manufacturer thereof.
- (14) "Unclassified acquirer" means any person in this state who acquires cigarettes, other tobacco products, or snuff from any source on which the tax imposed by KRS 138.140 has not been paid, and who is not a person otherwise required to be licensed under the provisions of KRS 138.195.
- (15) "Other tobacco products" means cigars, cheroots, stogies, periques, granulated, plug cut, crimp cut, ready rubbed, and other smoking tobacco, cavendish, plug and twist tobacco, fine-cut, and other chewing tobacco, shorts, refuse scraps, clippings, cuttings and sweepings of tobacco, and other kinds and forms of tobacco prepared in a manner to be suitable for chewing or smoking in a pipe or otherwise, or both for chewing or smoking but does not include cigarettes as defined in subsection (5) of this section, or snuff.
- (16) "Wholesale sale" means a sale made for the purpose of resale in the regular course of business.
- (17) ***"Cigarette paper" means paper or a similar product suitable for use and likely to be offered to, or purchased by, consumers of roll-your-own tobacco.***

Section 2. KRS 138.140 is amended to read as follows:

- (1) A tax shall be paid on the sale of cigarettes within the state at a proportionate rate of three cents (\$0.03) on each twenty (20) cigarettes. This tax shall be paid only once, regardless of the number of times the cigarettes may be sold in this state.
- (2) Effective June 1, 2005, a surtax shall be paid in addition to the tax levied in subsection (1) of this section at a proportionate rate of twenty-six cents (\$0.26) on each twenty (20) cigarettes. This tax shall be paid only once, at the same time the tax imposed by subsection (1) of this section is paid, regardless of the number of times the cigarettes may be sold in the state.
- (3) Effective June 1, 2005, a surtax shall be paid in addition to the tax levied in subsection (1) of this section and in addition to the surtax levied by subsection (2) of this section, at a proportionate rate of one cent (\$0.01) on each twenty (20) cigarettes. This tax shall be paid only once, at the same time the tax imposed by subsection (1) of this section and the surtax imposed by subsection (2) of this section are paid, regardless of the number of times the cigarettes may be sold in the state.
- (4)
  - (a) Effective August 1, 2005, a tax shall be imposed upon all wholesalers of other tobacco products at the rate of seven and one-half percent (7.5%) of the gross receipts of any wholesaler derived from wholesale sales made within the Commonwealth.
  - (b) This tax shall be paid only once, regardless of the number of times the tobacco product may be sold in the state.
- (5) Effective August 1, 2005, a tax shall be imposed upon all wholesalers of snuff at a rate of nine and one-half cents (\$0.095) per unit. As used in this section unit means a hard container not capable of containing more than one and one-half (1-1/2) ounce. In determining the quantity subject to the tax under this subsection, if a package on which the tax is levied, contains more than an individual unit, the taxable quantity shall be calculated by multiplying the total number of individual units by the rate set in this subsection. The tax imposed under this subsection shall be paid only once, regardless of the number of times the snuff may be sold in this state.

- (6) (a) *Effective June 1, 2006, every person licensed under KRS 138.195 to affix tax evidence, every wholesaler required to pay the tax imposed by subsection (4) of this section, and every other person selling cigarette paper at wholesale in this state shall pay an excise tax on the sale of cigarette paper.*
- (b) *The tax shall be in the amount of twenty-five cents (\$0.25) per package of thirty-two (32) sheets. For packages greater than thirty-two (32) sheets, the tax shall be calculated at one and twenty-eight one-hundredths cents (\$0.0128) per sheet.*
- (c) *The tax shall be remitted to the Department of Revenue at the same time and in the same manner as the tax imposed in subsection (4) of this section.*
- (7) *The department may prescribe forms and promulgate administrative regulations to execute and administer the provisions of this section.*
- (8) The General Assembly recognizes that increasing taxes on tobacco products should reduce consumption, and therefore result in healthier lifestyles for Kentuckians. The relative taxes on tobacco products proposed in this section reflect the growing data from scientific studies suggesting that although smokeless tobacco poses some risks, those health risks are significantly less than the risks posed by other forms of tobacco products. Moreover, the General Assembly acknowledges that some in the public health community recognize that tobacco harm reduction should be a complementary public health strategy regarding tobacco products. Taxing tobacco products according to relative risk is a rational tax policy and may well serve the public health goal of reducing smoking-related mortality and morbidity and lowering health care costs associated with tobacco-related disease.

#### PART XXXIV

#### CAPTIVE INSURERS

Notwithstanding KRS 48.310, the following statutes are created or amended to read as follows and shall have permanent effect, subject to future actions by the General Assembly:

SECTION 1. A NEW SECTION OF KRS 304.49-010 TO 304.49-230 IS CREATED TO READ AS FOLLOWS:

- (1) *A captive insurer shall engage a manager who is a resident of this state.*
- (2) *The captive manager shall maintain the books and records of the captive insurer's business, transactions, and affairs at a location that is in this state or shall make them available to the executive director at a location that is in this state.*
- (3) *The captive manager shall promptly notify the executive director of any failure of the captive insurer to comply with this section.*
- (4) *The executive director may require a captive insurer to discharge a captive manager for failure to substantively fulfill the captive manager's duties under this subtitle.*

SECTION 2. A NEW SECTION OF KRS 304.49-010 TO 304.49-230 IS CREATED TO READ AS FOLLOWS:

*The executive director may promulgate administrative regulations to set minimum standards for the formation, structure, examination, and operation of a special purpose captive insurer or an agency captive insurer.*

SECTION 3. A NEW SECTION OF KRS 304.49-010 TO 304.49-230 IS CREATED TO READ AS FOLLOWS:

- (1) *If there is any material change in the financial condition or management of a captive insurer, the captive insurer shall notify the executive director, in writing, within ten (10) business days of the change.*
- (2) *No captive insurer shall voluntarily take any of the following material actions without providing the executive director at least thirty (30) days prior written notice and receiving the executive director's approval of the action within the thirty (30) day period:*
  - (a) *The dissolution of the captive insurer;*
  - (b) *Any sale, exchange, lease, mortgage, assignment, pledge, or other transfer of, or granting of a security interest in, all or substantially all of the assets of the captive insurer;*
  - (c) *Any incurrence of material indebtedness by the captive insurer;*

- (d) *Any making of a material loan or other material extension of credit by the captive insurer;*
- (e) *Any payment or distribution that materially reduces capital and surplus;*
- (f) *Any merger or consolidation to which the captive insurer is a constituent party;*
- (g) *Any conversion of the captive insurer to another business form;*
- (h) *Any transfer to or domestication in any jurisdiction by the captive insurer; or*
- (i) *Any material amendment of the organizational documents of the captive insurer.*

SECTION 4. A NEW SECTION OF KRS 304.49-010 TO 304.49-230 IS CREATED TO READ AS FOLLOWS:

*A sponsored captive insurer may establish and maintain one (1) or more protected cells to insure risks of one (1) or more participants, subject to the following conditions:*

- (1) *The owners of a sponsored captive insurer shall be limited to its participants and sponsors, provided that a sponsored captive insurer may issue nonvoting securities or interests to other persons on terms approved by the executive director;*
- (2) *The assets of each protected cell shall be held and accounted for separately on the books and records of the sponsored captive insurer to reflect the financial condition and results of operations of the protected cell, net income or loss of the protected cell, dividends or other distributions to participants of the protected cell, and other factors regarding the protected cell as may be provided in the applicable participant contract or required by the executive director;*
- (3) *The assets of a protected cell shall not be chargeable with liabilities of any other protected cell or, unless otherwise agreed in the applicable participant contract, of the sponsored captive insurer generally;*
- (4) *No sale, or transfer of assets, or dividend or other distribution, may be made with respect to a protected cell by such sponsored captive insurer without the consent of the participants of each affected protected cell;*
- (5) *No sale, exchange, or transfer of assets, or dividend or other distribution, other than a payment to a sponsor in accordance with the applicable participant contract, may be made with respect to a protected cell to a sponsor or a participant without the executive director's approval;*
- (6) *Each sponsored captive insurer shall annually file with the executive director financial reports as the executive director shall require, which shall include, without limitation, accounting statements detailing the financial experience of each protected cell;*
- (7) *Each sponsored captive insurer shall notify the executive director, in writing, within ten (10) business days of any protected cell that has become insolvent or is otherwise unable to meet its claim or expense obligations;*
- (8) *No participant contract shall take effect without the executive director's prior written approval. The addition of each new protected cell and withdrawal of any participant or termination of any existing protected cell shall constitute a change in the plan of operation of the sponsored captive insurer requiring the executive director's prior written approval; and*
- (9) (a) *The business written by a sponsored captive insurer, with respect to each protected cell, shall be:*
  - 1. *Fronted by an insurance company licensed under the laws of this state or any other state;*
  - 2. *Reinsured by a reinsurer authorized or approved by this state;*
  - 3. *Secured by a trust fund in this state for the benefit of policyholders and claimants; or*
  - 4. *Funded by an irrevocable letter of credit or other arrangement that is approved in writing by the executive director.*
- (b) *The amount of security provided shall be no less than the reserves associated with those liabilities which are neither fronted nor reinsured, including reserves for losses, allocated loss adjustment expenses, incurred but not reported losses, and unearned premiums for business written through the protected cell.*

- (c) *The executive director may, for any reason, require the sponsored captive insurance company to increase the funding of any security arrangement established under this subsection in order to protect claimants or potential claimants.*
- (d) *If the form of security is a letter of credit, the letter of credit shall be established, issued, or confirmed by a financial institution chartered by or licensed or otherwise authorized to do banking business in this state, or by any other financial institution approved by the executive director.*
- (e) *A trust maintained pursuant to this subsection shall be established in a form and upon such terms as approved by the executive director.*

Section 5. KRS 304.49-010 is amended to read as follows:

As used in KRS 304.49-010 to 304.49-230, unless the context requires otherwise:

- (1) "Affiliated company" means any company in the same corporate system as a parent, an industrial insured, or a member organization by virtue of common ownership, control, operation, or management.
- (2) *"Agency captive insurer" means a captive insurer that is owned by one (1) or more business entities that are licensed insurance producers and that only insure risks on policies placed through their owners.*
- (3) "Captive insurer" means any pure captive insurer, consortium captive insurer, sponsored captive insurer, or industrial insured captive insurer formed or issued a certificate of authority under the provisions of KRS 304.49-010 to 304.49-230. For purposes of KRS 304.49-010 to 304.49-230, a branch captive insurer shall be a pure captive insurer with respect to operations in Kentucky, unless otherwise permitted by the executive director.
- ~~(4)~~~~(3)~~ "Consortium" means any legal association of individuals, corporations, partnerships, or associations that has been in continuous existence for at least one (1) year, the member organizations of which collectively, or which does itself:
  - (a) Own, control, or hold with power to vote all of the outstanding voting securities of a consortium captive insurer incorporated as a stock insurer; or
  - (b) Have complete voting control over a consortium captive insurer incorporated as a mutual insurer; or
  - (c) The member organizations of which collectively constitute all of the subscribers of a consortium captive insurer formed as a reciprocal insurer.
- ~~(5)~~~~(4)~~ "Consortium captive insurer" means any company that insures risks of the member organizations of the consortium and their affiliated companies.
- ~~(6)~~~~(5)~~ "Excess workers' compensation insurance" means, in the case of an employer that has insured or self-insured its workers' compensation risks in accordance with applicable state or federal law, insurance in excess of a specified per incident or aggregate limit established by the executive director.
- ~~(7)~~~~(6)~~ "Industrial insured" means an insured as defined in KRS 304.11-020(1).
- ~~(8)~~~~(7)~~ "Industrial insured captive insurer" means any company that insures risks of the industrial insureds that comprise the industrial insured group, and their affiliated companies.
- ~~(9)~~~~(8)~~ "Industrial insured group" means any group that meets either of the following criteria:
  - (a) Any group of industrial insureds that collectively:
    - 1. Own, control, or hold with power to vote all of the outstanding voting securities of an industrial insured captive insurer incorporated as a stock insurer;
    - 2. Have complete voting control over an industrial insured captive insurer incorporated as a mutual insurer; or
    - 3. Constitute all of the subscribers of an industrial insured captive insurer formed as a reciprocal insurer; or
  - (b) Any group which is created under the Product Liability Risk Retention Act of 1981, 15 U.S.C. secs. 3901 et seq., as amended, as a corporation or other limited liability association.
- ~~(10)~~~~(9)~~ "Member organization" means any individual, corporation, partnership, or association that belongs to a consortium.



- ~~(11)~~~~(10)~~ "Parent" means a corporation, partnership, or individual that directly or indirectly owns, controls, or holds with power to vote more than fifty percent (50%) of the outstanding voting securities of a pure captive insurer.
- ~~(12)~~~~(11)~~ "Pure captive insurer" means any company that insures risks of its parent and affiliated companies or controlled unaffiliated business.
- ~~(13)~~~~(12)~~ "Controlled unaffiliated business" means any company:
- (a) That is not in the corporate system of a parent and affiliated companies;
  - (b) That has an existing contractual relationship with a parent or affiliated company; and
  - (c) Whose risks are managed by a pure captive insurer in accordance with KRS 304.49-170.
- ~~(14)~~~~(13)~~ "Foreign captive insurer" means any insurer formed to write insurance business for its parents and affiliates and licensed pursuant to the laws of any state other than Kentucky which imposes statutory or regulatory standards in a form acceptable to the executive director on companies transacting the business of insurance in that jurisdiction. Under KRS 304.49-010 to 304.49-230, captive insurers formed under the laws of any jurisdiction other than a state of the United States shall be treated as a foreign captive insurer unless the context requires otherwise.
- ~~(15)~~~~(14)~~ "Branch business" means any insurance business transacted by a branch captive insurer in Kentucky.
- ~~(16)~~~~(15)~~ "Branch captive insurer" means any foreign captive insurer issued a certificate of authority by the executive director to transact the business of insurance in Kentucky through a business unit with a principal place of business in Kentucky.
- ~~(17)~~~~(16)~~ "Branch operations" means any business operations of a branch captive insurer in Kentucky.
- ~~(18)~~~~(17)~~ "Participant" means an entity as defined in KRS 304.49-210, and any affiliates thereof, that are insured by a sponsored captive insurer, where the losses of the participant are limited through a participant contract to the assets of a protected cell.
- ~~(19)~~~~(18)~~ "Participant contract" means a contract by which a sponsored captive insurer insures the risks of a participant and limits the losses of the participant to the assets of a protected cell.
- ~~(20)~~~~(19)~~ "Protected cell" means a separate account established and maintained by a sponsored captive insurer for one (1) participant.
- ~~(21)~~~~(20)~~ "Reciprocal insurer" means an insurer engaging in reciprocal insurance as defined by KRS 304.27-010.
- ~~(22)~~ ***"Special purpose captive insurer" means any person that is licensed under this chapter and designated as a special purpose captive insurer by the executive director. A person may be designated as a special purpose captive insurer if it is established for one (1) specific purpose or transaction, and where it is desirable to isolate the purpose or transaction from the other activities of a party or parties involved in the transaction, or where the transaction dictates that the vehicle should not be treated as controlled or owned by any other party to that transaction.***
- ~~(23)~~~~(21)~~ "Sponsor" means any entity that meets the requirements of KRS 304.49-200 and is approved by the executive director to provide all or part of the capital and surplus required by applicable law and to organize and operate a sponsored captive insurer.
- ~~(24)~~~~(22)~~ "Sponsored captive insurer" means any captive insurer:
- (a) In which the minimum capital and surplus required by applicable law is provided by one (1) or more sponsors;
  - (b) That is formed or issued a certificate of authority under the provisions of this subtitle;
  - (c) That insures the risks of separate participants through contract; and
  - (d) That segregates each participant's liability through one (1) or more protected cells.

Section 6. KRS 304.49-020 is amended to read as follows:

- (1) Any captive insurer, when permitted by its articles of incorporation, charter, or other organizational document, may apply to the executive director for a certificate of authority to engage in any and all kinds of insurance defined in Subtitle 5 of this chapter; provided, however, that:
  - (a) No pure captive insurer may insure any risks other than those of its parent and affiliated companies or controlled unaffiliated business;
  - (b) No consortium captive insurer may insure any risks other than those of the member organizations of its consortium and their affiliated companies;
  - (c) No industrial insured captive insurer may insure any risks other than those of the industrial insureds that comprise the industrial insured group and their affiliated companies;
  - (d) No captive insurer may provide personal motor vehicle or homeowner's insurance coverage or any component thereof;
  - (e) No captive insurer may accept or cede reinsurance except as provided in KRS 304.49-110;
  - (f) ***No captive insurer that is issued an initial certificate of authority on or after July 1, 2006, shall directly provide workers' compensation insurance; however,*** any captive insurer may provide excess workers' compensation insurance to its parent and affiliated companies, unless prohibited by the laws of the state having jurisdiction over the transaction. Any captive insurer may reinsure workers' compensation of a qualified self-insured plan of its parent and affiliated companies;
  - (g) Any captive insurer which insures risks described in KRS 304.5-020 and 304.5-040 shall comply with all applicable state laws;
  - (h) No branch captive insurer may write any business in Kentucky except insurance or reinsurance of the employee benefit business of its parent and affiliated companies which is subject to the provisions of the Employee Retirement Income Security Act of 1974, as amended; and
  - (i) No sponsored captive insurer may insure any risks other than those of its participants.
- (2) No captive insurer shall do any insurance business in Kentucky unless:
  - (a) It first obtains from the executive director a certificate of authority authorizing it to do insurance business in Kentucky;
  - (b) Its board of directors, or in the case of a reciprocal insurer, its subscribers' advisory committee, holds at least one (1) meeting each year in Kentucky; and
  - (c) It maintains its principal place of business in Kentucky or, in the case of a branch captive insurer, maintains the principal place of business for its branch operations in Kentucky.
- (3) Before receiving a certificate of authority, a captive insurer formed as a corporation shall file with the executive director a certified copy of its charter and bylaws, a statement under oath of its president and secretary showing its financial condition, and any other statements or documents required by the executive director;
- (4) Before receiving a certificate of authority, a captive insurer formed as a reciprocal insurer shall:
  - (a) File with the executive director a certified copy of the power of attorney of its attorney-in-fact, a certified copy of its subscribers' agreement, a statement under oath of its attorney-in-fact showing its financial condition, and any other statements or documents required by the executive director; and
  - (b) Submit to the executive director a sample of the coverages, deductibles, coverage limits, and rates, together with any additional information required by the executive director. In the event of any subsequent material change in any item in the samples, the reciprocal captive insurer shall submit to the executive director for approval an appropriate revision. The reciprocal captive insurer shall not offer any coverage until the forms are approved by the executive director. The reciprocal captive insurer shall not use any initial rate until it is approved by the executive director and shall inform the executive director of any material change in rates within thirty (30) days of the adoption of the change.
- (5) In addition to the information required by subsections (3) or (4) of this section, each applicant captive insurer shall file with the executive director evidence of the following:
  - (a) The amount and liquidity of its assets relative to the risks to be assumed;

- (b) The adequacy of the expertise, experience, and character of the person or persons who will manage it;
  - (c) The overall soundness of its plan of operation;
  - (d) The adequacy of the loss prevention programs of its parent, member organizations, or industrial insureds as applicable; and
  - (e) Any other factors deemed relevant by the executive director in ascertaining whether the proposed captive insurer will be able to meet its policy obligations.
- (6) In addition to the information required by subsections (3), (4), and (5) of this section, each applicant-sponsored captive insurer shall file with the executive director the following:
- (a) A business plan demonstrating how the applicant will account for the loss and expense experience of each protected cell at a level of detail found to be sufficient by the executive director and how it will report the experience to the executive director;
  - (b) A statement acknowledging that all financial records of the sponsored captive insurer, including records pertaining to any protected cells, shall be made available for inspection or examination by the executive director;
  - (c) All contracts or sample contracts between the sponsored captive insurer and any participants; and
  - (d) Evidence that expenses shall be allocated to each protected cell in a fair and equitable manner.
- (7) *All portions of license applications reasonably designated confidential by the applicant, and all examination reports, preliminary examination reports, working papers, recorded information, other documents, and any copies of any of the foregoing, produced or obtained by or submitted or disclosed to the executive director related to an examination pursuant to this subtitle shall, unless the prior written consent of the captive insurer to which it pertains has been obtained, be given confidential treatment, and shall not be subject to civil subpoena, made public by the executive director, or provided or disclosed to any other person at any time except to:*
- (a) *The insurance department of any state, country, or alien jurisdiction; or*
  - (b) *To a law enforcement official or agency of the Commonwealth of Kentucky, any other state, or alien jurisdiction, as long as the official or agency agrees in writing to hold it confidential and in a manner consistent with this section.* ~~Information submitted under this section shall be confidential by law and privileged but may be used, received, and shared in accordance with Subtitle 2 of this chapter.~~
- (8) Each captive insurer shall pay to the executive director a nonrefundable fee as stated in KRS 304.4-010 for examining, investigating, and processing its application for certificate of authority. The executive director is authorized to retain legal, financial, and examination services from outside the office to assist in examining and investigating the applicant, the reasonable cost of which may be charged against the applicant. In addition, each captive insurer shall pay a certificate of authority fee for the year of registration and a renewal fee for each year thereafter.

Section 7. KRS 304.49-040 is amended to read as follows:

- (1) No captive insurer shall be issued a certificate of authority unless it shall possess and thereafter maintain unimpaired paid-in capital and surplus of:
- (a) In the case of a pure captive insurer, not less than two hundred fifty thousand dollars (\$250,000);
  - (b) In the case of an consortium captive insurer, not less than seven hundred fifty thousand dollars (\$750,000);
  - (c) In the case of an industrial insured captive insurer, not less than five hundred thousand dollars (\$500,000); ~~and~~
  - (d) In the case of a sponsored captive insurer, not less than one million dollars (\$1,000,000);
  - (e) *In the case of an agency captive insurer, not less than five hundred thousand dollars (\$500,000); and*
  - (f) *In the case of a special purpose captive insurer, not less than two hundred fifty thousand dollars (\$250,000), or another amount determined by the executive director.*

- (2) Notwithstanding the requirements of subsection (1) of this section, no captive insurer organized as a reciprocal insurer under KRS 304.49-010 to 304.49-230 shall be issued a certificate of authority unless it shall possess and thereafter maintain free surplus of one million dollars (\$1,000,000).
- (3) The executive director may prescribe additional capital and surplus based upon the type, volume, and nature of insurance business transacted.
- (4) Capital and surplus may be in the form of cash or an irrevocable letter of credit issued by a bank approved by the executive director and chartered by the Commonwealth of Kentucky or a member bank of the Federal Reserve System, *or other assets as may be approved by the executive director.*
- (5) In the case of a branch captive insurer, as security for the payment of liabilities attributable to the branch operations, the executive director shall require that a separate trust fund, funded by an irrevocable letter of credit or other acceptable asset, be established and maintained in the United States for the benefit of United States policyholders and United States ceding insurers under insurance policies issued or reinsurance contracts issued or assumed, by the branch captive insurer through its branch operations. The amount of this security may be no less than the capital and surplus required in this section and the reserves on the insurance policies or the reinsurance contracts, including reserves for losses, allocated loss adjustment expenses, incurred but not reported losses, and unearned premiums with regard to business written through the branch operations; provided, however, the executive director may permit a branch captive insurer that is required to post security for loss reserves on branch business by its reinsurer to reduce the funds in the trust account required by this section by the same amount so long as the security remains posted with the reinsurer. If the form of security selected is a letter of credit, the letter of credit must be established by, or issued or confirmed by, a bank chartered in Kentucky or a member bank of the Federal Reserve System.

Section 8. KRS 304.49-060 is amended to read as follows:

- (1) A pure captive insurer or a sponsored captive insurer shall be incorporated as a stock insurer with its capital divided into shares and held by the stockholders.
- (2) A consortium captive insurer or an industrial insured captive insurer may be:
  - (a) Incorporated as a stock insurer with its capital divided into shares and held by the stockholders; or
  - (b) Incorporated as a mutual insurer without capital stock, the governing body of which is elected by the member organizations of its consortium; or
  - (c) Organized as a reciprocal insurer in accordance with Subtitle 27 of this chapter.
- (3) *A special purpose captive insurer may be:*
  - (a) *Incorporated as a stock corporation;*
  - (b) *Incorporated as a nonstock corporation;*
  - (c) *Formed as a limited liability company;*
  - (d) *Formed as a partnership;*
  - (e) *Formed as a limited partnership;*
  - (f) *Formed as a statutory trust; or*
  - (g) *Such other person approved by the executive director, other than a natural person in his or her individual capacity.*
- (4) *A sponsored captive insurer may be:*
  - (a) *Incorporated as a stock corporation;*
  - (b) *Incorporated as a nonstock corporation;*
  - (c) *Formed as a limited liability company;*
  - (d) *Formed as a partnership;*
  - (e) *Formed as a limited partnership; or*
  - (f) *Formed as a statutory trust.*

- (5) *A risk retention group may take any form permitted under the Liability Risk Retention Act of 1986, 15 U.S.C. sec. 3901 et seq., as amended.*
- (6) A captive insurer incorporated or organized in Kentucky shall have not less than three (3) incorporators or two (2) organizers.
- (7)~~(4)~~ In the case of a captive insurer, the executive director shall find, in order to issue a certificate of authority, that the establishment and maintenance of the proposed captive insurer will promote the general good of the state. In arriving at such a finding, the executive director shall consider:
- (a) The character, reputation, financial standing, and purposes of the incorporators or organizers;
  - (b) The character, reputation, financial responsibility, insurance experience, and business qualifications of the persons responsible for the conduct of the captive insurer's affairs; and
  - (c) Any other aspects the executive director deems advisable.
- (8)~~(5)~~ The capital stock of a captive insurer incorporated as a stock insurer may be authorized with no par value.
- (9)~~(6)~~ Captive insurance companies formed as corporations under the provisions of KRS 304.49-010 to 304.49-230 shall have the privileges and be subject to the provisions of KRS Chapter 271B as well as the applicable provisions contained in KRS 304.49-010 to 304.49-230. If there is a conflict between the provisions of KRS Chapter 271B and the provisions of this chapter, the latter shall control. The provisions of this chapter, pertaining to mergers, consolidations, conversions, mutualizations, and redomestications, shall apply in determining the procedures to be followed by captive insurance companies in carrying out any of the transactions described therein, except that:
- (a) The executive director may, upon request of an insurer party to a merger authorized under this subsection, waive the requirement of KRS 304.24-390(4); and
  - (b) The executive director may waive or modify the requirements for public notice and hearing in accordance with rules which the executive director may adopt addressing categories of transactions. If a notice of public hearing is required, but no one requests a hearing, then the executive director may cancel the hearing.
- (10)~~(7)~~ Captive insurance companies formed as reciprocal insurers under the provisions of KRS 304.49-010 to 304.49-230 shall have the privileges and be subject to the provisions of Subtitle 27 of this chapter in addition to the applicable provisions of this subtitle. In the event of a conflict between the provisions of Subtitle 27 of this chapter and the provisions of this subtitle, the latter shall control. To the extent a reciprocal insurer is made subject to other provisions of this subtitle pursuant to Subtitle 27 of this chapter, those provisions shall not be applicable to a reciprocal insurer formed under KRS 304.49-010 to 304.49-230 unless the provisions are expressly made applicable to captive insurance companies under KRS 304.49-010 to 304.49-230.
- (11)~~(8)~~ In addition to the provisions of subsection (10)~~(7)~~ of this section, captive insurance companies organized as reciprocal insurers that are industrial insured groups as defined in this subtitle shall have the privileges and be subject to the provisions of Subtitle 45 of this chapter, in addition to the applicable provisions of this subtitle.
- (12)~~(9)~~ The articles of incorporation or bylaws of a captive insurer formed as a corporation may authorize a quorum of a board of directors to consist of no fewer than one-third (1/3) of the fixed or prescribed number of directors.
- (13)~~(10)~~ The subscribers' agreement or other organizing document of a captive insurer formed as a reciprocal insurer may authorize a quorum of a subscribers' advisory committee to consist of no fewer than one-third (1/3) of the number of its members.
- (14) *Each owner of an agency captive insurer shall be licensed as an insurance producer.*

Section 9. KRS 304.49-070 is amended to read as follows:

- (1) Captive insurance companies shall not be required to make any annual report except as provided in KRS 304.49-010 to 304.49-230.

- (2) On or before March 1 of each year, each captive insurer shall submit to the executive director a report of its financial condition, verified by oath of two (2) of its executive officers. Each captive insurer shall report using generally accepted accounting principles, unless the executive director approves the use of statutory accounting principles *or international accounting standards*, with any ~~appropriate~~<sup>useful</sup> or necessary modifications or adaptations thereof required or approved or accepted by the executive director for the type of insurance and kinds of insurers to be reported upon, and as supplemented by additional information required by the executive director. *Any captive insurer whose use of statutory accounting principles are approved by the executive director may make modifications and adaptations as are necessary to record as admitted the full value of all investments by the captive insurer permitted under this subtitle and, subject to the executive director's approval, to make its reports under this section consistent with the purposes of this subtitle. Except as otherwise provided, all captive insurers, with the exception of those formed as a risk retention group, shall file reports on a form prescribed by the executive director through administrative regulation. A captive insurer formed as a risk retention group shall file reports pursuant to KRS 304.2-205, with additional information or modification as the executive director may prescribe*~~Except as otherwise provided, each consortium captive insurer and each industrial insured captive insurer insuring the risks of an industrial insured group defined in KRS 304.49-010(8)(b) shall file its report in the form of and as required by KRS 304.2-205]. The executive director shall by administrative regulation propose the forms in which *captive insurers*~~pure captive insurance companies and industrial insured captive insurance companies insuring the risks of an industrial insured group defined in KRS 304.49-010(8)(a)~~ shall report.~~
- (3) Any pure captive insurer or an industrial insured captive insurer insuring the risks of industrial insured groups as defined in KRS 304.49-010~~(9)(8)~~<sup>(9)(8)</sup>(a) may make written application for filing the required report on a fiscal year end. If an alternative reporting date is granted, the annual report is due sixty (60) days after the fiscal year end.
- (4) Sixty (60) days after the fiscal year end, a branch captive insurer shall file with the executive director a copy of all reports and statements required to be filed under the laws of the jurisdiction in which the foreign captive insurer is formed, verified by oath of two (2) of its executive officers. If the executive director is satisfied that the annual report filed by the foreign captive insurer in its domiciliary jurisdiction provides adequate information concerning the financial condition of the foreign captive insurer, the executive director may waive the requirement for completion of the captive annual statement for business written in the foreign jurisdiction.

Section 10. KRS 304.49-100 is amended to read as follows:

- (1) A consortium captive insurer, sponsored captive insurer, and an industrial insured captive insurer insuring the risks of an industrial insured group defined in KRS 304.49-010~~(9)(8)~~<sup>(9)(8)</sup>(b) shall comply with the investment requirements contained in Subtitle 7 of this chapter. Notwithstanding any other provision of this chapter, the executive director may approve the use of alternative reliable methods of valuation and rating.
- (2) No pure captive insurer or industrial insured captive insurer insuring the risks of an industrial insured group as defined in KRS 304.49-010(8)(a) shall be subject to any restrictions on allowable investments whatever, including those limitations contained in Subtitle 7 of this chapter; provided, however, that the executive director may prohibit or limit any investment that threatens the solvency or liquidity of any such company.
- (3) Only a pure captive insurer may make loans to its parent company or affiliates. No loans to a parent company or any affiliate shall be permitted without prior written approval of the executive director and shall be evidenced by a note in a form approved by the executive director.
- (4) All captive insurers are subject to KRS 304.37-030 regarding material transactions.

Section 11. KRS 304.49-180 is amended to read as follows:

- (1) A consortium captive insurer or industrial insured group formed as a stock or mutual corporation may be converted to or merged with and into a reciprocal insurer in accordance with a plan therefor and the provisions of this section.
- (2) Any plan for such conversion or merger shall be fair and equitable to the shareholders, in the case of a stock insurer, or the policyholders, in the case of a mutual insurer.
- (3) In the case of a conversion authorized under subsection (1) of this section:
  - (a) The conversion shall be accomplished under any reasonable plan and procedure approved by the executive director, but the executive director shall not approve any plan of conversion unless the plan:

1. Satisfies the provisions of subsection (2) of this section;
  2. Provides for a hearing, of which notice has been given to the insurer, its directors, officers, and stockholders, in the case of a stock insurer, or policyholders, in the case of a mutual insurer, all of whom shall have the right to appear at the hearing, except that the executive director may waive or modify the requirements for the hearing, provided that if a notice of hearing is required, but no hearing is requested, the executive director may cancel the hearing;
  3. Provides for the conversion of existing stockholder or policyholder interests into subscriber interests in the resulting reciprocal insurer, proportionate to stockholder or policyholder interests in the stock or mutual insurer; and
  4. Is approved:
    - a. In the case of a stock insurer, by a majority of the shares entitled to vote represented in person or by proxy at a duly called regular or special meeting at which a quorum is present;
    - b. In the case of a mutual insurer, by a majority of the voting interests of policyholders represented in person or by proxy at a duly called regular or special meeting at which a quorum is present;
- (b) The executive director shall approve the plan of conversion if the executive director finds that the conversion will promote the general good of the state in conformity with those standards set forth in KRS 304.49-060(7){(4)};
- (c) If the executive director approves the plan, the executive director shall amend the converting insurer's certificate of authority to reflect conversion to a reciprocal insurer and issue an amended certificate of authority to the company's attorney-in-fact;
- (d) Upon the issuance of an amended certificate of authority of a reciprocal insurer by the executive director, the conversion shall be effective; and
- (e) Upon the effectiveness of the conversion, the corporate existence of the converting insurer shall cease and the resulting reciprocal insurer shall notify the Secretary of State of the conversion.
- (4) A merger authorized under subsection (1) of this section shall be accomplished substantially in accordance with the procedures set forth in KRS 304.24-390, except that, solely for purposes of the merger:
- (a) The plan of merger shall satisfy the provisions of subsection (2) of this section;
  - (b) The subscribers' advisory committee of a reciprocal insurer shall be equivalent to the board of directors of a stock or mutual insurer;
  - (c) The subscribers of a reciprocal insurer shall be the equivalent of the policyholders of a mutual insurer;
  - (d) If a subscribers' advisory committee does not have a president or secretary, the officers of the committee having substantially equivalent duties shall be deemed the president or secretary of the committee;
  - (e) The executive director may, upon request of an insurer party to a merger authorized under subsection (1) of this section, waive the requirement of KRS 304.24-390(4);
  - (f) The executive director shall approve the articles of merger if the executive director finds that the merger will promote the general good of the state in conformity with those standards set forth in KRS 304.49-060(7){(4)}. If the executive director approves the articles of merger, the executive director shall indorse his or her approval thereon and the surviving insurer shall present and file them with the Secretary of State;
  - (g) Notwithstanding KRS 304.49-040, the executive director may permit the formation, without surplus, of a captive insurer organized as a reciprocal insurer, into which an existing captive insurer may be merged for the purpose of facilitating a transaction under this section; however, there shall be no more than one (1) authorized insurer surviving the merger; and
  - (h) An alien insurer may be a party to a merger authorized under subsection (1) of this section, provided that the requirements for a merger between a domestic and a foreign insurer under KRS 304.24-390

shall apply to a merger between a domestic and an alien insurer under this subsection. The alien insurer shall be treated as a foreign insurer under KRS 304.24-390 and the other jurisdictions shall be the equivalent of a state for purposes of KRS 304.24-390.

#### PART XXXV

#### VALUATION FLOOR FOR MOTOR VEHICLES

Notwithstanding KRS 48.310, the following statutes are amended to read as follows and shall have permanent effect, subject to future actions by the General Assembly:

Section 1. 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:
  - (a) The value assigned by the seller of a motor vehicle to a motor vehicle **registered to the purchaser and** 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; **or**
  - (b) ***In the absence of a notarized affidavit, the value of the vehicle being offered in trade as established by the department through the use of the reference manual;***
- (11) "Used motor vehicle" means a motor vehicle which has been previously registered in any state or country;



(12) (a) "Retail price" ~~of motor vehicles shall be determined as follows:~~

~~(a) —~~ for:

1. New *motor vehicles*; ~~;~~
2. Dealer demonstrator *vehicles*; ~~;~~
3. Previous model year motor vehicles; and
4. 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,

*means* ~~"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.

(b) If a notarized affidavit ~~signed by both the buyer and seller~~ is not available ~~to establish total consideration given~~, "retail price" *means* ~~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~~

~~(c) 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;

~~(13) (b)~~ "Retail price" for historic motor vehicles ~~,"retail price"~~ shall be one hundred dollars (\$100);

~~(14) (c)~~ "Retail price" for used motor vehicles being registered by a new resident for the first time in Kentucky whose values appear in the ~~automotive~~ reference manual *means* ~~prescribed by the Department of Revenue, "retail price" shall be~~ the ~~average~~ trade-in value given in the reference manual;

~~(15) (d)~~ "Retail price" ~~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);

(16) (a) "Retail price" ~~(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 for any vehicle given in trade;~~

~~(f) —~~ for:

1. Used motor vehicles, *except those vehicles for which the retail price is established in subsection (13), (14), (15), (17), or (19) of this section;* ~~previously registered in Kentucky that are sold in Kentucky,~~ and
2. 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, as attested to in a notarized affidavit, provided that the retail price established by the notarized affidavit shall not be less than fifty-percent (50%) of the difference between the trade-in value, as established by the reference manual, of the motor vehicle offered for registration and the trade-in value, as established by the reference manual, of any motor vehicle offered in trade as part of the total consideration given.*

(b) The trade-in allowance shall *also* be disclosed in the notarized affidavit ~~signed by the buyer and the seller attesting to the total consideration given~~.

- (c) 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~~ through the use of the ~~automotive~~ reference manual ~~prescribed by the Department of Revenue~~;
- (17)~~(c)~~ 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~~;
- (18)~~(b)~~ 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 (12) *of this section* computed as of the date on which the vehicle is transferred; ~~and~~
- (19) *"Retail price" for motor vehicles titled pursuant to KRS 186A.520, 186A.525, 186A.530, or 186A.555 means the total consideration given as attested to in a notarized affidavit;*
- (20)~~(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;
- (21) *"Department" means the Department of Revenue;*
- (22) *"Notarized affidavit" means a dated affidavit signed by the buyer and the seller on which the signature of the buyer and the signature of the seller are individually notarized; and*
- (23) *"Reference manual" means the automotive reference manual prescribed by the department.*

Section 2. 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 titled or registered:
  - (a) When the fee for titling or registering a motor vehicle the first time it is offered for titling or registration in this state is collected; or
  - (b) Upon the transfer of title or registration of any motor vehicle previously titled or registered in this state.
- (3) The tax imposed by subsection (1) of this section and collected under subsection (2) of this section shall not be collected if the owner provides to the county clerk a signed affidavit of nonhighway use, on a form provided by the department, attesting that the vehicle will not be used on the highways of the Commonwealth. If this type of affidavit is provided, the clerk shall, in accordance with the provisions of KRS Chapter 139, immediately collect the applicable sales and use tax due on the vehicle.
- (4)
  - (a) The tax collected by the county clerk under this section shall be reported and remitted to the Department ~~of Revenue~~ on forms *prescribed and* provided by the department ~~and on those forms as the department may prescribe~~. The department 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 and subsection (3) of this section. 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.
  - (b) The sales and use tax collected by the county clerk under subsection (3) of this section shall be reported and remitted to the department on forms which the department shall prescribe and provide at no cost. The county clerk shall, for his or her services in collecting the tax, be entitled to retain an amount equal to three percent (3%) of the tax collected and accounted for.
  - (c) Motor vehicle dealers licensed pursuant to KRS Chapter 190 shall not owe or be responsible for the collection of sales and use tax due under subsection (3) of this section.
- (5) A county clerk or other officer shall not title, register or issue any license tags to the owner of any motor vehicle subject to the tax imposed by subsection (1) of this section or the tax imposed by KRS Chapter 139, when the vehicle is being offered for titling or registration for the first time, or transfer the title of any motor vehicle previously registered in this state, unless the owner or his agent pays the tax levied under subsection (1)

of this section or the tax imposed by KRS Chapter 139, if applicable, in addition to any title, registration, or license fees.

- (6) (a) When a person offers a motor vehicle:
  1. For titling on or after March 20, 2005; or
  2. 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.
- (b) When a resident of this state offers a motor vehicle for registration for the first time in this state:
  1. Upon which the Kentucky sales and use tax was paid by the resident offering the motor vehicle for registration at the time of titling under subsection (3) of this section; and
  2. For which the resident provides proof that the tax was paid;

a nonrefundable credit shall be given against the tax imposed by subsection (1) of this section for the sales and use tax paid.
- (7) A county clerk or other officer shall not title, 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 titling or 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)(b)(a) for new vehicles, and KRS 138.450(14)(12)(e), (d), or (15)(e) for used vehicles. 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~~ may prescribe by administrative regulation promulgated under KRS Chapter 13A to the copy of the certificate of registration and application for title mailed to the department.
- (8) Notwithstanding the provisions of KRS 138.450, the tax shall not be less than six dollars (\$6) upon titling or first registration of a motor vehicle in this state, except where the vehicle is exempt from tax under KRS 138.470 or 154.45-090.
- (9) 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~~ 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.
- (10) 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~~ as a result of the first titling or registration. A person shall not be entitled to a refund unless the person has filed with the department ~~of Revenue~~ a report from the manufacturer identifying the vehicle that was replaced and stating the date of replacement.
- (11) Notwithstanding the time limitations of subsections (9) and (10) 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~~ as a result of the titling or registration. A person shall not be entitled to a refund unless the person files with the department ~~of Revenue~~ a report from the dealer or manufacturer identifying the vehicle that was replaced.
- (12) (a) ***An owner who has paid the tax levied under this section on a used motor vehicle or U-Drive-It vehicle based upon the retail price as defined in KRS 138.450(16)(a) shall be entitled to a refund of any tax overpayment, plus applicable interest as provided in KRS 131.183, if the owner:***

1. *Files for a refund with the department within four (4) years from the date the tax was paid as provided in KRS 134.580; and*
  2. *Documents to the satisfaction of the department that the condition of the vehicle merits a retail price lower than the retail price as defined in KRS 138.450(16)(a).*
- (b) *The department shall promulgate administrative regulations to develop the forms and the procedures by which the owner can apply for a refund and document the condition of the vehicle. The department shall provide the information to each county clerk.*
- (c) *The refund shall be based upon the difference between the tax paid and the tax determined to be due by the department at the time the owner titled or registered the vehicle.*

Section 3. 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 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 and shall maintain records, as required by the Department of Revenue, 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 monthly on forms prescribed by and in accordance with administrative regulations promulgated by the department.
- (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 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) *or (16)*.

Section 4. KRS 138.464 is amended to read as follows:

- (1) The county clerk shall report each Monday to the department ~~of Revenue~~ all moneys collected during the previous week, together with a duplicate of all receipts issued by him during the same period.
- (2) 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 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~~ or his designee.
- (3) 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.
- (4) 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.
- (5) The penalties provided in this section shall not apply if the failure of the clerk is due to reasonable cause.

- (6) The department 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.
- (7) 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 5. This Part takes effect January 1, 2007.

## **PART XXXVI**

### **SALES OF MOTOR VEHICLES TO NONRESIDENTS**

Notwithstanding KRS 48.310, the following statutes are amended or created to read as follows and shall have permanent effect, subject to future actions by the General Assembly:

Section 1. KRS 139.470 is amended to read as follows:

There are excluded from the computation of the amount of taxes imposed by this chapter:

- (1) Gross receipts from the sale of, and the storage, use, or other consumption in this state of, tangible personal property 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 department. 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;
  - (b) In making the determinations of eligibility, the department 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 department;
- (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 department;
- (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:
  - (a) *Sold to a Kentucky resident*, registered for use on the public highways, and upon which any applicable tax levied by KRS 138.460 has been paid; *or*
  - (b) *Sold to a nonresident of Kentucky if the nonresident registers the motor vehicle in a state that:*
    - 1. *Allows residents of Kentucky to purchase motor vehicles without payment of that state's sales tax at the time of sale; or*
    - 2. *Allows residents of Kentucky to remove the vehicle from that state within a specific period for subsequent registration and use in Kentucky without payment of that state's sales tax;*
- (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);
- (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; and
- (24) Gross receipts from the first fifty thousand dollars (\$50,000) in sales of admissions to county fairs held in Kentucky in any calendar year by a nonprofit county fair board.

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

*All tax receipts, interest, and penalties resulting from the sale of a motor vehicle subject to sales tax under KRS 139.200 and not otherwise exempt from sales tax under Section 1 of this Part shall be deposited in the road fund, unless the motor vehicle has been exempted from the motor vehicle usage tax under KRS 138.460(3) for nonhighway use. All tax receipts, interest, and penalties resulting from the sale of a motor vehicle, as defined in KRS 138.450, which is purchased for nonhighway use shall continue to be deposited in the general fund.*

Section 3. This Part takes effect August 1, 2006.

**Legislative Research Commission Note (7/12/2006).** See also 2006 Ky. Acts ch. 251 (HB 557), which was passed after HB 380 and contains provisions that modify appropriations and revenue provisions contained in 2006 Ky. Acts ch. 252 (HB 380).

**Legislative Research Commission Note (7/12/2006).** KRS 48.313 provides that "[i]f a total or subtotal conflicts with the sum of the appropriation figures of which it consists, the amounts of the individual appropriations shall control" and directs the Reviser of Statutes to substitute corrected totals or subtotals in the Acts and journals of the General Assembly and in the Kentucky Revised Statutes. Under the procedure set out in that statute, the following items have been corrected in this Act, with the amounts that have been substituted preceded by an asterisk within the text of the Act:

The 2007-08 fiscal year total for Part V, Funds Transfer;

The 2006-07 fiscal year subtotal for the Capital Projects Budget, Bond Funds  
(Part XI, State/Executive Branch Budget Summary, Capital Projects Budget);

The 2006-07 fiscal year subtotal for the Capital Projects Budget, Agency Bonds  
(Part XI, State/Executive Branch Budget Summary, Capital Projects Budget);



The 2006-07 fiscal year subtotal for the Capital Projects Budget (Part XI, State/Executive Branch Budget Summary, Capital Projects Budget);

The 2006-07 fiscal year subtotal for the Total - State/Executive Budget, Bond Funds (Part XI, State/Executive Branch Budget Summary, Total - State/Executive Budget);

The 2006-07 fiscal year subtotal for the Total - State/Executive Budget, Agency Bonds, (Part XI, State/Executive Branch Budget Summary, Total - State/Executive Budget); and

The 2006-07 fiscal year Total - State/Executive Budget total for Total Funds (Part XI, State/Executive Branch Budget Summary, Total - State/Executive Budget).

**Legislative Research Commission Note (7/12/2006).** In this bill, material that was vetoed by the Governor is bracketed, struck through, and followed by the number of the veto in parentheses.

**Vetoed in part, April 24, 2006. Provisions that were not vetoed became law April 25, 2006, without Governor's signature.**

## CHAPTER 253

### (HB 418)

AN ACT relating to health benefit plans.

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

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

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

- (1) "Association" means an entity, other than an employer-organized association, that has been organized and is maintained in good faith for purposes other than that of obtaining insurance for its members and that has a constitution and bylaws;
- (2) "At the time of enrollment" means:
  - (a) At the time of application for an individual, an association that actively markets to individual members, and an employer-organized association that actively markets to individual members; and
  - (b) During the time of open enrollment or during an insured's initial or special enrollment periods for group health insurance;
- (3) "Base premium rate" means, for each class of business as to a rating period, the lowest premium rate charged or that could have been charged under the rating system for that class of business by the insurer to the individual or small group, or employer as defined in KRS 304.17A-0954, with similar case characteristics for health benefit plans with the same or similar coverage;

- (4) "Basic health benefit plan" means any plan offered to an individual, a small group, or employer-organized association that limits coverage to physician, pharmacy, home health, preventive, emergency, and inpatient and outpatient hospital services in accordance with the requirements of this subtitle. If vision or eye services are offered, these services may be provided by an ophthalmologist or optometrist. Chiropractic benefits may be offered by providers licensed pursuant to KRS Chapter 312;
- (5) "Bona fide association" means an entity as defined in 42 U.S.C. sec. 300gg-91(d)(3);
- (6) "Church plan" means a church plan as defined in 29 U.S.C. sec. 1002(33);
- (7) "COBRA" means any of the following:
  - (a) 26 U.S.C. sec. 4980B other than subsection (f)(1) as it relates to pediatric vaccines;
  - (b) The Employee Retirement Income Security Act of 1974 (29 U.S.C. sec. 1161 et seq. other than sec. 1169); or
  - (c) 42 U.S.C. sec. 300bb;
- (8) (a) "Creditable coverage" means, with respect to an individual, coverage of the individual under any of the following:
  - 1. A group health plan;
  - 2. Health insurance coverage;
  - 3. Part A or Part B of Title XVIII of the Social Security Act;
  - 4. Title XIX of the Social Security Act, other than coverage consisting solely of benefits under section 1928;
  - 5. Chapter 55 of Title 10, United States Code, *including medical and dental care for members and certain former members of the uniformed services, and for their dependents; for purposes of Chapter 55 of Title 10, United States Code, "uniformed services" means the Armed Forces and the Commissioned Corps of the National Oceanic and Atmospheric Administration and of the Public Health Service;*
  - 6. A medical care program of the Indian Health Service or of a tribal organization;
  - 7. A state health benefits risk pool;
  - 8. A health plan offered under Chapter 89 of Title 5, United States Code, *such as the Federal Employees Health Benefit Program;*
  - 9. A public health plan *as established or maintained by a state, the United States Government, a foreign country, or any political subdivision of a state, the United States government, or a foreign country that provides health coverage to individuals who are enrolled in the plan*~~[-as defined in regulations];~~~~[-or]~~
  - 10. A health benefit plan under section 5(e) of the Peace Corps Act (22 U.S.C. sec. 2504(e)); **or**
  - 11. **Title XXI of the Social Security Act such as State Children's Health Insurance Program.**
- (b) This term does not include coverage consisting solely of coverage of excepted benefits as defined in subsection ~~(14)~~~~(11)~~ of this section;
- (9) **"Dependent" means any individual who is or may become eligible for coverage under the terms of an individual or group health benefit plan because of a relationship to a participant;**
- (10) **"Employee benefit plan" means an employee welfare benefit plan or an employee pension benefit plan or a plan which is both an employee welfare benefit plan and an employee pension benefit plan as defined by ERISA;**
- (11) "Eligible individual" means an individual:
  - (a) For whom, as of the date on which the individual seeks coverage, the aggregate of the periods of creditable coverage is eighteen (18) or more months and whose most recent prior creditable coverage was under a group health plan, governmental plan, or church plan. A period of creditable coverage under this paragraph shall not be counted if, after that period, there was a sixty-three (63) day period of

time, excluding any waiting or affiliation period, during all of which the individual was not covered under any creditable coverage;

- (b) Who is not eligible for coverage under a group health plan, Part A or Part B of Title XVIII of the Social Security Act (42 U.S.C. secs. 1395j et seq.), or a state plan under Title XIX of the Social Security Act (42 U.S.C. secs. 1396 et seq.) and does not have other health insurance coverage;
- (c) With respect to whom the most recent coverage within the coverage period described in paragraph (a) of this subsection was not terminated based on a factor described in KRS 304.17A-240(2)(a), (b), and (c);
- (d) If the individual had been offered the option of continuation coverage under a COBRA continuation provision or under KRS 304.18-110, who elected the coverage; and
- (e) Who, if the individual elected the continuation coverage, has exhausted the continuation coverage under the provision or program;

~~(12)~~~~(10)~~ "Employer-organized association" means any of the following:

- (a) Any entity that was qualified by the executive director as an eligible association prior to April 10, 1998, and that has actively marketed a health insurance program to its members since September 8, 1996, and which is not insurer-controlled;
- (b) Any entity organized under KRS 247.240 to 247.370 that has actively marketed health insurance to its members and that is not insurer-controlled; or
- (c) Any entity that is a bona fide association as defined in 42 U.S.C. sec. 300gg-91(d)(3), whose members consist principally of employers, and for which the entity's health insurance decisions are made by a board or committee, the majority of which are representatives of employer members of the entity who obtain group health insurance coverage through the entity or through a trust or other mechanism established by the entity, and whose health insurance decisions are reflected in written minutes or other written documentation.

Except as provided in KRS 304.17A-200, 304.17A.210, and 304.17A-220, no employer-organized association shall be treated as an association, small group, or large group under this subtitle;

~~(13)~~~~(11)~~ "Employer-organized association health insurance plan" means any health insurance plan, policy, or contract issued to an employer-organized association, or to a trust established by one (1) or more employer-organized associations, or providing coverage solely for the employees, retired employees, directors and their spouses and dependents of the members of one (1) or more employer-organized associations;

~~(14)~~~~(12)~~ "Excepted benefits" means benefits under one (1) or more, or any combination thereof, of the following:

- (a) Coverage only for accident, ***including accidental death and dismemberment***, or disability income insurance, or any combination thereof;
- (b) Coverage issued as a supplement to liability insurance;
- (c) Liability insurance, including general liability insurance and automobile liability insurance;
- (d) Workers' compensation or similar insurance;
- (e) Automobile medical payment insurance;
- (f) Credit-only insurance;
- (g) Coverage for on-site medical clinics;
- (h) Other similar insurance coverage, specified in administrative regulations, under which benefits for medical care are secondary or incidental to other insurance benefits;
- (i) Limited scope dental or vision benefits;
- (j) Benefits for long-term care, nursing home care, home health care, community-based care, or any combination thereof;
- (k) Such other similar, limited benefits as are specified in administrative regulations;
- (l) Coverage only for a specified disease or illness;

- (m) Hospital indemnity or other fixed indemnity insurance;
  - (n) Benefits offered as Medicare supplemental health insurance, as defined under section 1882(g)(1) of the Social Security Act;
  - (o) Coverage supplemental to the coverage provided under Chapter 55 of Title 10, United States Code;~~and~~
  - (p) Coverage similar to that in paragraphs (n) and (o) of this subsection that is supplemental to coverage under a group health plan; *and*
  - (q) ***Health flexible spending arrangements;***
- (15)~~(13)~~ "Governmental plan" means a governmental plan as defined in 29 U.S.C. sec. 1002(32);
- (16) ***"Group health plan" means a plan, including a self-insured plan, of or contributed to by an employer, including a self-employed person, or employee organization, to provide health care directly or otherwise to the employees, former employees, the employer, or others associated or formerly associated with the employer in a business relationship, or their families;***
- (17)~~(14)~~ "Guaranteed acceptance program participating insurer" means an insurer that is required to or has agreed to offer health benefit plans in the individual market to guaranteed acceptance program qualified individuals under KRS 304.17A-400 to 304.17A-480;
- (18)~~(15)~~ "Guaranteed acceptance program plan" means a health benefit plan in the individual market issued by an insurer that provides health benefits to a guaranteed acceptance program qualified individual and is eligible for assessment and refunds under the guaranteed acceptance program under KRS 304.17A-400 to 304.17A-480;
- (19)~~(16)~~ "Guaranteed acceptance program" means the Kentucky Guaranteed Acceptance Program established and operated under KRS 304.17A-400 to 304.17A-480;
- (20)~~(17)~~ "Guaranteed acceptance program qualified individual" means an individual who, on or before December 31, 2000:
- (a) Is not an eligible individual;
  - (b) Is not eligible for or covered by other health benefit plan coverage or who is a spouse or a dependent of an individual who:
    - 1. Waived coverage under KRS 304.17A-210(2); or
    - 2. Did not elect family coverage that was available through the association or group market;
  - (c) Within the previous three (3) years has been diagnosed with or treated for a high-cost condition or has had benefits paid under a health benefit plan for a high-cost condition, or is a high risk individual as defined by the underwriting criteria applied by an insurer under the alternative underwriting mechanism established in KRS 304.17A-430(3);
  - (d) Has been a resident of Kentucky for at least twelve (12) months immediately preceding the effective date of the policy; and
  - (e) Has not had his or her most recent coverage under any health benefit plan terminated or nonrenewed because of any of the following:
    - 1. The individual failed to pay premiums or contributions in accordance with the terms of the plan or the insurer had not received timely premium payments;
    - 2. The individual performed an act or practice that constitutes fraud or made an intentional misrepresentation of material fact under the terms of the coverage; or
    - 3. The individual engaged in intentional and abusive noncompliance with health benefit plan provisions;
- (21)~~(18)~~ "Guaranteed acceptance plan supporting insurer" means either an insurer, on or before December 31, 2000, that is not a guaranteed acceptance plan participating insurer or is a stop loss carrier, on or before December 31, 2000, provided that a guaranteed acceptance plan supporting insurer shall not include an employer-sponsored self-insured health benefit plan exempted by ERISA;

- ~~(22)~~~~(19)~~ "Health benefit plan" means any hospital or medical expense policy or certificate; nonprofit hospital, medical-surgical, and health service corporation contract or certificate; provider sponsored integrated health delivery network; a self-insured plan or a plan provided by a multiple employer welfare arrangement, to the extent permitted by ERISA; health maintenance organization contract; or any health benefit plan that affects the rights of a Kentucky insured and bears a reasonable relation to Kentucky, whether delivered or issued for delivery in Kentucky, and does not include policies covering only accident, credit, dental, disability income, fixed indemnity medical expense reimbursement policy, long-term care, Medicare supplement, specified disease, vision care, coverage issued as a supplement to liability insurance, insurance arising out of a workers' compensation or similar law, automobile medical-payment insurance, insurance under which benefits are payable with or without regard to fault and that is statutorily required to be contained in any liability insurance policy or equivalent self-insurance, short-term coverage, student health insurance offered by a Kentucky-licensed insurer under written contract with a university or college whose students it proposes to insure, medical expense reimbursement policies specifically designed to fill gaps in primary coverage, coinsurance, or deductibles and provided under a separate policy, certificate, or contract, or coverage supplemental to the coverage provided under Chapter 55 of Title 10, United States Code, or limited health service benefit plans;
- ~~(23)~~~~(20)~~ "Health care provider" or "provider" means any facility or service required to be licensed pursuant to KRS Chapter 216B, pharmacist as defined pursuant to KRS Chapter 315, and any of the following independent practicing practitioners:
- (a) Physicians, osteopaths, and podiatrists licensed under KRS Chapter 311;
  - (b) Chiropractors licensed under KRS Chapter 312;
  - (c) Dentists licensed under KRS Chapter 313;
  - (d) Optometrists licensed under KRS Chapter 320;
  - (e) Physician assistants regulated under KRS Chapter 311;
  - (f) Advanced registered nurse practitioners licensed under KRS Chapter 314; and
  - (g) Other health care practitioners as determined by the office by administrative regulations promulgated under KRS Chapter 13A;
- ~~(24)~~~~(21)~~ (a) "High-cost condition," pursuant to the Kentucky Guaranteed Acceptance Program, means a covered condition in an individual policy as listed in paragraph (c) of this subsection or as added by the executive director in accordance with KRS 304.17A-280, but only to the extent that the condition exceeds the numerical score or rating established pursuant to uniform underwriting standards prescribed by the executive director under paragraph (b) of this subsection that account for the severity of the condition and the cost associated with treating that condition.
- (b) The executive director by administrative regulation shall establish uniform underwriting standards and a score or rating above which a condition is considered to be high-cost by using:
- 1. Codes in the most recent version of the "International Classification of Diseases" that correspond to the medical conditions in paragraph (c) of this subsection and the costs for administering treatment for the conditions represented by those codes; and
  - 2. The most recent version of the questionnaire incorporated in a national underwriting guide generally accepted in the insurance industry as designated by the executive director, the scoring scale for which shall be established by the executive director.
- (c) The diagnosed medical conditions are: acquired immune deficiency syndrome (AIDS), angina pectoris, ascites, chemical dependency cirrhosis of the liver, coronary insufficiency, coronary occlusion, cystic fibrosis, Friedreich's ataxia, hemophilia, Hodgkin's disease, Huntington chorea, juvenile diabetes, leukemia, metastatic cancer, motor or sensory aphasia, multiple sclerosis, muscular dystrophy, myasthenia gravis, myotonia, open heart surgery, Parkinson's disease, polycystic kidney, psychotic disorders, quadriplegia, stroke, syringomyelia, and Wilson's disease;
- ~~(25)~~~~(22)~~ "Index rate" means, for each class of business as to a rating period, the arithmetic average of the applicable base premium rate and the corresponding highest premium rate;

- (26)~~(23)~~ "Individual market" means the market for the health insurance coverage offered to individuals other than in connection with a group health plan. ***The individual market includes an association plan that is not employer related, issued to individuals on an individually underwritten basis, other than an employer-organized association or a bona fide association, that has been organized and is maintained in good faith for purposes other than obtaining insurance for its members and that has a constitution and bylaws;***
- (27)~~(24)~~ "Insurer" means any insurance company; health maintenance organization; self-insurer or multiple employer welfare arrangement not exempt from state regulation by ERISA; provider-sponsored integrated health delivery network; self-insured employer-organized association, or nonprofit hospital, medical-surgical, dental, or health service corporation authorized to transact health insurance business in Kentucky;
- (28)~~(25)~~ "Insurer-controlled" means that the executive director has found, in an administrative hearing called specifically for that purpose, that an insurer has or had a substantial involvement in the organization or day-to-day operation of the entity for the principal purpose of creating a device, arrangement, or scheme by which the insurer segments employer groups according to their actual or anticipated health status or actual or projected health insurance premiums;
- (29)~~(26)~~ "Kentucky Access" has the meaning provided in KRS 304.17B-001(17);
- (30)~~(27)~~ "Large group" means:
- (a) An employer with fifty-one (51) or more employees; or
  - (b) An affiliated group with fifty-one (51) or more eligible members;
- (31)~~(28)~~ "Managed care" means systems or techniques generally used by third-party payors or their agents to affect access to and control payment for health care services and that integrate the financing and delivery of appropriate health care services to covered persons by arrangements with participating providers who are selected to participate on the basis of explicit standards for furnishing a comprehensive set of health care services and financial incentives for covered persons using the participating providers and procedures provided for in the plan;
- (32)~~(29)~~ "Market segment" means the portion of the market covering one (1) of the following:
- (a) Individual;
  - (b) Small group;
  - (c) Large group; or
  - (d) Association;
- (33) ***"Participant" means any employee or former employee of an employer, or any member or former member of an employee organization, who is or may become eligible to receive a benefit of any type from an employee benefit plan which covers employees of the employer or members of the organization, or whose beneficiaries may be eligible to receive any benefit as established in section 3(7) of ERISA;***
- (34)~~(30)~~ "Preventive services" means medical services for the early detection of disease that are associated with substantial reduction in morbidity and mortality;
- (35)~~(31)~~ "Provider network" means an affiliated group of varied health care providers that is established to provide a continuum of health care services to individuals;
- (36)~~(32)~~ "Provider-sponsored integrated health delivery network" means any provider-sponsored integrated health delivery network created and qualified under KRS 304.17A-300 and KRS 304.17A-310;
- (37)~~(33)~~ "Purchaser" means an individual, organization, employer, association, or the Commonwealth that makes health benefit purchasing decisions on behalf of a group of individuals;
- (38)~~(34)~~ "Rating period" means the calendar period for which premium rates are in effect. A rating period shall not be required to be a calendar year;
- (39)~~(35)~~ "Restricted provider network" means a health benefit plan that conditions the payment of benefits, in whole or in part, on the use of the providers that have entered into a contractual arrangement with the insurer to provide health care services to covered individuals;
- (40)~~(36)~~ "Self-insured plan" means a group health insurance plan in which the sponsoring organization assumes the financial risk of paying for covered services provided to its enrollees;

- ~~(41)~~~~(37)~~ "Small employer" means, in connection with a group health plan with respect to a calendar year and a plan year, an employer who employed an average of at least two (2) but not more than fifty (50) employees on business days during the preceding calendar year and who employs at least two (2) employees on the first day of the plan year;
- ~~(42)~~~~(38)~~ "Small group" means:
- (a) A small employer with two (2) to fifty (50) employees; or
  - (b) An affiliated group or association with two (2) to fifty (50) eligible members;
- ~~(43)~~~~(39)~~ "Standard benefit plan" means the plan identified in KRS 304.17A-250; and
- ~~(44)~~~~(40)~~ "Telehealth" has the meaning provided in KRS 311.550.

Section 2. KRS 304.17A-220 is amended to read as follows:

- (1) All group health plans and insurers offering group health insurance coverage in the Commonwealth shall comply with the provisions of this section.
- (2) Subject to subsection ~~(8)~~~~(5)~~ of this section, a group health plan, and a health insurance insurer offering group health insurance coverage, may, with respect to a participant or beneficiary, impose a pre-existing condition exclusion only if:
  - (a) The exclusion relates to a condition, whether physical or mental, regardless of the cause of the condition, for which medical advice, diagnosis, care, or treatment was recommended or received within the six (6) month period ending on the enrollment date. ***For purposes of this paragraph:***
    - 1. ***Medical advice, diagnosis, care, or treatment is taken into account only if it is recommended by, or received from, an individual licensed or similarly authorized to provide such services under state law and operating within the scope of practice authorized by state law; and***
    - 2. ***The six (6) month period ending on the enrollment date begins on the six (6) month anniversary date preceding the enrollment date;***
  - (b) The exclusion extends for a period of not more than twelve (12) months, or eighteen (18) months in the case of a late enrollee, after the enrollment date;~~and~~
  - (c)
    - 1. The period of ~~any~~~~that~~ pre-existing condition exclusion ***that would otherwise apply to an individual*** is reduced by the ***number of days***~~[aggregate of the periods]~~ of creditable coverage ***the individual has***~~[applicable to the participant or beneficiary]~~ as of the enrollment date, ***as counted under subsection (3) of this section; and***
    - 2. ***Except for ineligible individuals who apply for coverage in the individual market, the period of any pre-existing condition exclusion that would otherwise apply to an individual may be reduced by the number of days of creditable coverage the individual has as of the effective date of coverage under the policy; and***
  - (d) ***A written notice of the pre-existing condition exclusion is provided to participants under the plan, and the insurer cannot impose a pre-existing condition exclusion with respect to a participant or a dependent of the participant until such notice is provided.***
- (3) ***In reducing the pre-existing condition exclusion period that applies to an individual, the amount of creditable coverage is determined by counting all the days on which the individual has one or more types of creditable coverage. For purposes of counting creditable coverage:***
  - (a) ***If on a particular day the individual has creditable coverage from more than one source, all the creditable coverage on that day is counted as one day;***
  - (b) ***Any days in a waiting period for coverage are not creditable coverage;***
  - (c) ***Days of creditable coverage that occur before a significant break in coverage are not required to be counted; and***
  - (d) ***Days in a waiting period and days in an affiliation period are not taken into account in determining whether a significant break in coverage has occurred.***

- (4) *An insurer may determine the amount of creditable coverage in another manner than established in subsection (3) of this section that is at least as favorable to the individual as the method established in subsection (3) of this section.*
- (5) *If an insurer receives creditable coverage information, the insurer shall make a determination regarding the amount of the individual's creditable coverage and the length of any pre-existing exclusion period that remains. A written notice of the length of the pre-existing condition exclusion period that remains after offsetting for prior creditable coverage shall be issued by the insurer. An insurer may not impose any limit on the amount of time that an individual has to present a certificate or evidence of creditable coverage.*
- (6) For purposes of this section:
- (a) ~~1.~~ "Pre-existing condition exclusion" means, with respect to coverage, a limitation or exclusion of benefits relating to a condition based on the fact that the condition was present before the *effective* date of ~~enrollment for that~~ coverage, whether or not any medical advice, diagnosis, care, or treatment was recommended or received before that *day*. *A pre-existing condition exclusion includes any exclusion applicable to an individual as a result of information relating to an individual's health status before the individual's effective date of coverage under a health benefit plan* ~~date; and~~
2. ~~Genetic information shall not be treated as a condition described in subparagraph 1. of this paragraph in the absence of a diagnosis of the condition related to this information~~;
- (b) "Enrollment date" means, with respect to an individual covered under a group health plan or health insurance coverage, the *first day of coverage or, if there is a waiting period* ~~date of enrollment of the individual in the plan or coverage or, if earlier,~~ the first day of the waiting period. *If an individual receiving benefits under a group health plan changes benefit packages, or if the employer changes its group health insurer, the individual's enrollment date does not change* ~~for such enrollment~~;
- (c) *"First day of coverage" means, in the case of an individual covered for benefits under a group health plan, the first day of coverage under the plan and, in the case of an individual covered by health insurance coverage in the individual market, the first day of coverage under the policy or contract;*
- (d) *"Late enrollee" means an individual whose enrollment in a plan is a late enrollment;*
- (e) *"Late enrollment" means enrollment of an individual under a group health plan other than:*
1. *On the earliest date on which coverage can become effective for the individual under the terms of the plan; or*
  2. *Through special enrollment* ~~"Late enrollee" means, with respect to coverage under a group health plan, a participant or beneficiary who enrolls under the plan other than during:~~
    1. ~~The first period in which the individual is eligible to enroll under the plan; or~~
    2. ~~A special enrollment period under subsection (7) of this section~~; ~~and~~
- (f) *"Significant break in coverage" means a period of sixty-three (63) consecutive days during each of which an individual does not have any creditable coverage; and*
- (g) ~~(d)~~ "Waiting period" means ~~with respect to a group health plan and an individual who is a potential participant or beneficiary in the plan,~~ the period that must pass ~~with respect to the individual~~ before coverage for an employee or dependent who is otherwise eligible to enroll ~~the individual is eligible to be covered for benefits~~ under the terms of a group health ~~the~~ plan can become effective. *If an employee or dependent enrolls as a late enrollee or special enrollee, any period before such late or special enrollment is not a waiting period. If an individual seeks coverage in the individual market, a waiting period begins on the date the individual submits a substantially complete application for coverage and ends on:*
1. *If the application results in coverage, the date coverage begins; or*
  2. *If the application does not result in coverage, the date on which the application is denied by the insurer or the date on which the offer of coverage lapses.*



(7)(4)(a) ~~A period of creditable coverage shall not be counted, with respect to enrollment of an individual under a group health plan, if, after the period and before the enrollment date, there was a sixty three (63) day period during all of which the individual was not covered under any creditable coverage.~~

(b) ~~For purposes of paragraph (a) of this subsection and subsection (5)(d) of this section, any period that an individual is in a waiting period for any coverage under a group health plan or for group health insurance coverage or is in an affiliation period, as defined in subsection (8)(b) of this section, shall not be taken into account in determining the continuous period under paragraph (a) of this subsection.~~

(a)(e) 1. Except as otherwise provided under *subsection (3) of this section*~~paragraph (b) of this subsection~~, for purposes of applying subsection (2)(c) of this section, a group health plan, and a health insurance insurer offering group health insurance coverage, shall count a period of creditable coverage without regard to the specific benefits covered during the period.

2. A group health plan, or a health insurance insurer offering group health insurance coverage, may elect to apply subsection (2)(c) of this section based on coverage of benefits within each of several classes or categories of benefits specified in *federal* regulations~~rather than as provided under paragraph (a) of this subsection~~. This election shall be made on a uniform basis for all participants and beneficiaries. Under this election, a group health plan or insurer shall count a period of creditable coverage with respect to any class or category of benefits if any level of benefits is covered within this class or category.

3. In the case of an election with respect to a group health plan under *subparagraph 2.*~~paragraph (b)~~ of this *paragraph*~~subsection~~, whether or not health insurance coverage is provided in connection with the plan, the plan shall:

a. Prominently state in any disclosure statements concerning the plan, and state to each enrollee at the time of enrollment under the plan, that the plan has made this election; and

b. Include in these statements a description of the effect of this election.

(b)(d) Periods of creditable coverage with respect to an individual shall be established through presentation of certifications described in subsection (9)~~(6)~~ of this section or in such other manner as may be specified in administrative regulations.

(8)(5) (a) Subject to paragraph (e)~~(d)~~ of this subsection, a group health plan, and a health insurance insurer offering group health insurance coverage, may not impose any pre-existing condition exclusion *on a child*~~in the case of an individual~~ who, *within*~~as of the last day of the~~ thirty (30) *days after*~~day period beginning with the date of~~ birth, is covered under *any* creditable coverage. *If a child is enrolled in a group health plan, or other creditable coverage, within thirty (30) days after birth, and subsequently enrolls in another group health plan without a significant break in coverage, the other group health plan may not impose any pre-existing condition exclusion on the child.*

(b) Subject to paragraph (e)~~(d)~~ of this subsection, a group health plan, and a health insurance insurer offering group health insurance coverage, may not impose any pre-existing condition exclusion *on*~~in the case of~~ a child who is adopted or placed for adoption before attaining eighteen (18) years of age and who, *within*~~as of the last day of the~~ thirty (30) *days after*~~day period beginning on the date of~~ the adoption or placement for adoption, is covered under *any* creditable coverage. *If a child is enrolled in a group health plan, or other creditable coverage, within thirty (30) days after adoption or placement for adoption and subsequently enrolls in another group health plan without a significant break in coverage, the other group health plan may not impose any pre-existing condition exclusion on the child. This*~~The previous sentence~~ shall not apply to coverage before the date of the adoption or placement for adoption.

(c) A group health plan~~, and health insurance insurer offering group health insurance coverage,~~ may not impose any pre-existing condition exclusion relating to pregnancy~~as a pre-existing condition~~.

(d) *A group health plan may not impose a pre-existing condition exclusion relating to a condition based solely on genetic information. If an individual is diagnosed with a condition, even if the condition relates to genetic information, the insurer may impose a pre-existing condition exclusion with respect to the condition, subject to other requirements of this section;*

- (e) Paragraphs (a) and (b) of this subsection shall no longer apply to an individual after the end of the first sixty-three (63) day period during all of which the individual was not covered under any creditable coverage.

~~(9)(6)~~ (a) 1. A group health plan, and a health insurance insurer offering group health insurance coverage, shall provide *a certificate of creditable coverage as* ~~[the certification]~~ described in subparagraph 2. of this subsection. *A certificate of creditable coverage shall be provided, without charge, for participants or dependents who are or were covered under a group health plan upon the occurrence of any of the following events:*

- a. At the time an individual ceases to be covered under *a health benefit* ~~[the]~~ plan or otherwise becomes *eligible* ~~[covered]~~ under a COBRA continuation provision;
- b. In the case of an individual becoming covered under *a COBRA continuation* ~~[that]~~ provision, at the time the individual ceases to be covered under the *COBRA continuation* provision; and
- c. On request on behalf of an individual made not later than twenty-four (24) months after the date of cessation of the coverage described in subdivision a. or b. of this subparagraph, whichever is later.

The *certificate of creditable coverage as described* ~~[certification]~~ under subdivision a. of this subparagraph may be provided, to the extent practicable, at a time consistent with notices required under any applicable COBRA continuation provision.

2. The certification described in this subparagraph is a written certification of:
    - a. The period of creditable coverage of the individual under the *health benefit* plan and the coverage, if any, under the COBRA continuation provision; and
    - b. The waiting period, if any, and affiliation period, if applicable, imposed with respect to the individual for any coverage under the plan.
  3. To the extent that medical care under a group health plan consists of group health insurance coverage, the plan is deemed to have satisfied the certification requirement under this paragraph if the health insurance insurer offering the coverage provides for the certification in accordance with this paragraph.
- (b) In the case of an election described in subsection (4)(c)2. of this section by a group health plan or health insurance insurer, if the plan or insurer enrolls an individual for coverage under the plan and the individual provides a certification of coverage of the individual under paragraph (a) of this subsection:
1. Upon request of that plan or insurer, the entity that issued the certification provided by the individual shall promptly disclose to the requesting plan or insurer information on coverage of classes and categories of health benefits available under the entity's plan or coverage; and
  2. The entity may charge the requesting plan or insurer for the reasonable cost of disclosing this information.

~~(10)(7)~~ (a) A group health plan, and a health insurance insurer offering group health insurance coverage in connection with a group health plan, shall permit an employee who is eligible, but not enrolled, for coverage under the terms of the plan, or a dependent of that employee if the dependent is eligible, but not enrolled, for coverage under these terms, to enroll for coverage under the terms of the plan if each of the following conditions is met:

1. The employee or dependent was covered under a group health plan or had health insurance coverage at the time coverage was previously offered to the employee or dependent;
2. The employee stated in writing at that time that coverage under a group health plan or health insurance coverage was the reason for declining enrollment, but only if the plan sponsor or insurer, if applicable, required that statement at that time and provided the employee with notice of the requirement, and the consequences of the requirement, at that time;
3. The employee's or dependent's coverage described in subparagraph 1. of this paragraph:

- a. Was under a COBRA continuation provision and the coverage under that provision was exhausted; or
  - b. Was not under such a provision and either the coverage was terminated as a result of loss of eligibility for the coverage, including as a result of legal separation, divorce, *cessation of dependent status, such as obtaining the maximum age to be eligible as a dependent child*, death *of employee*, termination of employment,~~[-or]~~ reduction in the number of hours of employment,~~[-or]~~ employer contributions toward the coverage were terminated, *a situation in which an individual incurs a claim that would meet or exceed a lifetime limit on all benefits, or a situation in which a plan no longer offers any benefits to the class of similarly situated individuals that includes the individual; or*~~and]~~
  - c. *Was offered through a health maintenance organization, or other arrangement, in the group market that does not provide benefits to individuals who no longer reside, live or work in a service area and, loss of coverage in the group market occurred because an individual no longer resides, lives, or works in the service area, whether or not within the choice of the individual, and no other benefit package is available to the individual; and*
4. *An insurer shall allow an employee and dependent a period of at least thirty (30) days after an event described in this paragraph has occurred to request enrollment for the employee or the employee's dependent. Coverage shall begin no later than the first day of the first calendar month beginning after the date the insurer receives the request for special enrollment*~~[Under the terms of the plan, the employee requests the enrollment not later than thirty (30) days after the date of exhaustion of coverage described in subparagraph 3.a. of this paragraph or termination of coverage or employer contribution described in subparagraph 3.b. of this paragraph].~~
- (b) *A dependent of a current employee, including the employee's spouse, and the employee each are eligible for enrollment in the group health plan subject to plan eligibility rules conditioning dependent enrollment on enrollment of the employee if the requirements of paragraph (a) of this subsection are satisfied.*
- (c) 1. If:
- a. A group health plan makes coverage available with respect to a dependent of an individual;
  - b. The individual is a participant under the plan, or has met any waiting period applicable to becoming a participant under the plan and is eligible to be enrolled under the plan but for a failure to enroll during a previous enrollment period; and
  - c. A person becomes such a dependent of the individual through marriage, birth, or adoption or placement for adoption;
- the group health plan shall provide for a dependent special enrollment period described in subparagraph 2. of this paragraph during which the person or, if not otherwise enrolled, the individual, may be enrolled under the plan as a dependent of the individual, and in the case of the birth or adoption of a child, the spouse of the individual may be enrolled as a dependent of the individual if the spouse is otherwise eligible for coverage.
2. A dependent special enrollment period under this subparagraph shall be a period of *at least*~~not less than]~~ thirty (30) days and shall begin on the later of:
- a. The date dependent coverage is made available; or
  - b. The date of the marriage, birth, or adoption or placement for adoption, as the case may be, described in subparagraph 1.c. of this paragraph.
3. If an individual seeks to enroll a dependent during the first thirty (30) days of the dependent special enrollment period, the coverage of the dependent shall become effective:
- a. In the case of marriage, not later than the first day of the first month beginning after the date the completed request for enrollment is received;

- b. In the case of a dependent's birth, as of the date of the birth; or
- c. In the case of a dependent's adoption or placement for adoption, the date of the adoption or placement for adoption.
- (d) ***At or before the time an employee is initially offered the opportunity to enroll in a group health plan, the employer shall provide the employee with a notice of special enrollment rights.***
- (11)(8) (a) In the case of a group health plan that offers medical care through health insurance coverage offered by a health maintenance organization, the plan may provide for an affiliation period with respect to coverage through the organization only if:
  - 1. No pre-existing condition exclusion is imposed with respect to coverage through the organization;
  - 2. The period is applied uniformly without regard to any health status-related factors; and
  - 3. The period does not exceed two (2) months, or three (3) months in the case of a late enrollee.
- (b) 1. For purposes of this section, the term "affiliation period" means a period which, under the terms of the health insurance coverage offered by the health maintenance organization, must expire before the health insurance coverage becomes effective. The organization is not required to provide health care services or benefits during this period and no premium shall be charged to the participant or beneficiary for any coverage during the period.
- 2. This period shall begin on the enrollment date.
- 3. An affiliation period under a plan shall run concurrently with any waiting period under the plan.
- (c) A health maintenance organization described in paragraph (a) of this subsection may use alternative methods other than those described in that paragraph to address adverse selection as approved by the executive director.

Section 3. KRS 304.17A-230 is amended to read as follows:

- (1) A health insurer offering individual health benefit plan coverage in the individual market in the Commonwealth shall not impose any pre-existing conditions exclusions as to any eligible individual.
- (2) Each health insurer offering individual health benefit plan coverage in the individual market in the Commonwealth that chooses to impose a pre-existing conditions exclusion on individuals who do not meet the definition of eligible individual shall comply with the provisions of KRS 304.17A-220, which establishes standards and requirements for pre-existing conditions exclusions for group health plans, including crediting previous coverage, and certification of coverage; ~~except the period of creditable coverage shall only reduce the period of a pre-existing condition exclusion in a policy that has benefits substantially similar to the benefits provided in the creditable coverage.~~ Pregnancy may be considered to be a pre-existing condition.
- (3) Genetic information shall not be treated as a pre-existing condition in the absence of a diagnosis of the condition related to the information.
- (4) ***The Office of Insurance shall promulgate administrative regulations necessary to carry out the provisions of Sections 2 and 3 of this Act.***

Section 4. KRS 304.17A-096 is amended to read as follows:

- (1) An insurer authorized to engage in the business of insurance in the Commonwealth of Kentucky may offer one (1) or more basic health benefit plans in the individual, small group, and employer-organized association markets. A basic health benefit plan shall cover physician, pharmacy, home health, preventive, emergency, and inpatient and outpatient hospital services in accordance with the requirements of this subtitle. If vision or eye services are offered, these services may be provided by an ophthalmologist or optometrist.
- (2) An insurer that offers a basic health benefit plan shall be required to offer health benefit plans as defined in KRS 304.17A-005(22)(19).
- (3) An insurer in the individual, small group, or employer-organized association markets that offers a basic health benefit plan may offer a basic health benefit plan that excludes from coverage any state-mandated health insurance benefit, except that the basic health benefit plan shall include coverage for diabetes as provided in

KRS 304.17A-148, hospice as provided in KRS 304.17A-250(6), and chiropractic benefits as provided in KRS 304.17A-171, and those mandated benefits specified under federal law.

- (4) Notwithstanding any other provisions of this section, mandated benefits excluded from coverage shall not be deemed to include the payment, indemnity, or reimbursement of specified health care providers for specific health care services.

Section 5. KRS 304.17A-430 is amended to read as follows:

- (1) A health benefit plan shall be considered a program plan and is eligible for inclusion in calculating assessments and refunds under the program risk adjustment process if it meets all of the following criteria:
- (a) The health benefit plan was purchased by an individual to provide benefits for only one (1) or more of the following: the individual, the individual's spouse, or the individual's children. Health insurance coverage provided to an individual in the group market or otherwise in connection with a group health plan does not satisfy this criteria even if the individual, or the individual's spouse or parent, pays some or all of the cost of the coverage unless the coverage is offered in connection with a group health plan that has fewer than two (2) participants as current employees on the first day of the plan year;
  - (b) An individual entitled to benefits under the health benefit plan has been diagnosed with a high-cost condition on or before the effective date of the individual's coverage for coverage issued on a guarantee-issue basis after July 15, 1995;
  - (c) The health benefit plan imposes the maximum pre-existing condition exclusion permitted under KRS 304.17A-200;
  - (d) The individual purchasing the health benefit plan is not eligible for or covered by other coverage; and
  - (e) The individual is not a state employee eligible for or covered by the state employee health insurance plan under KRS Chapter 18A.
- (2) Notwithstanding the provisions of subsection (1) of this section, if the total claims paid for the high-cost condition under a program plan for any three (3) consecutive years are less than the premiums paid under the program plan for those three (3) consecutive years, then the following shall occur:
- (a) The policy shall not be considered to be a program plan thereafter until the first renewal of the policy after there are three (3) consecutive years in which the total claims paid under the policy have exceeded the total premiums paid for the policy and at the time of the renewal the policy also qualifies under subsection (1) as a program plan; and
  - (b) Within the last six (6) months of the third year, the insurer shall provide each person entitled to benefits under the policy who has a high-cost condition with a written notice of insurability. The notice shall state that the recipient may be able to purchase a health benefit plan other than a program plan and shall also state that neither the notice nor the individual's actions to purchase a health benefit plan other than a program plan shall affect the individual's eligibility for plan coverage. The notice shall be valid for six (6) months.
- (3) (a) There is established within the guaranteed acceptance program the alternative underwriting mechanism that a participating insurer may elect to use. An insurer that elects this mechanism shall use the underwriting criteria that the insurer has used for the past twelve (12) months for purposes of the program plan requirement in paragraph (b) of subsection (1) of this section for high risk individuals rather than using the criteria established in KRS 304.17A-005(24)~~[(21)]~~ and 304.17A-280 for high cost conditions;
- (b) An insurer that elects to use the alternative underwriting mechanism shall make written application to the executive director. Before the insurer may implement the mechanism, the insurer shall obtain approval of the executive director. Annually thereafter, the insurer shall obtain the executive director's approval of the underwriting criteria of the insurer before the insurer may continue to use the alternative underwriting mechanism.

Section 6. KRS 304.17B-001 is amended to read as follows:

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

- (1) "Administrator" is defined in KRS 304.9-051(1);

- (2) "Agent" is defined in KRS 304.9-020;
- (3) "Assessment process" means the process of assessing and allocating guaranteed acceptance program losses or Kentucky Access funding as provided for in KRS 304.17B-021;
- (4) "Authority" means the Kentucky Health Care Improvement Authority;
- (5) "Case management" means a process for identifying an enrollee with specific health care needs and interacting with the enrollee and their respective health care providers in order to facilitate the development and implementation of a plan that efficiently uses health care resources to achieve optimum health outcome;
- (6) "Executive director" is defined in KRS 304.1-050(1);
- (7) "Office" is defined in KRS 304.1-050(2);
- (8) "Earned premium" means the portion of premium paid by an insured that has been allocated to the insurer's loss experience, expenses, and profit year to date;
- (9) "Enrollee" means a person who is enrolled in a health benefit plan offered under Kentucky Access;
- (10) "Eligible individual" is defined in KRS 304.17A-005~~(11)~~~~(9)~~;
- (11) "Guaranteed acceptance program" or "GAP" means the Kentucky Guaranteed Acceptance Program established and operated under KRS 304.17A-400 to 304.17A-480;
- (12) "Guaranteed acceptance program participating insurer" means an insurer that offered health benefit plans through December 31, 2000, in the individual market to guaranteed acceptance program qualified individuals;
- (13) "Health benefit plan" is defined in KRS 304.17A-005~~(22)~~~~(19)~~;
- (14) "High-cost condition" means acquired immune deficiency syndrome (AIDS), angina pectoris, ascites, chemical dependency, cirrhosis of the liver, coronary insufficiency, coronary occlusion, cystic fibrosis, Friedreich's ataxia, hemophilia, Hodgkin's disease, Huntington's chorea, juvenile diabetes, leukemia, metastatic cancer, motor or sensory aphasia, multiple sclerosis, muscular dystrophy, myasthenia gravis, myotonia, open-heart surgery, Parkinson's disease, polycystic kidney, psychotic disorders, quadriplegia, stroke, syringomyelia, Wilson's disease, chronic renal failure, malignant neoplasm of the trachea, malignant neoplasm of the bronchus, malignant neoplasm of the lung, malignant neoplasm of the colon, short gestation period for a newborn child, and low birth weight of a newborn child;
- (15) "Incurred losses" means for Kentucky Access the excess of claims paid over premiums received;
- (16) "Insurer" is defined in KRS 304.17A-005~~(27)~~~~(24)~~;
- (17) "Kentucky Access" means the program established in accordance with KRS 304.17B-001 to 304.17B-031;
- (18) "Kentucky Access Fund" means the fund established in KRS 304.17B-021;
- (19) "Kentucky Health Care Improvement Authority" means the board established to administer the program initiatives listed in KRS 304.17B-003(5);
- (20) "Kentucky Health Care Improvement Fund" means the fund established for receipt of the Kentucky tobacco master settlement moneys for program initiatives listed in KRS 304.17B-003(5);
- (21) "MARS" means the Management Administrative Reporting System administered by the Commonwealth;
- (22) "Medicaid" means coverage in accordance with Title XIX of the Social Security Act, 42 U.S.C. secs. 1396 et seq., as amended;
- (23) "Medicare" means coverage under both Parts A and B of Title XVIII of the Social Security Act, 42 U.S.C. secs. 1395 et seq., as amended;
- (24) "Pre-existing condition exclusion" is defined in KRS 304.17A-220~~(6)~~~~(3)~~;
- (25) "Standard health benefit plan" means a health benefit plan that meets the requirements of KRS 304.17A-250;
- (26) "Stop-loss carrier" means any person providing stop-loss health insurance coverage;
- (27) "Supporting insurer" means all insurers, stop-loss carriers, and self-insured employer-controlled or bona fide associations; and
- (28) "Utilization management" is defined in KRS 304.17A-500(12).

Section 7. KRS 304.38A-010 is amended to read as follows:

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

- (1) "Enrollee" means an individual who is enrolled in a limited health services benefit plan;
- (2) "Evidence of coverage" means any certificate, agreement, contract, or other document issued to an enrollee stating the limited health services to which the enrollee is entitled. All coverages described in an evidence of coverage issued by a limited health service organization are deemed to be "limited health services benefit plans" to the extent defined in KRS 304.17C-010 unless exempted by the executive director;
- (3) "Limited health service" means dental care services, vision care services, mental health services, substance abuse services, chiropractic services, pharmaceutical services, podiatric care services, and such other services as may be determined by the executive director to be limited health services. Limited health service shall not include hospital, medical, surgical, or emergency services except as these services are provided incidental to the limited health services set forth in this subsection;
- (4) "Limited health service contract" means any contract entered into by a limited health service organization with a policyholder to provide limited health services;
- (5) "Limited health service organization" means a corporation, partnership, limited liability company, or other entity that undertakes to provide or arrange limited health service or services to enrollees. A limited health service organization does not include a provider or an entity when providing or arranging for the provision of limited health services under a contract with a limited health service organization, health maintenance organization, or a health insurer; and
- (6) "Provider" means the same as defined in KRS 304.17A-005(23)~~[(20)]~~.

Section 8. KRS 304.17C-010 is amended to read as follows:

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

- (1) "At the time of enrollment" means the same as defined in KRS 304.17A-005(2);
- (2) "Enrollee" means an individual who is enrolled in a limited health service benefit plan;
- (3) "Health care provider" or "provider" means the same as defined in KRS 304.17A-005(23)~~[(20)]~~;
- (4) "Insurer" means any insurance company, health maintenance organization, self-insurer or multiple employer welfare arrangement not exempt from state regulation by ERISA, provider-sponsored integrated health delivery network, self-insured employer-organized association, nonprofit hospital, medical-surgical, dental, health service corporation, or limited health service organization authorized to transact health insurance business in Kentucky who offers a limited health service benefit plan; and
- (5) "Limited health service benefit plan" means any policy or certificate that provides services for dental, vision, mental health, substance abuse, chiropractic, pharmaceutical, podiatric, or other such services as may be determined by the executive director to be offered under a limited health service benefit plan. A limited health service benefit plan shall not include hospital, medical, surgical, or emergency services except as these services are provided incidental to the plan.

Section 9. KRS 304.17A-617 is amended to read as follows:

- (1) Every insurer shall have an internal appeal process to be utilized by the insurer or its designee, consistent with this section and KRS 304.17A-619 and which shall be disclosed to covered persons in accordance with KRS 304.17A-505(1)(g). An insurer shall disclose the availability of the internal process to the covered person in the insured's timely notice of an adverse determination or notice of a coverage denial which meets the requirements set forth in KRS 304.17A-607(1)(j). For purposes of this section "coverage denial" means an insurer's determination that a service, treatment, drug, or device is specifically limited or excluded under the covered person's health benefit plan. Where a coverage denial is involved, in addition to stating the reason for the coverage denial, the required notice shall contain instructions for filing a request for internal appeal.
- (2) The internal appeals process may be initiated by the covered person, an authorized person, or a provider acting on behalf of the covered person. The internal appeals process shall include adequate and reasonable procedures for review and resolution of appeals concerning adverse determinations made under utilization review and of

coverage denials, including procedures for reviewing appeals from covered persons whose medical conditions require expedited review. At a minimum, these procedures shall include the following:

- (a) Insurers or their designees shall provide decisions to covered persons, authorized persons, and providers on internal appeals of adverse determinations or coverage denials within thirty (30) days of receipt of the request for internal appeal;
  - (b) Insurers or their designees shall render a decision not later than three (3) business days after receipt of the request for an expedited appeal of either an adverse determination or a coverage denial. An expedited appeal is deemed necessary when a covered person is hospitalized or, in the opinion of the treating provider, review under a standard time frame could, in the absence of immediate medical attention, result in any of the following:
    1. Placing the health of the covered person or, with respect to a pregnant woman, the health of the covered person or the unborn child in serious jeopardy;
    2. Serious impairment to bodily functions; or
    3. Serious dysfunction of a bodily organ or part;
  - (c) Internal appeal of an adverse determination shall only be conducted by a licensed physician who did not participate in the initial review and denial. However, in the case of a review involving a medical or surgical specialty or subspecialty, the insurer or agent shall, upon request by a covered person, authorized person, or provider, utilize a board eligible or certified physician in the appropriate specialty or subspecialty area to conduct the internal appeal;
  - (d) Those portions of the medical record that are relevant to the internal appeal, if authorized by the covered person and in accordance with state or federal law, shall be considered and providers given the opportunity to present additional information;
  - (e) In addition to any previous notice required under KRS 304.17A-607(1)(j), and to facilitate expeditious handling of a request for external review of an adverse determination or a coverage denial, an insurer or agent that denies, limits, reduces, or terminates coverage for a treatment, procedure, drug, or device for a covered person shall provide the covered person, authorized person, or provider acting on behalf of the covered person with an internal appeal determination letter that shall include:
    1. A statement of the specific medical and scientific reasons for denying coverage or identifying that provision of the schedule of benefits or exclusions that demonstrates that coverage is not available;
    2. The state of licensure, medical license number, and the title of the person making the decision;
    3. Except for retrospective review, a description of alternative benefits, services, or supplies covered by the health benefit plan, if any; and
    4. Instructions for initiating an external review of an adverse determination, or filing a request for review with the office if a coverage denial is upheld by the insurer on internal appeal.
- (3) The office shall establish and maintain a system for receiving and reviewing requests for review of coverage denials from covered persons, authorized persons, and providers. For purposes of this subsection "coverage denials" shall not include an adverse determination as defined in KRS 304.17A-600 or subsequent denials arising from an adverse determination.
- (a) On receipt of a written request for review of a coverage denial from a covered person, authorized person, or provider, the office shall notify the insurer which issued the denial of the request for review and shall call for the insurer to respond to the office regarding the request for review within **ten (10) business**~~five (5)~~ days of receipt of notice to the insurer;
  - (b) Within **ten (10) business**~~five (5)~~ days of receiving the notice of the request for review from the office, the insurer shall provide to the office the following information:
    1. Confirmation as to whether the person who received or sought the health service for which coverage was denied was a covered person under a health benefit plan issued by the insurer on the date the service was sought or denied;



2. Confirmation as to whether the covered person, authorized person, or provider has exhausted his or her rights under the insurer's appeal process under this section; and
  3. The reason for the coverage denial, including the specific limitation or exclusion of the health benefit plan demonstrating that coverage is not available;
- (c) In addition to the information described in paragraph (b) of this subsection, the insurer and the covered person, authorized person, or provider shall provide to the office any information requested by the office that is germane to its review;
- (d) On the receipt of the information described in paragraphs (b) and (c) of this subsection, unless the office is not able to do so because making a determination requires resolution of a medical issue, it shall determine whether the service, treatment, drug, or device is specifically limited or excluded under the terms of the covered person's health benefit plan. If the office determines that the treatment, service, drug, or device is not specifically limited or excluded, it shall so notify the insurer, and the insurer shall either cover the service, or afford the covered person an opportunity for external review under KRS 304.17A-621, 304.17A-623, and 304.17A-625, where the conditions precedent to the review are present. If the office notifies the insurer that the treatment, service, drug, or device is specifically limited or excluded in the health benefit plan, the insurer is not required to cover the service or afford the covered person an external review;
- (e) An insurer shall be required to cover the treatment, service, drug, or device that was denied or provide notification of the right to external review in accordance with paragraph (d) of this subsection whether the covered person has disenrolled or remains enrolled with the insurer;
- (f) If the covered person has disenrolled with the insurer, the insurer shall only be required to provide the treatment, service, drug, or device that was denied for a period not to exceed thirty (30) days, or provide the covered person the opportunity for external review.

SECTION 10. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

***An insurer shall not impose a copayment or coinsurance amount charged to the insured for services rendered by a chiropractor licensed under KRS Chapter 312 or an optometrist licensed under KRS Chapter 320 that is greater than the copayment or coinsurance amount charged to the insured for the services of a physician or an osteopath licensed under KRS Chapter 311 for the same or similar diagnosed condition even if different nomenclature is used to describe the condition or complaint.***

SECTION 11. A NEW SECTION OF SUBTITLE 17B OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

***Health benefit plans provided under Kentucky Access shall not impose a copayment or coinsurance amount charged to the insured for services rendered by a chiropractor licensed under KRS Chapter 312 or an optometrist licensed under KRS Chapter 320 that is greater than the copayment or coinsurance amount charged to the insured for the services of a physician or an osteopath licensed under KRS Chapter 311 for the same or similar diagnosed condition even if different nomenclature is used to describe the condition or complaint.***

SECTION 12. A NEW SECTION OF SUBTITLE 17C OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

***An insurer shall not impose a copayment or coinsurance amount charged to the insured for services rendered by a chiropractor licensed under KRS Chapter 312 or an optometrist licensed under KRS Chapter 320 that is greater than the copayment or coinsurance amount charged to the insured for the services of a physician or an osteopath licensed under KRS Chapter 311 for the same or similar diagnosed condition even if different nomenclature is used to describe the condition or complaint.***

**Became law April 25, 2006, without Governor's signature.**

## CHAPTER 254

## (HB 561)

AN ACT relating to insurance producers.

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

Section 1. KRS 304.9-040 is amended to read as follows:

- (1) A "consultant" is **a person**~~[an individual]~~, who as an independent contractor in relation to **a**~~his~~ client, for fee or compensation other than from an insurer, in any manner advises or purports to advise, any person actually or prospectively insured, or named or to be named as beneficiary, or having or to have any interest in or insured under, an insurance contract or annuity contract, existing or proposed, relative to coverage, advisability, rights, or interests under such contract, or relative to the retention, exchange, surrender, or exercise of rights thereunder. This subsection shall not apply as to an attorney while acting under a license to practice law in this state.
- (2) A "property and casualty consultant" is **a person**~~[an individual]~~ licensed as a consultant as to property insurance contracts, casualty insurance contracts, health insurance contracts issued by property or casualty insurers, and surety contracts.
- (3) A "life and health consultant" is **a person**~~[an individual]~~ licensed as a consultant as to life insurance contracts, annuity contracts, and health insurance contracts.

Section 2. KRS 304.9-080 is amended to read as follows:

- (1) An individual or business entity shall not sell, solicit, or negotiate insurance in this state unless **duly**~~the individual or business entity is~~ licensed as the appropriate insurance producer for that line of authority in accordance with this subtitle or Subtitle 10 of this chapter.
- (2) No individual or business entity shall in this state be, act as, or hold himself,~~or~~ herself, **or itself** out as an adjuster unless then licensed as an adjuster.
- (3) No individual **or business entity** shall in this state be, act as, or hold himself,~~or~~ herself, **or itself** out as a consultant unless then licensed as a consultant. No consultant shall act as a consultant with respect to any kind of insurance **unless duly**~~as to which he or she is not then~~ licensed as a consultant **for that line of authority**.

~~(4)(3) A consultant license shall cover either or both of the following categories, as selected by the licensee:~~

- ~~(a) — Property and casualty; and~~
- ~~(b) — Life and health.~~

~~— A consultant licensed in both categories shall qualify separately for, and be licensed in, each category.~~

~~(4) — No individual licensed as a consultant shall act as a consultant until he or she has filed with the executive director a bond or insurance in accordance with KRS 304.9-330.~~

~~(5)}~~ Except as provided in KRS 304.9-410 and KRS 304.9-270(4), no agent shall place, and no insurer shall accept, any insurance with any insurer as to which the agent does not then hold a license and appointment as agent under this subtitle.

~~(5){(6)}~~ No rental vehicle agent, rental vehicle managing employee, specialty credit producer, or specialty credit managing employee shall place, and no insurer shall accept, any insurance with any insurer as to which the licensee does not then hold a license and appointment under this subtitle.

~~(6){(7)}~~ The executive director shall prescribe and furnish all forms required under this subtitle as to licenses and appointments.

Section 3. KRS 304.9-320 is amended to read as follows:

For the protection of the people of this Commonwealth the executive director shall not issue, continue, or permit to exist any license as consultant except in compliance with this subtitle, or as to any person not qualified therefor as follows:

- (1) ***If an individual, the applicant:***

- (a) Must be ~~an individual of~~ eighteen (18) or more years of age;
  - (b)~~(2)~~ Must have had not less than five (5) years of actual experience as a licensed agent with respect to the kinds of insurance and contracts to be covered by the license, or other special experience, education or training, all of sufficient content and duration reasonably necessary for competence in fulfilling the responsibilities of a consultant;
  - (c)~~(3)~~ Must have a thorough knowledge of insurance and annuity contracts of the kinds proposed to be covered under the license;
  - (d)~~(4)~~ Must satisfy the executive director by written examination;
  - (e)~~(5)~~ Must be competent, trustworthy under highest fiduciary standards, financially responsible, and of good personal and business reputation; and
  - (f)~~(6)~~ Must have filed the bond required by KRS 304.9-330.
- (2) ***If a business entity, the applicant:***
- (a) ***Must complete and submit a National Association of Insurance Commissioners uniform license application;***
  - (b) ***Must pay applicable fees as set forth in KRS 304.4-010;***
  - (c) ***Must be competent, trustworthy under the highest fiduciary standards, financially responsible, and of good business reputation; and***
  - (d) ***Must designate each individual authorized to act for the business entity under its consultant license in accordance with KRS 304.9-133.***
- (3) ***A consultant license shall cover either or both of the following categories, as selected by the licensee:***
- (a) ***Property and casualty; or***
  - (b) ***Life and health.***
- A consultant licensed in both categories shall qualify separately for, and be licensed in, each category.***

Section 4. KRS 304.9-107 is amended to read as follows:

- (1) The following persons shall be exempt from the ***pre-licensing course of study requirements for specific lines of authority***~~Licensing qualifications and requirements~~ of KRS 304.9-105(1)(e)1. ~~and, if otherwise properly qualified, shall be issued licenses without satisfying KRS 304.9-105(1)(e)2.:~~
- (a) Persons holding a Chartered Life Underwriter (CLU) designation for a life line of authority;
  - (b) Persons holding a Chartered Property and Casualty Underwriter (CPCU) designation for property, personal lines, and casualty lines of authority;
  - (c) Persons holding a Certified Insurance Counselor (CIC) designation for life, health, property, personal lines, and casualty lines of authority;
  - (d) Persons holding a designation as a Certified Employee Benefit Specialist (CEBS), Chartered Financial Consultant (ChFC), Certified Financial Planner (CFP), Fellow of the Life Management Institute (FLMI), or Life Underwriter Training Council Fellow (LUTCF) for a life line of authority;
  - (e) Persons holding a designation as a Registered Health Underwriter (RHU), Certified Employee Benefit Specialist (CEBS), Registered Employee Benefit Consultant (REBC), or Health Insurance Advisor (HIA) for a health line of authority;
  - (f) Persons holding a designation as an Accredited Advisor in Insurance (AAI) or Associate in Risk Management (ARM) for property, personal lines, and casualty lines of authority; and
  - (g) Persons holding an insurance degree from an accredited college or university for all lines of authority.

- (2) The executive director may promulgate administrative regulations to specify additional designations and degrees for exemption from a prelicensing course of study for specified lines of authority to comply with NAIC uniformity standards.

**Became law April 25, 2006, without Governor's signature.**

## **CHAPTER 255**

### **(HB 537)**

AN ACT relating to fees and the distribution thereof.

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

Section 1. KRS 64.090 is amended to read as follows:

- (1) Sheriffs may charge and collect the following fees from the Commonwealth and any of its agencies, including the Department of State Police, when the source of payment is not otherwise specified, if the Commonwealth, any of its agencies, or the Department of State Police makes a request that the sheriff perform any of the following:
- (a) Executing and returning process ..... \$20.00;
  - (b) Serving an order of court and return ..... 3.00;
  - (c) Summoning or subpoenaing each witness, fee to be paid by requester  
to sheriff before service ..... 10.00;
  - (d) Summoning an appraiser or reviewer ..... 2.00;
  - (e) Attending a surveyor, when ordered by a  
court, per deputy or sheriff assigned ..... 20.00;
  - (f) Taking any bond that he is authorized or  
required to take in any action ..... 5.00;
  - (g) Collecting money under execution or distress warrant, if the debt is paid or the property sold, or a  
delivery bond given and not complied with, six percent (6%) on the first three hundred dollars (\$300)  
and three percent (3%) on the residue; when he levies an execution or distress warrant, and the  
defendant replevies the debt, or the writ is stayed by legal proceedings or by the order of the plaintiff,  
half of the above commissions, to be charged to the plaintiff and collected as costs in the case;
  - (h) Taking a recognizance of a witness ..... 3.00;
  - (i) Levying an attachment ..... 5.00;
  - (j) When property attached is sold by an officer other than the officer levying the attachment, the court  
shall, in the judgment, make the officer an additional and reasonable allowance for levying the  
attachment, and the fee of the officer selling the property shall be lessened by that sum. Reasonable  
charges for removing and taking care of attached property shall be allowed by order of court;
  - (k) Summoning a garnishee ..... 3.00;
  - (l) Summoning a jury in a misdemeanor case, attending the trial, and  
conducting the defendant to jail, to be paid by the party  
convicted ..... 8.00;
  - (m) Serving process or arresting the party in  
misdemeanor cases, to be paid by the plaintiff ..... 30.00;
  - (n) Serving an order or process of revivor ..... 3.00;
  - (o) Executing a writ of possession against each tenant or defendant ..... 7.00;

- (p) Executing a *capias ad satisfaciendum*, the same commission as collecting money on execution. If the debt is not paid, but stayed or secured, half commission;
  - (q) Summoning and attending a jury in a case of forcible entry and  
detainer, besides fees for summoning witnesses ..... 8.00;
  - (r) Collecting militia fines and fee-bills, ten percent (10%), to be deducted out of the fee-bill or fine;
  - (s) Levying for a fee-bill ..... 3.00;
  - (t) Serving a notice ..... 2.00;
  - (u) Serving summons, warrants or process of arrest in cases of  
children born out of wedlock ..... 6.00;
  - (v) Serving a civil summons in a nonsupport case ..... 10.00;
  - (w) Serving each order appointing surveyors of  
roads, to be paid out of the county levy ..... 5.00;
  - (x) Serving each summons or order of court in applications concerning  
roads, to be paid out of the county levy if the road is established,  
and in all other cases to be paid by the applicant ..... 5.00;
  - (y) Like services in cases of private passways to  
be paid by the applicant ..... 5.00;
  - (z) Executing each writ of habeas corpus, to be  
paid by the petitioner ..... 3.00;
  - (aa) All services under a writ issued under  
KRS 381.460 to 381.570 ..... 10.00; and
  - (bb) For services in summoning grand and petit jurors and performing his duties under KRS Chapter 29A the  
sheriff shall be allowed, for each person so summoned, and paid out of the State Treasury for  
constructive service the sum of \$1.50 and for personal service the sum of \$3.00.
- (2) Sheriffs may charge and collect a fee of ~~forty~~~~[twenty]~~ dollars ~~(\$40)~~~~(\$20)~~ from any person not requesting the service of the sheriff on behalf of the Commonwealth, any of its agencies, or the Department of State Police for the services provided in subsection (1) of this section where a percentage, commission, or reasonable fee is not otherwise allowed. If a percentage, commission, or reasonable fee is allowed, that amount shall be paid. If payment is specified from a person other than the person who requested the service, then the person specified shall be responsible for payment.

Section 2. KRS 186.245 is amended to read as follows:

***Beginning January 1, 2007***~~Immediately upon July 15, 1994~~, every county clerk shall post a permanent notice that the fee increases contained in ~~this Act~~~~[1994 Ky. Acts ch. 428]~~ were requested by the Kentucky County Clerks Association. The notice shall be printed in bold face type of sufficient point size to be read from a distance of at least three (3) feet. The notice shall be posted in a conspicuous place to ensure that every person who enters the county clerk's office will readily see the notice.

Section 3. KRS 64.012 is amended to read as follows:

The county clerk shall receive for the following services the following fees:

- (1) (a) ***Recording and indexing of a:***
  - 1. ***Deed of trust or assignment for the benefit of creditors;***
  - 2. ***Deed;***
  - 3. ***Real estate mortgage;***

4. *Deed of assignment;*
5. *Real estate options;*
6. *Power of attorney;*
7. *Revocation of power of attorney;*
8. *Leases which are recordable by law;*
9. *Deed of release of a mortgage or lien under KRS 382.360;*
10. *United States liens;*
11. *Release of a United States lien;*
12. *Release of any recorded encumbrance other than state liens;*
13. *Lis pendens notice concerning proceedings in bankruptcy;*
14. *Lis pendens notices;*
15. *Mechanic's and artisan's lien under KRS Chapter 376;*
16. *Assumed name;*
17. *Notice of lien issued by the Internal Revenue Service;*
18. *Notice of lien discharges issued by the Internal Revenue Service;*
19. *Original, assignment, amendment, or continuation financing statement;*
20. *Making a record for the establishment of a city, recording the plan or plat thereof, and all other service incident;*
21. *Survey of a city, or any part thereof, or any addition to or extensions of the boundary of a city;*
22. *Recordings with statutory authority for which no specific fee is set, except military discharges; and*
23. *Filings with statutory authority for which no specific fee is set.*

*For all items in this subsection if the entire thereof does not exceed three (3) pages ..... \$12.00*

*And, for all items in this subsection exceeding three (3) pages, for each additional page ..... \$3.00*

*And, for all items in this subsection for each additional reference relating to same instrument ..... \$4.00*

*(b) The twelve dollar (\$12) fee imposed by paragraph (a) of this subsection shall be divided as follows:*

1. *Six dollars (\$6) shall be retained by the county clerk; and*
2. *Six dollars (\$6) shall be paid to the affordable housing trust fund established in KRS 198A.710 and shall be remitted by the county clerk within ten (10) days following the end of the quarter in which the fee was received. Each remittance to the affordable housing trust fund shall be accompanied by a summary report on a form prescribed by the Kentucky Housing Corporation.*

*(2) Recording and indexing a file stamped copy of documents pertaining to corporations authorized by KRS Chapter 271B. 272, 273, 274, 275, or 279 that have been filed first with the Secretary of State:*

*(a) The entire record thereof does not exceed three (3) pages ..... \$10.00*

*(b) And, exceeding three (3) pages, for each additional page ..... \$3.00*

*(3) Recording wills or other probate documents pursuant to KRS*

<i>Chapter 392 or 394 .....</i>	<i>\$ 8.00</i>
(4) <i>Recording court ordered name changes pursuant to KRS Chapter 401 .....</i>	<i>\$ 8.00</i>
(5) <i>For noting a security interest on a certificate of title pursuant to KRS Chapter 186A .....</i>	<i>\$12.00</i>
(6) <i>For filing the release of collateral under a financing statement and noting same upon the face of the title pursuant to KRS Chapter 186 or 186A .....</i>	<i>\$5.00</i>
(7) <i>Filing or recording state tax or other state liens .....</i>	<i>\$5.00</i>
(8) <i>Filing release of a state tax or other state lien .....</i>	<i>\$5.00</i>
(9) <i>Marginal release, noting release of any lien, mortgage, or redemption other than a deed of release .....</i>	<i>\$8.00</i>
(10) <i>Acknowledging or notarizing any deed, mortgage, power of attorney, or other written instrument required by law for recording and certifying same .....</i>	<i>\$4.00</i>
(11) <i>Recording a land use restriction according to KRS 100.3681 .....</i>	<i>\$15.00</i>
(12) <i>Recording plats, maps, and surveys, not exceeding 24 inches by 36 inches, per page .....</i>	<i>\$20.00</i>
(13) <i>Recording a bond, for each bond .....</i>	<i>\$10.00</i>
(14) <i>Each bond required to be taken or prepared by the clerk .....</i>	<i>\$4.00</i>
(15) <i>Copy of any bond when ordered .....</i>	<i>\$3.00</i>
(16) <i>Administering an oath and certificate thereof .....</i>	<i>\$5.00</i>
(17) <i>Issuing a license for which no other fee is fixed by law .....</i>	<i>\$8.00</i>
(18) <i>Issuing a solicitor's license .....</i>	<i>\$15.00</i>
(19) <i>Marriage license, indexing, recording, and issuing certificate thereof .....</i>	<i>\$24.00</i>
(20) <i>Every order concerning the establishment, changing, closing, or discontinuing of roads, to be paid out of the county levy when the road is established, changed, closed, or discontinued, and by the applicant when it is not .....</i>	<i>\$3.00</i>
(21) <i>Registration of licenses for professional persons required to register with the county clerk .....</i>	<i>\$10.00</i>
(22) <i>Certified copy of any record .....</i> <i>Plus fifty cents (\$.50) per page after three (3) pages</i>	<i>\$5.00</i>
(23) <i>Filing certification required by KRS 65.070(1)(a) .....</i>	<i>\$5.00</i>
(24) <i>Filing notification and declaration and petition of candidates for Commonwealth's attorney .....</i>	<i>\$200.00</i>
(25) <i>Filing notification and declaration and petition of candidates for office in cities of the fifth or sixth class and candidates for county and independent boards of education .....</i>	<i>\$20.00</i>

(26)	<i>Filing notification and declaration and petition of candidates for boards of soil and water conservation districts .....</i>	<i>\$20.00</i>
(27)	<i>Filing notification and declaration and petition of candidates for other office .....</i>	<i>\$50.00</i>
(28)	<i>Filing declaration of intent to be a write-in candidate for office other than municipal office in a city of the fifth or sixth class .....</i>	<i>\$50.00</i>
(29)	<i>Filing declaration of intent to be a write-in candidate for municipal office in a city of the fifth or sixth class .....</i>	<i>\$20.00</i>
(30)	<i>Filing petitions for elections, other than nominating petitions .....</i>	<i>\$50.00</i>
(31)	<i>Notarizing any signature per signature .....</i>	<i>\$2.00</i>
(32)	<i>Filing bond for receiving bodies under KRS 311.310 .....</i>	<i>\$10.00</i>
(33)	<i>Noting the assignment of a certificate of delinquency under KRS 134.480 .....</i>	<i>\$10.00</i>
(34)	<i>Filing a going out of business permit under KRS 365.445 .....</i>	<i>\$50.00</i>
(35)	<i>Filing a renewal of a going out of business permit under KRS 365.445 .....</i>	<i>\$50.00</i>
(36)	<i>Filing a grain warehouseman's license under KRS 359.050 .....</i>	<i>\$10.00</i>
(37)	<i>Filing and processing a transient merchant permit under KRS 365.680 .....</i>	<i>\$25.00</i>
	<del>[Recording deed of trust or assignment for the benefit of creditors,</del>	
	<del>—— provided the entire thereof does not exceed three (3) pages .....</del>	<del>\$8.00</del>
	<del>Exceeding three (3) pages, for each page .....</del>	<del>2.00</del>
	<del>Copy and certification of same when ordered .....</del>	<del>5.00</del>
	<del>Each bond required to be taken or prepared by the clerk .....</del>	<del>3.00</del>
	<del>Copy of any bond when ordered .....</del>	<del>2.00</del>
	<del>Recording a bond, each bond .....</del>	<del>8.00</del>
	<del>Receiving the acknowledgment or proof of any deed, mortgage, or</del>	
	<del>—— agreement, power of attorney, or other written instrument required</del>	
	<del>—— by law to be done and certifying same .....</del>	<del>2.00</del>
	<del>Taking the acknowledgment or proof of a deed of real estate, certifying</del>	
	<del>—— and recording the same and recording his own certificate, provided</del>	
	<del>—— the entire record thereof does not exceed three (3) pages .....</del>	<del>8.00</del>
	<del>Exceeding three (3) pages, for each page .....</del>	<del>2.00</del>
	<del>Certified copy of deed .....</del>	<del>5.00</del>
	<del>Recording a mortgage of real estate, certificates, and all services</del>	
	<del>—— connected with the same, provided the entire record thereof</del>	
	<del>—— does not exceed three (3) pages .....</del>	<del>8.00</del>
	<del>Exceeding three (3) pages, for each page .....</del>	<del>2.00</del>
	<del>Certified copy of real estate mortgage .....</del>	<del>5.00</del>



Recording deed of assignment of real estate mortgage .....	8.00
Noting release of any lien, mortgage, or redemption other —— than a deed of release .....	3.00
Receiving the acknowledgment, recording, and certifying each —— deed of release of a mortgage or lien under KRS 382.360 .....	8.00
Each additional marginal notation relating to same instrument .....	3.00
Making a record for the establishment of a city, recording the plan or —— plat thereof, and all other services incident .....	8.00
Recording survey of a city, or any part thereof, or any addition to or —— extensions of the boundary of a city .....	8.00
Every order concerning the establishment, changing, closing, or —— discontinuing of roads, to be paid out of the county levy when —— the road is established, changed, closed, or discontinued, and by —— the applicant when it is not .....	2.00
Administering an oath and certificate thereof .....	2.00
Issuing license for which no other fee is fixed by law .....	5.00
Marriage license, bond, certificate and recording .....	24.00
For filing and indexing an original or continuation financing —— statement .....	8.00
For noting a security interest on a certificate of —— title under KRS Chapter 186A .....	12.00
For filing and indexing an assignment of a financing statement .....	8.00
For filing and noting a statement of release of collateral under —— a financing statement .....	5.00
Recording real estate options, provided the entire record thereof —— does not exceed three (3) pages .....	8.00
Exceeding three (3) pages, for each page .....	2.00
Recording power of attorney or revocation of power of attorney, —— provided the entire record thereof does not exceed three (3) pages .....	8.00
Exceeding three (3) pages, for each page .....	2.00
Recording plats, maps and surveys, not exceeding 24 inches —— by 36 inches, per page .....	15.00
Recording all leases which are recordable by law, provided the —— entire record thereof does not exceed three (3) pages .....	8.00
Exceeding three (3) pages, for each page .....	2.00
Marginal notation to same instrument .....	3.00
Filing or recording of certification of intention to operate a —— business under an assumed name .....	8.00

Filing a lien on a delinquent motor vehicle or trailer bill .....	8.00
Releasing a lien on a delinquent motor vehicle or trailer bill .....	2.00
Filing or recording of mechanic's and artisan's liens	
— under KRS Chapter 376 .....	8.00
Filing or recording of notice of lien issued	
— by the Internal Revenue Service .....	8.00
Filing or recording of notice of lien discharges issued	
— by the Internal Revenue Service .....	8.00
Filing or recording of lis pendens notice concerning proceedings in	
— bankruptcy and other lis pendens notices, provided the entire	
— record thereof does not exceed three (3) pages .....	8.00
Exceeding three (3) pages, for each page .....	2.00
Filing or recording United States liens, provided the entire record	
— per lien does not exceed three (3) pages .....	8.00
Exceeding three (3) pages, for each page .....	2.00
Filing or recording release of a United States lien, provided the entire	
— record per lien does not exceed three (3) pages .....	8.00
Exceeding three (3) pages, for each page .....	2.00
Filing or recording state tax or other state liens, other than liens on	
— delinquent motor vehicles or trailers .....	5.00
Filing release of a state tax or other state lien, other than a lien	
— on a delinquent motor vehicle or trailer .....	5.00
Filing notification and declaration and petition of candidates	
— for Commonwealth's attorney, District Court, and Circuit Court .....	200.00
Filing notification and declaration and petition of candidates for office	
— in cities of the fifth or sixth class and candidates for county and	
— independent boards of education .....	20.00
Filing notification and declaration and petition of candidates	
— for boards of soil and water conservation districts .....	20.00
Filing notification and declaration and petition of candidates	
— for other offices .....	50.00
Filing declaration of intent to be a write-in candidate for	
— office other than municipal office in a city of the fifth	
— or sixth class .....	50.00
Recording wills or other probate documents under KRS 394.300 .....	8.00
Registration of licenses for professional persons required to	
— register with the county clerk .....	8.00
Recording and issuing articles, statements, or reports of corporations	

<del>_____ pursuant to KRS Chapters 271B, 272 and 273, including articles</del>	
<del>_____ of incorporation, amendment, restatement of incorporation, merger,</del>	
<del>_____ consolidation, or dissolution and statements of establishment</del>	
<del>_____ of a series of shares, cancellation of a series of shares, reduction</del>	
<del>_____ of capital, intent to dissolve, revocation of voluntary</del>	
<del>_____ dissolution, or any other statement or report of a foreign or</del>	
<del>_____ domestic corporation, provided the entire record thereof</del>	
<del>_____ does not exceed three (3) pages .....</del>	<del>8.00</del>
<del>Exceeding three (3) pages, for each page .....</del>	<del>2.00</del>
<del>Miscellaneous recordings for which no specific fee is set,</del>	
<del>_____ provided the entire record thereof does not exceed three (3) pages</del>	
<del>_____ (except military discharges) .....</del>	<del>8.00</del>
<del>Exceeding three (3) pages, each additional page .....</del>	<del>2.00</del>
<del>Filing miscellaneous documents for which no specific fee is set,</del>	
<del>_____ provided the entire record thereof does not exceed three (3) pages .....</del>	<del>8.00</del>
<del>Exceeding three (3) pages, each additional page .....</del>	<del>2.00</del>
<del>Filing petitions other than nominating petitions, provided the</del>	
<del>_____ petition does not exceed three (3) pages .....</del>	<del>8.00</del>
<del>Exceeding three (3) pages, each additional page, except that</del>	
<del>_____ the total fee for filing a petition other than a nominating petition</del>	
<del>_____ shall not exceed \$50.00.....</del>	<del>2.00</del>
<del>Filing certification required by KRS 65.070(1)(a) .....</del>	<del>5.00</del>
<del>Certification of franchise tax assessment .....</del>	<del>5.00</del>

Section 4. KRS 189.456 is amended to read as follows:

- (1) On the application of any person who has a severe visual, audio, or physical impairment, including partial paralysis, lower limb amputation, chronic heart condition, emphysema, arthritis, rheumatism, or other debilitating condition which limits or impairs one's personal mobility or ability to walk, the county clerk in the county of the person's residence shall issue the person with a disability an accessible parking placard. In addition, any agency or organization which transports persons with a disability as a part of the service provided by that agency or organization shall receive an accessible parking placard upon application to the county clerk for each vehicle used in the transportation of persons with a disability. The accessible parking placard issued shall be a two (2) sided hanger style placard and shall on each side bear the international symbol of access adopted by Rehabilitation International in 1969, the date of expiration of the placard, a seal or other identification of the Kentucky Transportation Cabinet, and shall contain the accessible parking placard identification number and other information the Transportation Cabinet may by regulation require. The international symbol of access shall be at least three (3) inches in height, be centered on the placard and in a white color on a blue shield.
- (2) The *county clerk shall issue an accessible parking placard at no charge that*~~fee payable to the county clerk for an accessible parking placard shall be eight dollars (\$8.00) for each placard and the placard~~ shall be valid for a period of two (2) years, *and* which may be twice renewed for a period of two (2) years, without any~~additional~~ fee being charged to the applicant. The application shall be made on a form prepared by the Transportation Cabinet. Placards shall be printed at cabinet expense and distributed to the county clerk of each county who shall keep a record of applications filed and placards issued.

- (3) For every person seeking an accessible parking placard, proof of the disability shall be required by:
  - (a) Evidence that the individual has a license plate for a person with a disability as provided by KRS 186.041 or 186.042;
  - (b) The county clerk issuing the permit ascertaining that the applicant is obviously disabled; or
  - (c) A statement from a licensed physician that the applicant is a person whose mobility, flexibility, coordination, respiration, or perceptiveness is significantly reduced by a permanent disability to that person's arms, legs, lungs, heart, ears, or eyes.
- (4) For every agency or organization seeking an accessible parking placard for a person with a disability, application for the placard shall include:
  - (a) Name of the agency or organization requesting use of an accessible parking placard;
  - (b) Number of vehicles being used in the transportation of persons with a disability; and
  - (c) A statement from the director of the agency or organization verifying the need for the parking placard.
- (5) The accessible parking placard shall, when the vehicle is parked in a parking space identified as accessible to a person with a disability, be displayed so that it may be viewed from the front and rear of the vehicle by hanging the placard from the front windshield rear view mirror. When there is no rear view mirror, the placard shall be displayed on the dashboard.
- (6) A person who has not been issued a license plate for a person with a disability under the provisions of KRS 186.041 or 186.042 may be issued a second parking placard **at no charge**~~for a fee of four dollars (\$4)~~.
- (7) A person with a disability who has been issued a parking placard pursuant to this section may make application for a replacement placard by swearing in an affidavit that the original placard has been lost, stolen, or destroyed. The **replacement parking placard shall be issued at no charge by the county clerk**~~for a fee of two dollars (\$2)~~.
- (8) The Transportation Cabinet may promulgate administrative regulations pursuant to KRS Chapter 13A to implement or administer this section.

Section 5. KRS 189.458 is amended to read as follows:

- (1) Upon application of any person who has a severe temporary visual, audio, or physical impairment, including partial paralysis, heart condition, emphysema, arthritis, rheumatism, or other debilitating condition which limits or impairs one's personal mobility or ability to walk as defined in KRS 186.042, the county clerk in the county of the person's residence shall issue the person with a disability a temporary accessible parking placard.
- (2) The accessible parking placard issued shall be a two (2) sided hanger style placard and shall on each side bear the international symbol of access adopted by Rehabilitation International in 1969, the date of expiration of the placard, a seal or other identification of the Kentucky Transportation Cabinet, and shall contain the accessible parking placard identification number and other information the Transportation Cabinet may by administrative regulation require. The international symbol of access shall be at least three (3) inches in height, be centered on the placard and in a white color on a red shield.
- (3) ~~The fee payable to the county clerk for~~ A temporary accessible parking placard shall be **issued at no charge by the county clerk**~~, two dollars (\$2) for each placard~~ and the placard shall be valid for a period of not more than three (3) months.
- (4) The application shall be made on a form prepared by the Transportation Cabinet. Placards shall be printed at cabinet expense and distributed to the county clerk of each county who shall keep a record of applications filed and placards issued.
- (5) For every person seeking a temporary accessible parking placard, proof of the disability shall be required by a statement from a licensed physician that the applicant is a person whose mobility, flexibility, coordination, respiration, or perceptiveness is significantly reduced by a temporary disability to that person's arms, legs, lungs, heart, ears, or eyes.
- (6) The temporary accessible parking placard, when the vehicle is parked in a parking space designated as accessible to and for the use of a person with a disability, shall be displayed so that it may be viewed from the front and rear of the vehicle by hanging it from the front windshield rear view mirror. When there is no rear view mirror, the placard shall be displayed on the dashboard.

- (7) The Transportation Cabinet may promulgate administrative regulations pursuant to KRS Chapter 13A to implement or administer this section.

Section 6. KRS 134.810 is amended to read as follows:

- (1) All state, county, city, urban-county government, school, and special taxing district ad valorem taxes shall be due and payable on or before the earlier of the last day of the month in which registration renewal is required by law for a motor vehicle renewed or the last day of the month in which a vehicle is transferred.
- (2) All state, county, city, urban-county government, school, and special taxing district ad valorem taxes due on motor vehicles shall become delinquent following the earlier of the end of the month in which registration renewal is required by law or the last day of the second calendar month following the month in which a vehicle was transferred.
- (3) Any taxes which are paid within thirty (30) days of becoming delinquent shall be subject to a penalty of three percent (3%) on the taxes due. However, this penalty shall be waived if the tax bill is paid within five (5) days of the tax bill being declared delinquent. Any taxes which are not paid within thirty (30) days of becoming delinquent shall be subject to a penalty of ten percent (10%) on the taxes due. In addition, interest at an annual rate of fifteen percent (15%) shall accrue on said taxes and penalty from the date of delinquency. A penalty or interest shall not accrue on a motor vehicle under dealer assignment pursuant to KRS 186A.220.
- (4) When a motor vehicle has been transferred before registration renewal or before taxes due have been paid, the owner pursuant to KRS 186.010(7)(a) and (c) on January 1 of any year shall be liable for the taxes on the motor vehicle, except as hereinafter provided.
- (5) If an owner obtains a certificate of registration for a motor vehicle valid through the last day of his second birth month following the month and year in which he applied for a certificate of registration, all state, county, city, urban-county government, school, and special tax district ad valorem tax liabilities arising from the assessment date following initial registration shall be due and payable on or before the last day of the first birth month following the assessment date or date of transfer, whichever is earlier. Any taxes due under the provisions of this subsection and not paid as set forth above shall be considered delinquent and subject to the same interest and penalties found in subsection (3) of this section.
- (6) For purposes of the state ad valorem tax only, all motor vehicles held for sale by a licensed Kentucky dealer and all motor vehicles with a salvage title held by an insurance company on January 1 of any year shall not be taxed as a motor vehicle pursuant to KRS 132.485 but shall be subject to ad valorem tax as goods held for sale in the regular course of business under the provisions of KRS 132.020(1)(m) and 132.220.
- (7) Any provision to the contrary notwithstanding, when any ad valorem tax on a motor vehicle becomes delinquent, the state and each county, city, urban-county government, or other taxing district shall have a lien on all motor vehicles owned or acquired by the person who owned the motor vehicle at the time the tax liability arose. A lien for delinquent ad valorem taxes shall not attach to any motor vehicle transferred while the taxes are due on that vehicle. For the purpose of delinquent ad valorem taxes on leased vehicles only, a lien on a leased vehicle shall not be attached to another vehicle owned by the lessor.
- (8) The lien required by subsection (7) of this section shall be filed and released by the automatic entry of appropriate information in the AVIS database. For the filing and release of each lien or set of liens arising from motor vehicle ad valorem property tax delinquency, a fee of **two dollars (\$2)**~~one dollar (\$1)~~ shall be added to the delinquent tax account. The fee shall be collected and retained by the county clerk who collects the delinquent tax.
- (9) The implementation of the automated lien system provided in this section shall not affect the manner in which commercial liens are recorded or released.

Section 7. KRS 186.040 is amended to read as follows:

- (1) Upon receiving the application and fee, the county clerk shall issue to the owner a certificate of registration containing the information required by subsection (2) of this section and a registration plate. If the cabinet finds that there is a shortage of materials suitable for making plates, or that a substantial saving will result, it may require by regulation with the approval of the Governor that previously issued plates continue to be used for a designated period. Except as provided in subsection (3) of this section, for services performed, the owner shall pay the county clerk the sum of ~~six~~~~three~~ dollars ~~(\$6)~~~~(\$3)~~ for each registration, or if the registration exceeds a twelve (12) month period, the clerk shall receive a fee of **nine**~~four~~ dollars **(\$9)**~~(\$4)~~.

- (2) The certificate of registration shall contain the registration number, the name and post office address of the owner, and such other information as the cabinet may require.
- (3) An owner who registers a vehicle under KRS 186.050 that has a declared gross vehicle weight with any towed unit of forty-four thousand and one (44,001) pounds or greater shall pay the county clerk ~~thirty-two~~ dollars ~~(\$30) [(\$20)]~~ for each registration. The clerk shall retain the ~~thirty-two~~ dollar ~~(\$30) [(\$20)]~~ fee for services performed under this subsection.
- (4) Any person requesting a certificate of registration or renewal of registration of any type of motor vehicle shall have the opportunity to donate one dollar (\$1) to the child care assistance account. The one dollar (\$1) donation shall be added to the regular fee for vehicle registration. One donation may be made per issuance or renewal of vehicle registration. Donation to the child care assistance account shall be voluntary and may be refused by the applicant at the time of the issuance or renewal of any vehicle registration.
- (5) The county clerk may retain five percent (5%) of fees collected for the child care assistance account under subsection (4) of this section. The remaining funds shall be deposited into a trust and agency account in the State Treasury to the credit of the Cabinet for Health and Family Services for the exclusive use as follows:
  - (a) Funds shall be made available to the agencies that administer child care subsidy funds; and
  - (b) Funds shall be used as determined by the cabinet for working families whose income exceeds the state income eligibility limits for child day care assistance.
- (6) *Notwithstanding any other provision of law, in addition to the registration fee provided for county clerks in subsections (1) and (3) of this section, an additional three dollars (\$3) per registration shall be collected by the county clerk at the time of registration. This additional fee shall be distributed as follows:*
  - (a) *One dollar (\$1) shall be placed in an agency fund to provide additional funds exclusively for technological improvements or replacement of the AVIS system. The operation and maintenance of AVIS shall remain as currently provided for from the operational budget of the Transportation Cabinet and shall not be reduced below the 2005-2006 funding level;*
  - (b) *One dollar (\$1) shall be placed in an agency trust fund to provide funds exclusively for technological improvements to the hardware and software in county clerk offices related to the collection and administration of road fund taxes. The Transportation Cabinet, in consultation with county clerks, shall allocate funds as necessary from this fund to be used for this exclusive purpose; and*
  - (c) *One dollar (\$1) shall be placed in a trust fund to be maintained by the Transportation Cabinet to provide an unrestricted revenue supplement, for operations of the office related to the collection and administration of road fund taxes, to county clerk offices in counties containing a population of less than twenty thousand (20,000), as determined by the decennial census, and for no other purpose. Annually, by March 1, the Transportation Cabinet shall calculate the amount collected in the previous calendar year and distribute the entire fund proportionate to each county that qualifies under this paragraph based on population. This revenue shall be considered current year revenue when paid to the clerk and shall not be identified as excess fees from the previous year.*

Section 8. KRS 64.530 is amended to read as follows:

- (1) Except as provided in subsections (5) and (6) of this section, the fiscal court of each county shall fix the compensation of every county officer and employee except the officers named in KRS 64.535 and the county attorney and jailer. The fiscal court may provide a salary for the county attorney.
- (2) For the purposes of this section, justices of the peace and constables in all counties shall be deemed to be county officers and deputies or assistants of county officers shall be deemed to be county employees, but employees of county boards or commissions which are now authorized by law to fix the compensation of their employees shall not be deemed to be county employees for the purposes of this section.
- (3) In the case of officers compensated from fees, or partly from fees and partly by salary, the fiscal court shall fix the maximum compensation that any officer except the officers named in KRS 64.535 may receive from both sources. The fiscal court may also fix the maximum amount that the officer may expend each year for expenses of his office. The fiscal court shall fix annually the maximum amount, including fringe benefits, which the officer may expend for deputies and assistants, and allow the officer to determine the number to be hired and the individual compensation of each deputy and assistant. *Any revenue received by a county clerk in any calendar year shall be used exclusively for the statutory duties of the county clerk and budgeted*

*accordingly. At the conclusion of each calendar year, any excess fees remaining shall be paid to the fiscal court pursuant to KRS 64.152.*

- (4) In the case of county officers elected by popular vote and the county attorney, in the event the fiscal court provides him a salary, the monthly compensation of the officer and of his deputies and assistants shall be fixed by the fiscal court, consistent with the provisions of subsection (3) of this section, not later than the first Monday in May in the year in which the officers are elected, and the compensation of the officer shall not be changed during the term but the compensation of his deputies or assistants may be reviewed and adjusted by the fiscal court not later than the first Monday in May of any successive year upon the written request of the officer. On or before August 1, 1966, the fiscal court shall fix the salary provided herein for the county attorneys for the term commencing in January, 1966, notwithstanding any other provisions of this section which may be inconsistent herewith.
- (5) Nothing in this section shall apply to property valuation administrators or their deputies, assistants, and expenses, in any county, or to the circuit court clerk, county clerk, sheriff, jailer, and their deputies, assistants, and expenses, in counties having a population of seventy thousand (70,000) or more. 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.
- (6) Justices of the peace serving on a fiscal court in any county, and county commissioners serving on a fiscal court in any county other than one containing a city of the first, second, third, or fourth class, shall be paid for their services, out of the county treasury, not to exceed the maximum compensation allowable under KRS 64.527. The fiscal court shall fix the amount to be received within the above limit, but no change of compensation shall be effective as to any member of a fiscal court during his term of office. The compensation of county commissioners serving on fiscal courts in counties containing a city of the first class shall not exceed nine thousand six hundred dollars (\$9,600) per year; in counties containing cities of the second class it shall not exceed nine thousand dollars (\$9,000) per year; and in counties containing cities of the third or fourth class it shall not exceed twenty percent (20%) more than the annual compensation paid in the county for the calendar year immediately preceding 1974; and all of said annual salaries shall be payable monthly. Justices of the peace and county commissioners shall not receive any compensation for their services on the fiscal court, other than as provided by this section; provided, however, justices of the peace and county commissioners may receive no more than three thousand six hundred dollars (\$3,600) annually or three hundred dollars (\$300) per month as an expense allowance for serving on committees of the fiscal court. The fiscal court shall fix the amount to be received within the above limit, but no change of compensation except as provided in KRS 64.285 shall be effective as to any member of a fiscal court during his term of office.

Section 9. KRS 186.190 is amended to read as follows:

- (1) When a motor vehicle that has been previously registered changes ownership, the registration plate shall remain upon the motor vehicle as a part of it until the expiration of the registration year.
- (2) A person shall not purchase, sell, or trade any motor vehicle without delivering to the county clerk of the county in which the sale or trade is made the title, and 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. Any unexpired registration shall remain valid upon transfer of the vehicle to the new owner. Except for transactions handled by a motor vehicle dealer licensed pursuant to KRS Chapter 190, the person who is purchasing the vehicle shall present proof of insurance in compliance with KRS 304.39-080 to the county clerk before the clerk transfers the registration on the vehicle. Proof of insurance shall be in the manner prescribed in administrative regulations promulgated by the Office of Insurance pursuant to KRS Chapter 13A. On and after January 1, 2006, if the motor vehicle is a personal motor vehicle as defined in KRS 304.39-087, proof of insurance shall be determined by the county clerk as provided in KRS 186A.042.
- (3) Upon delivery of the title, and 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 to the county clerk of the county in which the sale or trade was made, the seller shall pay to the county clerk a transfer fee of **two dollars (\$2)**~~one dollar (\$1)~~, which shall be remitted to the Transportation Cabinet. If an affidavit is required, and available, the signatures on the affidavit shall be individually notarized before the county clerk shall issue to the purchaser a transfer of registration bearing the same data and information as contained on the original registration receipt, except the change in name and address. The seller shall pay to the county clerk a fee of ~~six~~**three** dollars ~~(\$6)~~**(\$3)** for his services.

(4) ~~When a county clerk issues to a purchaser a transfer of registration in a county other than the one (1) in which the motor vehicle was originally registered, the clerk shall immediately forward one (1) copy of the transfer of registration to the clerk of the county of original registration.~~

~~(5)~~ If the owner junks or otherwise renders a motor vehicle unfit for future use, he shall deliver the registration plate and registration receipt to the county clerk of the county in which the motor vehicle is junked. The county clerk shall return the plate and motor vehicle registration receipt to the Transportation Cabinet. The owner shall pay to the county clerk one dollar (\$1) for his services.

~~(5)(6)~~ A licensed motor vehicle dealer shall not be required to pay the transfer fee provided by this section, but shall be required to pay the county clerk's fee provided by this section.

~~(6)(7)~~ The motor vehicle registration receipt issued by the clerk under this section shall contain information required by the Department of Vehicle Regulation.

Section 10. KRS 186A.245 is amended to read as follows:

- (1) If a certificate of title is lost, stolen, mutilated, or destroyed or becomes illegible, the owner or legal representative of the owner named in the certificate shall promptly make application to the county clerk for and may obtain a duplicate, upon furnishing information satisfactory to the Department of Vehicle Regulation. The duplicate certificate of title shall contain appropriate words or symbols to indicate that it is a duplicate. Each application for a duplicate certificate of title shall be ~~six [four]~~ dollars ~~(\$6) [(\$4)]~~, of which the county clerk shall retain ~~four [three]~~ dollars ~~(\$4) [(\$3)]~~, and the Transportation Cabinet **two dollars (\$2)** ~~one dollar (\$1)~~. It shall be mailed to the owner.
- (2) The Department of Vehicle Regulation shall make provisions for production and issuance of a duplicate title if update of information is requested. The provisions shall be generally consistent with the procedures for production and issuance of a certificate of title in the first instance as provided in this chapter.
- (3) A person recovering an original certificate of title for which a duplicate has been issued shall promptly surrender the original certificate to the Department of Vehicle Regulation.
- (4) Application for documents provided for by this section shall be made to the county clerk upon forms provided to him by the Department of Vehicle Regulation.

Section 11. KRS 186A.130 is amended to read as follows:

There shall be paid for issuing and processing documents required by this chapter fees according to the following schedule:

- (1) Each application for a certificate of title shall be ~~nine [six]~~ dollars ~~(\$9) [(\$6)]~~, of which the county clerk shall retain **six dollars (\$6)** ~~sixty-six and two thirds percent (66 2/3%)~~ and the Transportation Cabinet shall receive **three dollars (\$3)** ~~thirty-three and one third percent (33 1/3%)~~.
- (2) Each application for a replacement or corrected certificate of title shall be ~~six [four]~~ dollars ~~(\$6) [(\$4)]~~ of which ~~the~~ county clerk shall retain ~~four [three]~~ dollars ~~(\$4) [(\$3)]~~ and the Transportation Cabinet shall receive **two dollars (\$2)** ~~one dollar (\$1)~~. If a corrected certificate must be issued because of an error of the county clerk or the Department of Vehicle Regulation, there shall be no charge.
- (3) Each application for a speed title shall be twenty-five dollars (\$25), of which the county clerk shall retain five dollars (\$5) and the Transportation Cabinet shall receive twenty dollars (\$20).

Section 12. KRS 142.010 is amended to read as follows:

- (1) The following taxes shall be paid:
  - (a) A tax of ~~four [three]~~ dollars and fifty cents ~~(\$4.50) [(\$3.50)]~~ on each marriage license;
  - (b) A tax of ~~four [three]~~ dollars ~~(\$4) [(\$3)]~~ on each power of attorney to convey real or personal property;
  - (c) A tax of ~~four [three]~~ dollars ~~(\$4) [(\$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 ~~four [three]~~ dollars ~~(\$4) [(\$3)]~~ on each conveyance of real property; and
  - (e) A tax of ~~four [three]~~ dollars ~~(\$4) [(\$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 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.
- (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.
- (5) ***One dollar (\$1) of the amount collected under each paragraph of subsection (1) of this section shall be placed in an agency fund in the Department for Libraries and Archives to be used exclusively for the purpose of preserving and retaining public records by continuing the local records grant program active in the Department for Libraries and Archives. The budgeted amount of funds allocated to the grant program in the fiscal year 2005-2006 departmental budget shall not be reduced in future years, and shall be increased annually by this additional revenue to be used exclusively for the grants program.***

Section 13. KRS 98.013 is amended to read as follows:

- (1) On and after July 1, 1952 a city of the first class shall have a lien upon all real estate and rights to real estate belonging to or thereafter acquired by any recipient of general assistance through said city's department of public welfare. The lien shall become effective upon the first payment of assistance to the recipient after June 19, 1952, and shall be cumulative and shall include all amounts paid to the recipient. The lien shall continue until it is satisfied, or becomes unenforceable.
- (2) The lien shall not be effectual as against any mortgage, purchaser, or judgment creditor without actual notice until notice thereof has been filed by the director of public welfare of the city in the office of the county clerk of the county in which the property is located. Such notice, from the date of the filing thereof, shall constitute notice of all payments of assistance, whether paid prior or subsequent to the date of the filing of the notice. Such notice shall be filed by the director of public welfare in those cases in which it is discovered that the recipient has sufficient real estate to justify the filing of such a notice.
- (3) The director of public welfare shall file an adequate notice of the existence of the lien provided for by this section which notice shall not specify the amount of assistance paid but the director of public welfare shall furnish to any authorized person upon proper request the total amount of the lien as of the date of the inquiry.
- (4) The county clerk shall file, record and index such notices as other liens on real estate are required by law to be filed, recorded and indexed but shall index said lien only in the name of the recipient. The lien shall be designated "City's Lien."
- (5) The clerk shall be entitled to a fee ***pursuant to Section 3 of this Act*** ~~of one dollar (\$1)~~ for filing and indexing the lien. The department of public welfare of the city shall pay the fee but the fee shall become a part of the lien as an added cost to the recipient to be recovered at the time a lien is satisfied.
- (6) The lien shall not be enforceable while the real estate is occupied by the surviving spouse or until she remarries, or is occupied by a dependent child, provided, no other action is brought to settle the estate.
- (7) In any case in which it appears that it would be to the best interest of the recipient to sell his real estate and reinvest the proceeds in other real estate, the department of public welfare of the city may grant permission and waive the lien to the extent necessary for the purpose of effecting the transfer but such lien shall attach to the reinvested property.
- (8) Any claim under KRS 98.011 to 98.014 may be precipitated and the lien provided by this section may be enforceable during the lifetime of any person who has received general assistance in order to recover any amount obtained as a result of such person knowingly making a false statement or representation or knowingly failing to disclose a fact to procure, increase, or continue any material benefit for himself.

Section 14. KRS 100.127 is amended to read as follows:

- (1) All agreements for joint or regional planning units shall be in writing, and shall describe the boundaries of the area involved, and shall contain all details which are necessary for the establishment and administration of the planning unit in regard to planning commission organization, preparation of plans, and aids to plan implementation. The agreement shall be adopted as an ordinance by the legislative bodies which are parties to the agreement in accordance with the procedures for the adoption of an ordinance pursuant to KRS Chapters 67, 67A, 67C, 83, and 83A, and filed in the office of the county clerk of all counties which are parties to the agreement or which contain a city which is a party to the agreement. The county clerk may charge a fee *pursuant to Section 3 of this Act* ~~of two and one-half dollars (\$2.50)}~~ for the filing of the agreement. Combination under this subsection shall be permitted notwithstanding the fact that the governmental units are also involved in area planning under KRS 147.610 to 147.705. Combined planning operations shall be jointly financed, and the agreement shall state the method of proration of financial support.
- (2) Agreements for planning units shall be in existence as long as at least two (2) of the original signators are operating under the combination despite the fact that other signators have withdrawn from the unit. In addition, any enlargement of a unit may be accomplished under the existing agreement by filing a copy of the agreement in the office of the county clerk of all member counties along with a statement as to when it was admitted to the unit. The clerk may charge a fee *pursuant to Section 3 of this Act* ~~of two and one-half dollars (\$2.50)}~~ for the filing.
- (3) If the planning unit, or any part thereof, has adopted regulations for historical districts under KRS 100.201 and 100.203, the planning agreement may provide for the creation of a three (3) or five (5) member board to advise the zoning administrator regarding issuance of permits in such districts, the board being guided by the standards and restrictions of the community's comprehensive plan and by the historical district regulations adopted by the planning unit.
- (4) Notwithstanding any other provisions of this section, when a planning unit includes a county with a consolidated local government created pursuant to KRS Chapter 67C, a planning agreement is not required.

Section 15. KRS 100.3681 is amended to read as follows:

- (1) Effective October 1, 1988, the county clerk of every county containing a planning unit which has enacted land use regulations pursuant to this chapter shall, upon receipt of a recording fee *pursuant to Section 3 of this Act* ~~of ten dollars and fifty cents (\$10.50)}~~, file and maintain among the official records of his office certificates of land use restriction completed according to this section and KRS 100.3682 to 100.3684. The certificates shall be in the form designated in KRS 100.3683; shall be completed and filed by the secretary of the planning commission, board of adjustment, legislative body, or fiscal court which finally adopts or imposes the land use restriction described in the certificate; and shall be filed within thirty (30) days of the date upon which the body takes final action to impose or adopt the restriction. The certificate shall set forth the name and address of the property owner; the address of the property; the name of the subdivision or development, if there is one; the name and address of the body which maintains the original records containing the restriction; and shall indicate the type of land use restriction adopted or imposed upon the subject property on or after October 1, 1988, including variances, conditional use permits, conditional zoning conditions, unrecorded preliminary subdivision plats, and development plans; but not including zoning map amendments which impose no limitations or restrictions upon the use of the subject property other than those generally applicable to properties within the same zone and not including any recorded subdivision plat. The county clerk shall index the certificates by property owner and, if applicable, name of subdivision or development. The county clerk shall maintain in his office a record of the name and address of the agency having custody of the official zoning map for each planning unit within the county. All zoning map amendments shall be reflected on the official zoning map within thirty (30) days of the date upon which final action approving the amendments is taken by the planning unit.
- (2) The planning unit shall collect the county clerk's filing fee for the certificate from the applicant at the time any proceeding is initiated which may result in the imposition, adoption, amendment, or release of any land use restriction provided for in this chapter; and the planning unit may also charge the applicant a fee for the reasonable cost of completing and filing the certificate, not to exceed ten dollars and fifty cents (\$10.50), in addition to any other applicable filing or administrative fee, to compensate the planning unit for completing and filing the certificate. The fees permitted by this subsection shall be refunded to the applicant in the event no land use restriction is imposed or adopted as a result of the proceeding.
- (3) When a restriction reflected on the certificate is amended, a new certificate shall be filed. In the case of such amendment or in the event the original restriction is released, the previous certificate shall be released by the

secretary of the body which amended or released the restriction in the same manner as releases of encumbrances upon real estate.

- (4) The failure to file, to file on time, or to complete the certificate properly or accurately shall not affect the validity or enforceability of any land use restriction or regulation. Any improper filing may be cured by a subsequent proper filing. Nothing herein shall affect the running of time for any appeal or other act for which a time limit is prescribed by this chapter.

Section 16. KRS 134.100 is amended to read as follows:

- (1) The transferee shall have the certificate entered on the record of encumbrances on real estate of the county in which the certificate was issued. If, within thirty (30) days from date of issue, the certificate of transfer has not been so entered, the transferee shall lose his lien upon any property that has been transferred in good faith and for a valuable consideration before the recording and without notice of the existence of the certificate.
- (2) The county clerk may charge a fee *pursuant to Section 3 of this Act* ~~of twenty five cents (\$0.25)~~ for each such recordation and a similar fee for each release thereof.

Section 17. 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 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 *pursuant to Section 3 of this Act* ~~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 *pursuant to Section 3 of this Act* ~~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, 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 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 *in an escrow account for this specific purpose* ~~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 *ten dollars (\$10)* ~~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 18. KRS 134.810 is amended to read as follows:

- (1) All state, county, city, urban-county government, school, and special taxing district ad valorem taxes shall be due and payable on or before the earlier of the last day of the month in which registration renewal is required by law for a motor vehicle renewed or the last day of the month in which a vehicle is transferred.
- (2) All state, county, city, urban-county government, school, and special taxing district ad valorem taxes due on motor vehicles shall become delinquent following the earlier of the end of the month in which registration renewal is required by law or the last day of the second calendar month following the month in which a vehicle was transferred.
- (3) Any taxes which are paid within thirty (30) days of becoming delinquent shall be subject to a penalty of three percent (3%) on the taxes due. However, this penalty shall be waived if the tax bill is paid within five (5) days of the tax bill being declared delinquent. Any taxes which are not paid within thirty (30) days of becoming delinquent shall be subject to a penalty of ten percent (10%) on the taxes due. In addition, interest at an annual rate of fifteen percent (15%) shall accrue on said taxes and penalty from the date of delinquency. A penalty or interest shall not accrue on a motor vehicle under dealer assignment pursuant to KRS 186A.220.
- (4) When a motor vehicle has been transferred before registration renewal or before taxes due have been paid, the owner pursuant to KRS 186.010(7)(a) and (c) on January 1 of any year shall be liable for the taxes on the motor vehicle, except as hereinafter provided.
- (5) If an owner obtains a certificate of registration for a motor vehicle valid through the last day of his second birth month following the month and year in which he applied for a certificate of registration, all state, county, city, urban-county government, school, and special tax district ad valorem tax liabilities arising from the assessment date following initial registration shall be due and payable on or before the last day of the first birth month following the assessment date or date of transfer, whichever is earlier. Any taxes due under the provisions of this subsection and not paid as set forth above shall be considered delinquent and subject to the same interest and penalties found in subsection (3) of this section.
- (6) For purposes of the state ad valorem tax only, all motor vehicles held for sale by a licensed Kentucky dealer and all motor vehicles with a salvage title held by an insurance company on January 1 of any year shall not be taxed as a motor vehicle pursuant to KRS 132.485 but shall be subject to ad valorem tax as goods held for sale in the regular course of business under the provisions of KRS 132.020(1)(m) and 132.220.
- (7) Any provision to the contrary notwithstanding, when any ad valorem tax on a motor vehicle becomes delinquent, the state and each county, city, urban-county government, or other taxing district shall have a lien on all motor vehicles owned or acquired by the person who owned the motor vehicle at the time the tax liability arose. A lien for delinquent ad valorem taxes shall not attach to any motor vehicle transferred while the taxes are due on that vehicle. For the purpose of delinquent ad valorem taxes on leased vehicles only, a lien on a leased vehicle shall not be attached to another vehicle owned by the lessor.
- (8) The lien required by subsection (7) of this section shall be filed and released by the automatic entry of appropriate information in the AVIS database. For the filing and release of each lien or set of liens arising from motor vehicle ad valorem property tax delinquency, a fee *pursuant to KRS 134.810* ~~of one dollar (\$1)~~ shall be added to the delinquent tax account. The fee shall be collected and retained by the county clerk who collects the delinquent tax.
- (9) The implementation of the automated lien system provided in this section shall not affect the manner in which commercial liens are recorded or released.

Section 19. KRS 205.7785 is amended to read as follows:

- (1) An interstate lien may be created and a notice of interstate lien may be filed on all of an obligor's real and personal property that is located in another state to enforce a child support obligation which has been judicially or administratively established in the Commonwealth. The lien shall be filed in the appropriate offices of the state or county where the property of the obligor is located. All aspects of the lien, including its priority and

enforcement, are governed by the law of the state where the property is located and shall remain until released by the authorized agent of the party which filed the lien, or in accordance with the laws of the state of filing.

- (2) A lien to enforce a child support obligation which is created in another state shall be enforceable against all real and personal property of the obligor located in this state upon the filing of a notice of interstate lien with the county clerk of any county or counties in which the obligor has interest in property, and the notice shall be recorded in the same manner as notices of lis pendens. The recordation shall constitute notice of both the original amount of child support due and all subsequent amounts due by the same obligor. Upon request, an authorized agent of the party which filed the notice of interstate lien shall disclose the specific amount of liability to any interested party legally entitled to that information. The notice, when so filed, shall be conclusive notice to all persons of the lien on the property having legal situs in that county. The lien shall commence as to property of the obligor located in the Commonwealth at the time the notice is filed and shall continue until the original amount of child support due and any subsequent amounts, including interest, penalties, or fees, are fully paid. The lien shall attach to all interest in the real and personal property in the Commonwealth, then owned or subsequently acquired by the obligor. The clerk shall be entitled to a fee **pursuant to Section 3 of this Act** ~~of ten dollars (\$10)~~ for filing the lien and the same fee for releasing the lien.
- (3) A child support lien created in another state shall be on a parity with state, county, and municipal ad valorem tax liens, and superior to the lien of any mortgage or other encumbrance created after the notice of interstate lien is recorded; however, it shall be subordinate to any child support lien which has been filed by the cabinet as to the same obligor and property.
- (4) The authority by which the child support lien is created in another state and filed in this state shall be certified on the notice of interstate lien by a person who is authorized to certify on behalf of the party that is filing the notice of interstate lien.
- (5) The secretary of the cabinet may promulgate administrative regulations under the provisions of KRS Chapter 13A to implement this section.

Section 20. KRS 235.066 is amended to read as follows:

At least thirty (30) days prior to the expiration of registration of any motorboat previously registered in the Commonwealth as provided by KRS 235.070, the owner of the motorboat shall be notified by mail on the same notice required by KRS 134.805(5) of the date of expiration. In addition, the Transportation Cabinet shall provide appropriate forms and information to permit renewal of motorboat registration to be completed by mail. Any registration renewal by mail shall require payment of an additional **two dollars (\$2)** ~~one dollar (\$1)~~ fee which shall be received by the county clerk. Nonreceipt of the notice herein shall not constitute a defense to any registration related offense.

Section 21. KRS 269.230 is amended to read as follows:

- (1) The clerk of the Circuit Court shall receive from the corporation not more than ten cents (\$0.10) for each parcel of land assessed, and shall deposit such sums in the manner provided for in KRS 30A.120. The county clerk shall receive **pursuant to Section 3 of this Act** ~~the same fees~~ for recording the assessment in his office.
- (2) The board of directors of the corporation shall annually, in January, file with the county clerk a detailed statement of all money received by it, from whom received and how spent.

Section 22. KRS 279.490 is amended to read as follows:

- (1) For acting upon, filing and recording articles of incorporation, articles of consolidation, articles of dissolution, or amendments to articles of incorporation or consolidation, the corporation shall pay to the Secretary of State a sum not to exceed two dollars (\$2), for which the Secretary of State shall give his receipt.
- (2) For filing and recording articles of incorporation, articles of consolidation, articles of dissolution, or amendments to articles of incorporation or consolidation, the corporation shall pay to the county clerk a **fee pursuant to Section 3 of this Act** ~~sum not to exceed three dollars (\$3)~~, for which the county clerk shall give his receipt.
- (3) No fee shall be paid or received for affixing the state seal to any of the documents mentioned in this section or to any copy thereof.
- (4) The recordation of the documents mentioned in this section shall be exempt from all recording taxes.

Section 23. KRS 311.310 is amended to read as follows:

No school, college or professor may receive any body under KRS 311.300 until a bond has been given by the college. The bond shall be in the penal sum of one thousand dollars (\$1,000), with good personal security, and approved by the clerk of the county in which the college or school is situated, conditioned upon the lawful disposition of all dead bodies that come into the possession of the college, or any professor thereof. The bond shall be filed in the clerk's office, and renewed every twelve (12) months. For taking and approving the bond the clerk shall be entitled to a fee ***pursuant to Section 3 of this Act***~~of one dollar (\$1)~~.

Section 24. KRS 337.075 is amended to read as follows:

- (1) A lien may be placed on all property, both real and personal, of an employer who has been assessed civil penalties by the executive director for violations of the wages and hours provisions of this chapter, but not before all administrative and judicial appeals have been exhausted. The lien shall be in favor of the Department of Labor and shall be an amount totaling the unpaid wages and penalties due, together with interest at a rate of twelve percent (12%) per annum from the date the notice of the violation is final, but not before all administrative and judicial appeals have been exhausted. The lien shall be attached to all property and rights to property owned or subsequently acquired by the employer. The executive director or his designee shall record the lien as provided in subsection (2) of this section. The lien shall show the date on which the notice of violation was issued, the date of the violation, the name and last known address of the employer against whom the assessment was made, and the amount of unpaid wages, penalties, and interest. The lien shall be superior to the lien of any mortgage or encumbrance thereafter created and shall continue for ten (10) years from the time of the recording, unless sooner released or otherwise discharged.
- (2) The lien shall be filed in any of the following offices in which the employer owns property or rights to property and any filing fees associated with filing the lien shall be ***pursuant to Section 3 of this Act***~~waived~~:
  - (a) The office of the county clerk of the county in which the defendant employer resides.
  - (b) The office of the county clerk of the county in which the defendant employer has its principal place of business.
  - (c) The office of the county clerk of any county in which the defendant employer has property or an interest in property.

Section 25. KRS 338.201 is amended to read as follows:

- (1) A lien may be placed on all property, both real and personal, of an employer who has violated any requirement of this chapter, if the citation issued by the executive director has been upheld by a final order of the review commission, but not before all administrative and judicial appeals have been exhausted. The lien shall be in favor of the Department of Labor and shall be an amount totaling the penalties due, together with interest at a rate of twelve percent (12%) per annum from the date the order of the review commission is final, but not before all administrative and judicial appeals have been exhausted. The lien shall be attached to all property and rights to property owned or subsequently acquired by the employer. The executive director or his designee shall record the lien as provided in subsection (2) of this section. The lien shall show the date on which the citation was issued, the date of the violation, the name and last known address of the employer against whom the assessment was made, and the amount of penalties and interest. The lien shall be superior to the lien of any mortgage or encumbrance thereafter created and shall continue for ten (10) years from the time of the recording, unless sooner released or otherwise discharged.
- (2) The lien shall be filed in any of the following offices in which the employer owns property or rights to property and any filing fees associated with filing the lien shall be ***pursuant to Section 3 of this Act***~~waived~~:
  - (a) The office of the county clerk of the county in which the defendant employer resides.
  - (b) The office of the county clerk of the county in which the defendant employer has its principal place of business.
  - (c) The office of the county clerk of any county in which the defendant employer has property or an interest in property.

Section 26. KRS 341.310 is amended to read as follows:

- (1) A lien on a parity with state, county, and municipal ad valorem tax liens, and superior to the lien of any mortgage or other encumbrance heretofore or hereafter created is hereby created in favor of the cabinet upon

all property of any subject employer from whom contributions, interest or penalties are or may hereafter become due. The lien shall commence from such time as any assessment becomes delinquent and it shall continue until the amount of the original assessment and any subsequent assessments of liability for contributions, interest, penalties or fees are fully paid. The lien shall attach to all interest in property, either real or personal, then owned or subsequently acquired by the person against whom the assessment is made. The cabinet may file notice of the lien with the county clerk of any county or counties in which the subject employer's business or residence is located, or in any county in which the subject employer has interest in property and such notice shall be recorded in the same manner as notices of lis pendens are and the file shall be designated "miscellaneous state tax liens." Such recordation shall constitute notice of both the original assessment and all subsequent assessments of liability against the same subject employer. Upon request, the cabinet shall disclose the specific amount of liability at a given date to any interested party legally entitled to such information. The notice, when so filed, shall be conclusive notice to all persons of the lien on the property having legal situs in that county, except that nothing in this chapter shall be construed to alter or change in any way the law relative to the rights and duties of a holder in due course as provided in KRS Chapter 355, Art. 3, or affect the rights of any person taking the property or a lien thereon for value without actual or constructive notice. The clerk shall be entitled to a fee *pursuant to Section 3 of this Act* ~~of five dollars (\$5)~~ for filing the lien *and the subsequent release or partial release*, and said fee shall become a part of the lien as an added cost of the delinquent subject employer to be paid by him as a part of the amount necessary to release the lien and shall not be the responsibility of the Commonwealth.

- (2) In addition and as an alternative to any other remedy, the secretary may enforce the lien by petition in the name of this state to the Franklin Circuit Court, if the ministerial acts necessary to enforce the lien by the sale of the lien property or any part of it are performed by the appropriate officers of the Circuit Court of the county in which the property is situated under the direction of and reporting to the Franklin Circuit Court. The manner of enforcement shall be the same as that provided for the enforcement of other tax liens.
- (3)
  - (a) The secretary may issue a certificate of release of lien upon the furnishing of a corporate surety bond satisfactory to the secretary by such employing unit in the amount of one hundred twenty-five percent (125%) of the sum of such contributions, interest and penalty, for which lien is claimed, conditioned upon the prompt payment of such contribution, together with interest and penalty thereon, by such employing unit to the cabinet in accordance with the provisions set forth in such bond.
  - (b) The secretary may issue a certificate of partial release of any part of the property subject to the lien if he finds that the fair market value of that part of such property remaining subject to the lien is at least equal to the amount of all other liens upon such property plus double the amount of the liability for contributions, interest and penalties thereon remaining unsatisfied.
  - (c) The secretary may issue a certificate of partial release of any part of the property or individual piece of property subject to the lien if he finds that the interest of the Commonwealth in the property to be so released has no value.

Section 27. KRS 359.050 is amended to read as follows:

- (1) No proprietor, lessee or manager of a public grain warehouse shall transact any warehouse business therein until he has obtained for that year a grain warehouseman's license from the county clerk, and no such proprietor, lessee or manager shall continue such business after his license is revoked or has expired, except but by delivering property previously stored in his warehouse.
- (2) The county clerk shall issue each grain warehouseman's license upon written application and upon payment of a fee *pursuant to Section 3 of this Act* ~~of one dollar (\$1)~~. The application shall state the location and name of the warehouse, the name of each person interested as owner or principal in its management and, if the warehouse is owned or kept by a corporation, the name of the corporation and the names of its president, secretary and treasurer. Each license issued shall be recorded in the bond and power of attorney book in the office of the county clerk.
- (3) The license provided for by this section shall not dispense with the requirement of obtaining from year to year such license as the city in which the warehouse is located may require for the purpose of taxation.
- (4) A grain warehouseman's license may be revoked by the Circuit Court in summary proceedings, upon written complaint of any person setting forth the particular violation of law and on satisfactory proof taken as directed

by the court. The court, in revoking the license, may adjudge that no new license shall be granted to the defendant until at least one (1) year after the revocation.

Section 28. KRS 365.445 is amended to read as follows:

A license to conduct a sale issued pursuant to KRS 365.410 to 365.480 and 365.992 shall not be issued or valid for a period of more than thirty (30) days from the start of the sale, and the sale may be conducted only during the period set forth in the license. The license may be renewed not more than once for a period not to exceed thirty (30) days upon affidavit of the licensee that all of the goods listed in the inventory have not been disposed of and that no new goods have been or will be added to the inventory previously filed pursuant to KRS 365.410 to 365.480 and 365.992, by purchase, acquisition on consignment or otherwise. The application for renewal of the license shall be made not more than thirteen (13) days prior to the time of the expiration of the license and shall contain a new inventory of goods remaining on hand at the time the application for renewal is made, which new inventory shall be prepared and furnished in the same manner and form as the original inventory. No renewal shall be granted if any goods have been added to the stock listed in the inventory since the date of the issuance of the license. A fee ***pursuant to Section 3 of this Act*** ~~of twenty-five dollars (\$25)~~ shall accompany an application for the license and for each renewal of a license.

Section 29. KRS 376.250 is amended to read as follows:

- (1) When an attested copy of the lien statement and proof of the delivery of an attested copy as provided in KRS 376.240 is delivered to any public authority which has contracted for the construction or improvement of any bridge, public highway, or other public property owned by the state, a subdivision or agency thereof, or by any city, county, urban-county, or charter county government, the public authority shall endorse on the attested copy the date of its receipt, file the copy and deduct and withhold the amount thereof, plus ***pursuant to Section 3 of this Act*** ~~(\$1.25)~~ to cover the fee of the county clerk for filing the statement and attesting a copy, from any amount then due the contractor, and if a sufficient amount is not then due the contractor from the next payments which become due.
- (2) Unless the contractor, within thirty (30) days from the date of the delivery of the attested copy, files with the public authority a written protest putting in issue the correctness of the amount due the lien claimant or the liability of the fund for payment thereof, the amount withheld shall be paid by the public authority to the lien claimant and charged to the account of the contractor, which payment shall operate as a pro tanto release of the public authority from any claim of the contractor under the contract for the amount so paid. The filing in the county clerk's office of the statement of lien provided for in KRS 376.230(2) shall be constructive notice to the contractor of the filing of the claim.
- (3) If the contractor files a written protest as provided in subsection (2) of this section, the public authority with whom the protest is filed shall endorse thereon the date of its receipt. The public authority shall promptly send written notice of the protest to the lien claimant by certified mail, return receipt requested and shall not pay over to the lien claimant any of the money withheld from the contractor until authorized to do so by the contractor or until directed to do so by an order or judgment of court.
- (4) If suit is not instituted by the lien claimant for the enforcement of the lien and summons in the suit is not served on the public authority or its chairman within thirty (30) days after the written notice of the protest is mailed to the claimant, then the lien shall automatically be released and the funds withheld pursuant to the filing of the lien statement shall be released and promptly paid to the contractor. If suit is filed and summons served within the time provided, the payment of the funds shall be withheld until ordered to be released or paid over by an order or judgment of the court, and then paid as directed by the order or judgment.
- (5) All suits for the enforcement of these liens on public funds shall be instituted in the Circuit Court of the county in which is located the property on which the improvement is made, except where the property is owned by a public university. Where the property is owned by a public university, the suit shall be instituted in the Circuit Court of the county in which is located the main campus of the public university. This court shall have exclusive jurisdiction for the enforcement of liens asserted against the public funds due the contractors, subject to the same rights of appeal as in other civil cases.

Section 30. KRS 365.680 is amended to read as follows:

- (1) Each application for a transient merchant permit shall be accompanied by a permit fee ***pursuant to Section 3 of this Act*** ~~of twenty-five dollars (\$25)~~ to be retained by the office of the county clerk or the officer of an urban-county government having the responsibility for the issuance of business permits and licenses generally. In addition, any applicant who will be selling goods, wares or merchandise during the permit period which have an aggregate market value of one thousand five hundred dollars (\$1,500) or more, shall secure and submit



evidence of security, a cash bond or a surety bond in the amount of one thousand dollars (\$1,000) or five percent (5%) of the retail value of any goods, wares or merchandise to be offered for sale, whichever sum is greater. Such evidence of security shall be held by the Attorney General and he shall issue a certificate of security to be used by the applicant as evidence of security.

- (2) The surety bond required by this section shall be in favor of the Commonwealth of Kentucky and shall assure the payment by the applicant of all taxes that may be due from the applicant to the state or any political subdivision of the state, the payment of any fines that may be assessed against the applicant or its agents or employees for violation of the provisions of KRS 365.650 to 365.695, and for the satisfaction of all judgments that may be rendered against the transient merchant or its agents or employees in any cause of action commenced by any purchaser of goods, wares or merchandise within one (1) year from the date of the sale by such transient merchant.
- (3) The bond shall be maintained so long as the transient merchant conducts business in the Commonwealth of Kentucky and for a period of one (1) year after the termination of such business and shall be released only when the transient merchant furnishes satisfactory proof to the Attorney General that it has satisfied all claims of purchasers of goods, wares or merchandise from such merchant, and that all state and local sales taxes and other taxes have been paid.

Section 31. KRS 367.515 is amended to read as follows:

- (1) Upon registration, every solicitor shall pay the county clerk a ~~five dollar (\$5) service~~ fee **pursuant to Section 3 of this Act** and the county clerk shall issue the solicitor a numbered receipt to be effective for a period of one (1) year from the date of registration.
- (2) Prior to actual solicitation, the solicitor shall display to the potential purchaser the registration receipt issued by the county clerk if soliciting in person or cite to the potential purchaser the number of the registration receipt if soliciting by telephone.
- (3) The provisions of KRS 367.513 to 367.530 shall not apply to minors soliciting orders for articles mentioned in KRS 367.510 when such sales are made for the sole purpose of obtaining funds for a school band, club or other organization and such sales are approved in writing by the superintendent of the school system at which the minors are students. The written approval of the superintendent shall identify the product or products being sold, the solicitors to be involved and the duration of sales and shall be filed with the county clerk.

Section 32. KRS 382.470 is amended to read as follows:

Any notice mentioned in KRS 382.440 and 382.450 may be discharged and annulled by an entry to that effect on the margin of the record thereof, or at the option of the county clerk, in a marginal entry record kept for the same purpose, signed by the person filing the notice or by his or their attorney of record in the action, or by a writing executed, acknowledged, and recorded in the manner provided for conveyance of land. The clerk shall, at the option of the clerk, either link the discharge and its filing location to its respective referenced instrument in the indexing system for the referenced instrument, or enter a memorandum of such discharge on the margin of such record for which he shall charge a fee **pursuant to Section 3 of this Act** ~~of twenty five cents (\$0.25)~~, to be paid in advance. Each entry in the marginal entry record shall be linked to its respective referenced instrument in the indexing system for the referenced instrument.

Section 33. KRS 365.680 is amended to read as follows:

- (1) Each application for a transient merchant permit shall be accompanied by a permit fee **pursuant to Section 3 of this Act** ~~of twenty five dollars (\$25)~~ to be retained by the office of the county clerk or the officer of an urban-county government having the responsibility for the issuance of business permits and licenses generally. In addition, any applicant who will be selling goods, wares or merchandise during the permit period which have an aggregate market value of one thousand five hundred dollars (\$1,500) or more, shall secure and submit evidence of security, a cash bond or a surety bond in the amount of one thousand dollars (\$1,000) or five percent (5%) of the retail value of any goods, wares or merchandise to be offered for sale, whichever sum is greater. Such evidence of security shall be held by the Attorney General and he shall issue a certificate of security to be used by the applicant as evidence of security.
- (2) The surety bond required by this section shall be in favor of the Commonwealth of Kentucky and shall assure the payment by the applicant of all taxes that may be due from the applicant to the state or any political subdivision of the state, the payment of any fines that may be assessed against the applicant or its agents or

employees for violation of the provisions of KRS 365.650 to 365.695, and for the satisfaction of all judgments that may be rendered against the transient merchant or its agents or employees in any cause of action commenced by any purchaser of goods, wares or merchandise within one (1) year from the date of the sale by such transient merchant.

- (3) The bond shall be maintained so long as the transient merchant conducts business in the Commonwealth of Kentucky and for a period of one (1) year after the termination of such business and shall be released only when the transient merchant furnishes satisfactory proof to the Attorney General that it has satisfied all claims of purchasers of goods, wares or merchandise from such merchant, and that all state and local sales taxes and other taxes have been paid.

Section 34. KRS 423.020 is amended to read as follows:

- (1) A notary public may exercise all the functions of his office in any county of the state, by filing in the county clerk's office in such county his written signature and a certificate of the county clerk of the county for which he was appointed, setting forth the fact of his appointment and qualification as a notary public, and paying a fee ***pursuant to Section 3 of this Act*** ~~of one dollar (\$1)~~ to the county clerk.
- (2) The county clerk of a county in whose office any notary public has so filed his signature and certificate shall, when requested, subjoin to any certificate of proof or acknowledgment signed by the notary a certificate under his hand and seal, stating that such notary public has filed a certificate of his appointment and qualifications with his written signature in his office, and was at the time of taking such proof or acknowledgment duly authorized to take the same; that he is well acquainted with the handwriting of the notary public and believes that the signature to such proof or acknowledgment is genuine.

Section 35. KRS 532.164 is amended to read as follows:

- (1) Any convicted person owing fines, court costs, restitution, or reimbursement before or after his release from incarceration shall be subject to a lien upon his interest, present or future, in any real property.
- (2) The real property lien shall be filed in the circuit clerk's office of the county in which the person was convicted and shall also be filed by the Commonwealth in any county in which the convicted person is known to own property or reside.
- (3) The lien may be foreclosed upon in the manner prescribed in KRS Chapter 426 and shall remain valid until satisfied. The lien shall constitute a charge against the estate of any decedent owing moneys under this chapter.
- (4) The attorney for the Commonwealth, and not the crime victim, shall prepare and file lien documents for moneys to be restored to the crime victim. The manner of filing, recording, and releasing the lien shall be consistent with the provisions of KRS Chapter 376.
- (5) The attorney for the Commonwealth shall pay to the county clerk ***a fee pursuant to Section 3 of this Act for filing the lien and subsequent release*** ~~five dollars (\$5)~~ which shall be assessed as court costs for the filing of any lien upon real estate. ~~The filing fee shall constitute payment for both filing and release of the lien.~~ The attorney for the Commonwealth shall notify the appropriate county clerk that the lien has been satisfied within ten (10) days of satisfaction.
- (6) A lien under this section shall bear interest at the same rate as for a civil judgment unless the court orders that interest not be awarded. In considering whether interest shall be awarded, the court shall consider the following factors, among others:
  - (a) The defendant's ability to pay the amount of the interest;
  - (b) The hardship likely to be imposed on the defendant's dependents by paying the amount of the interest and the time and method of paying it;
  - (c) The impact that the amount of the interest will have on the defendant's ability to make reparation or restitution to the victim; and
  - (d) The amount of the defendant's gain, if any, derived from the commission of the offense.

Section 36. KRS 137.115 is amended to read as follows:

- (1) The fiscal court of each county is hereby given the authority to impose with respect:
  - (a) To each restaurant serving meals, a license fee not to exceed ten dollars (\$10) per annum;

- (b) To each retail outlet of soft drinks or ice cream, a license fee not to exceed five dollars (\$5) per annum. In cases where ice cream and soft drinks are sold by the same retail outlet, one (1) license tax not to exceed ten dollars (\$10) per annum;
  - (c) To each billiard or pool table or bowling alley, irrespective of size, where a fee is charged and collected, directly or indirectly, a license fee not to exceed thirty dollars (\$30) per annum for the first table or alley and not to exceed five dollars (\$5) per annum for each additional table or alley;
  - (d) To each place where tobacco products are sold at retail, a license fee not to exceed ten dollars (\$10) per annum.
- (2) All license fees shall be payable to the county clerk and be credited to the general fund of the county to be used for county purposes only.
  - (3) The fiscal court of any county may allow the county clerk a commission not to exceed five percent (5%) on the license fees collected and accounted for by him under this section in addition to the ~~one dollar and a half (\$1.50)~~ fee provided in KRS 64.012.

Section 37. KRS 413.100 is amended to read as follows:

No promise, acknowledgment or payment of money by any person bound on any bond or obligation for the payment of money secured by a lien shall operate as a prolongation or extension of the time within which the lien may be enforced as against purchasers or creditors, unless the promisor and the holder of the lien, before fifteen (15) years after the maturity of the debt, enters a memorandum on the margin of the record of the deed or mortgage, attested by the clerk, showing that the debt is extended, for what time it is extended and the amount still due thereon. The payee shall pay the clerk a fee *pursuant to Section 3 of this Act* ~~of twenty-five cents (\$0.25)~~ for his services.

Section 38. Section 3 of this Act takes effect on August 1, 2006, and Sections 1, 2, and 4 to 37 of this Act take effect on January 1, 2007.

**Became law April 25, 2006, without Governor's signature.**

## CHAPTER 256

### (SB 224)

AN ACT relating to the Office of Housing, Buildings and Construction and its related boards and committees.

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

Section 1. KRS 198B.020 is amended to read as follows:

- (1) There is created the Kentucky Board of Housing, Buildings and Construction within the Kentucky Office of Housing, Buildings and Construction comprised of twenty (20) members to include: the executive director of the office, one (1) local government fire chief selected by the Governor from a list of three (3) submitted by the Kentucky Firemen's Association; the executive director of the Kentucky Housing Corporation; the commissioner of the Department for Public Health, Cabinet for Health and Family Services; the Attorney General or any assistant attorney general *he or she* may designate to represent the interests of consumers; one (1) professional homebuilder selected by the Governor from a list of three (3) submitted by the Home Builders Association of Kentucky; one (1) registered architect selected by the Governor from a list of three (3) submitted by the Kentucky Society of Architects; one (1) registered structural engineer selected by the Governor from a list of three (3) submitted by the Kentucky Society of Professional Engineers; one (1) registered mechanical engineer selected by the Governor from a list of three (3) submitted by the Kentucky Society of Professional Engineers; one (1) registered electrical engineer selected by the Governor from a list of three (3) submitted by the Kentucky Society of Professional Engineers; one (1) citizen member selected by the Governor to represent the interests of low and moderate-income housing consumers within the Commonwealth of Kentucky; one (1) citizen member at large; one (1) practicing general contractor selected by the Governor from a list of three (3) submitted by the Kentucky Association of General Contractors; one (1) practicing code administrator selected by the Governor from a list of three (3) submitted by the Codes Administrators Association of Kentucky; one (1) realtor selected by the Governor from a list of three (3) submitted by the Kentucky Association of Realtors; one (1) member selected by the Governor from a list of three (3) submitted by the Kentucky State Building Trades Council; one (1) member selected by the Governor from a list of three

- (3) submitted by the Kentucky Association of Plumbing, Heating and Cooling Contractors; one (1) member selected by the Governor from a list of three (3) submitted by the Mechanical Contractors Association; one (1) electrical contractor member selected by the Governor from a list of three (3) submitted by the National Electrical Contractors Association; and one (1) retailer member selected by the Governor from a list of three (3) submitted by the Kentucky Retail Federation.
- (2) Except for the executive director of the office, the commissioner of the Department for Public Health, the executive director of the Kentucky Housing Corporation, and the Attorney General or his *or her* designee, who shall serve on the board during the term of their existing office and shall be voting members, board members shall be appointed for four (4) year terms, except that initially four (4) shall be appointed for two (2) year terms, four (4) shall be appointed for three (3) year terms, and six (6) shall be appointed for four (4) year terms. No board member shall be appointed for more than one (1) successive term except as provided in subsection (3) of this section. The Governor shall, within the limitations of this subsection, set the length of term of each of the initial appointees to the board.
- (3) Vacancies occurring on the board among those members appointed by the Governor shall be filled by seeking nominations as in subsection (1) of this section from the organization which originally nominated the member who is to be replaced. A replacement for a board member shall be appointed immediately upon the expiration of the departing board member's term of service. Should a board member vacate his *or her* position on the board prior to the expiration of ~~the member's~~<sup>his</sup> term, ~~a~~<sup>his</sup> replacement *member* shall be appointed for the period of the unexpired term. Should the unexpired term be less than two (2) years, the person selected to fill the unexpired term may subsequently be appointed to one (1) successive four (4) year term.
- (4) Members may be removed from the board by the Governor for unethical conduct or for failure to attend three (3) or more successive meetings of the board without reasonable cause.
- (5) The board shall meet at least quarterly, and the first meeting shall occur no later than August 31, 1978. Before assuming their duties, members of the board shall take an oath as specified in Section 228 of the Constitution of Kentucky.
- (6) The executive director of the office shall serve as chairman of the board. The board may elect from its members other officers as are required to conduct its business, except that neither the commissioner of the Department for Public Health, the executive director of the Kentucky Housing Corporation, nor the Attorney General or his *or her* designee shall be elected to office on the board.
- (7) The board may adopt such rules, regulations, and bylaws as are necessary to conduct its internal business. ***Any administrative regulations promulgated by the board for any purpose other than internal business shall be subject to the requirements of subsection (11) of Section 3 of this Act.***
- (8) No member of the board may vote on any matter which will result in his *or her* direct or indirect financial gain.
- (9) Those members of the board who are not salaried governmental employees shall be compensated for their time when attending board meetings or attending to official duties as directed by the board at the rate of fifty dollars (\$50) per day. All board members shall be compensated for expenses incurred in the conduct of board business.

Section 2. KRS 198B.030 is amended to read as follows:

- (1) There is hereby created the Kentucky Office of Housing, Buildings and Construction within the Environmental and Public Protection Cabinet. The secretary of the Environmental and Public Protection Cabinet shall appoint, with the approval of the Governor, an executive director to head the office. The executive director shall receive for his or her services such compensation as the Governor shall determine.
- (2) The executive director may employ sufficient staff to carry out the functions of the executive director's office. Neither the executive director nor any member of his or her staff shall be employed, either directly or indirectly, in any aspect of the building industry as regulated by this chapter while employed by the Office of Housing, Buildings and Construction.
- (3) The office shall serve as staff for the board of housing, buildings and construction as established by this chapter, and shall perform all budgeting, procurement, and other administrative activities necessary to the functioning of this body. The board shall prescribe the duties of the executive director in addition to those duties otherwise delegated to him or her by the Governor or secretary, or prescribed for the executive director by law. ***The office or executive director shall submit any proposed administrative regulation to the board, and shall not promulgate the administrative regulation without giving the board the opportunity to produce***

***written comments, as required by subsection (9) of this section. If the board chooses to produce written comments, these comments shall be attached to any public submission of the administrative regulation, including any filing under KRS Chapter 13A.***

- (4) The office may enter into contracts with the federal government, other agencies of state government or with its subdivisions, or with private profit or nonprofit organizations in order to effect the purposes of this chapter.
- (5) Subject to the direction of the board of housing, buildings and construction, the executive director shall cooperate with the agencies of the United States and with the governing bodies and housing authorities of counties, cities, and with not for profit organizations and area development districts in relation to matters set forth in this chapter, and in any reasonable manner that may be necessary for the state to qualify for, and to receive grants or aid from such agencies. To these ends and subject to the direction of the board, the executive director shall have the power to comply with each condition and execute such agreements as may be necessary, convenient, or desirable.
- (6) Nothing in this chapter shall preclude any other agency, board, or officer of the state from being designated as the directing or allocating agency, board, or officer for the distribution of federal grants and aid, or the performance of other duties to the extent necessary to qualify for and to receive grants and aid for programs under the administration of the office.
- (7) The executive director is authorized to receive, for and on behalf of the state, the office, and the board of housing, buildings and construction, from the United States and agencies thereof, and from any and all other sources, grants and aid and gifts made for the purpose of providing, or to assist in providing, any of the programs authorized by this chapter, including expenses of administration. All such funds shall be paid into the state treasury and credited to a trust and agency fund to be used by the office in carrying out the provisions of this chapter. No part of this fund shall revert to the general fund of the Commonwealth.
- (8) The Kentucky Board of Home Inspectors established in KRS 198B.704 shall be attached to the office for administrative purposes.
- (9)
  - (a) ***If the office has proposed a new or amended administrative regulation that directly and clearly relates to the work of a profession, class of workers, or industry that is under the authority of any board or advisory committee that is created by statute and is controlled, superseded, administratively attached, or affiliated with the office, the office shall not promulgate the proposed administrative regulation without first receiving comments from the affected board or advisory committee, subject to the restrictions of paragraph (b) of this subsection.***
  - (b)
    1. ***If a proposed administrative regulation affects a board or advisory committee that qualifies under paragraph (a) of this subsection, the office shall distribute the proposed administrative regulation to the board or advisory committee.***
    2. ***The affected board or advisory committee shall be granted a maximum of sixty (60) days to submit its comments on the proposed regulatory change. If the administrative regulation is a new emergency regulation, the affected board or advisory committee shall be granted a maximum of thirty (30) days to submit its comments on the proposed regulatory change.***
    3. ***The time limits in this paragraph shall begin from the day the office submits the regulatory change, and sets a date for a proposed hearing for the comments of the affected board or advisory committee. If the board or advisory committee is already scheduled to meet at a time that will give it an adequate opportunity to review the regulation and respond, the hearing may be held at that meeting.***
    4. ***If a board or advisory committee is not scheduled to meet or meets only at the call of the office, the office shall arrange for the board or advisory committee to meet at a time that will allow the board or advisory committee an adequate opportunity to review and comment on the regulation within the time limit. If the affected board or advisory committee fails to comment within the time limit, the office may proceed with the administrative changes at its discretion.***
  - (c) ***To the extent that any other statute relating to the office's authority to promulgate administrative regulations conflicts with this section, this section shall take precedence.***

- (d) *If a board or advisory committee chooses to produce written comments, these comments shall be attached to any public submission of the administrative regulation, including any filing under KRS Chapter 13A.*
  - (e) *The rights and privileges enumerated in this subsection that apply to boards and advisory committees shall also be granted to the Kentucky Board of Housing, Buildings and Construction.*
- (10) *Any power or limitation relating to administrative regulations promulgated by the office that are subject to subsection (9) of this section shall also apply to administrative regulations promulgated by the executive director of the office.*

Section 3. KRS 198B.040 is amended to read as follows:

The Kentucky Board of Housing, Buildings and Construction shall have the following general powers and duties:

- (1) To conduct or cause to be conducted studies to determine the needs of the building industry of Kentucky;
- (2) To conduct or cause to be conducted or participate in studies of the costs of the various factors of building construction and use of buildings, and to recommend programs and procedures which will minimize the cost of buildings, including the use of energy, while maintaining safety, durability and comfort;
- (3) To administer regulatory legislation relating to buildings and construction;
- (4) To assume administrative coordination of the various state construction review programs and to cooperate with various federal, state and local agencies in the programs as they relate to buildings and construction;
- (5) To assume administration and coordination of various state housing programs to include:
  - (a) Devising and implementing procedures, in conjunction with the Department for Local Government, for attaining and maintaining an accurate count of the housing inventory in Kentucky, including information on the age, physical condition, size, facilities, and amenities of this housing, and housing constructed and demolished each year;
  - (b) Designing programs coordinating the elements of housing finance, production, maintenance, and rehabilitation for the purpose of assuring the availability of safe, adequate housing in a healthful environment for all Kentucky citizens;
  - (c) Establishing or causing to be established public information and educational programs relating to housing, to include informing Kentucky citizens about housing and housing related programs that are available on all levels of government;
  - (d) Designing and administering, or participating in the design and administration of educational programs to prepare low income families for home ownership, and counseling them during their early years as homeowners;
  - (e) Promoting educational programs to assist sponsors in the development and management of low and moderate income housing for sale or rental;
  - (f) Cooperating with various federal, state, and local agencies in their programs as they relate to housing;
  - (g) Conducting or causing to be conducted studies to determine the housing preferences of Kentucky citizens and the present and future housing requirements of the state;
- (6) To recommend state building industry policies and goals to the Kentucky General Assembly;
- (7) To adopt and promulgate a mandatory uniform state building code, and parts thereof, which shall establish standards for the construction of all buildings, as defined in KRS 198B.010, in the state;
- (8) To promulgate administrative regulations providing for the proper construction of public water purification plants, other than the water treatment equipment and systems in such plants, provided, however, that any such regulations must require that applications for permits to build public water purification plants will be submitted by the office to the Environmental and Public Protection Cabinet for that cabinet's comments. Any such regulations shall require the Environmental and Public Protection Cabinet's comments to be completed and submitted to the office within sixty (60) days;
- (9) To promulgate administrative regulations providing for the proper construction of sewage treatment plants, other than the sewage treatment equipment and systems in such plants, provided, however, that any such regulations must require that applications for permits to build public sewage treatment plants will be submitted

by the office to the Environmental and Public Protection Cabinet for that cabinet's comments. Any such regulations shall require the Environmental and Public Protection Cabinet's comments to be completed and submitted to the office within sixty (60) days; and

- (10) To promulgate administrative regulations for the safe installation and operation of plumbing and plumbing fixtures.
- (11) (a) *As used in this subsection, "main board" means the Kentucky Board of Housing, Buildings and Construction.*
  - (b) *If the main board has proposed a new or amended administrative regulation that directly and clearly relates to the work of a profession, class of workers, or industry that is under the authority of any board or advisory committee that is created by statute and is controlled, superseded, administratively attached, or affiliated with the main board, the main board shall not promulgate the proposed administrative regulation without first receiving comments from the affected board or advisory committee, subject to the restrictions of paragraph (c) of this subsection.*
    - (c) 1. *If a proposed administrative regulation affects a board or advisory committee that qualifies under paragraph (b) of this subsection, the main board shall distribute the proposed administrative regulation to the board or advisory committee.*
    - 2. *The affected board or advisory committee shall be granted a maximum of sixty (60) days to submit its comments on the proposed regulatory change. If the administrative regulation is a new emergency regulation, the affected board or advisory committee shall be granted a maximum of thirty (30) days to submit its comments on the proposed regulatory change.*
    - 3. *The time limits in this paragraph shall begin from the day the main board submits the regulatory change, and sets a date for a proposed hearing for the comments of the affected board or advisory committee. If the board or advisory committee is already scheduled to meet at a time that will give it an adequate opportunity to review the regulation and respond, the hearing may be held at that meeting.*
    - 4. *If a board or advisory committee is not scheduled to meet or meets only at the call of the main board, the main board shall arrange for the board or advisory committee to meet at a time that will allow the board or advisory committee an adequate opportunity to review and comment on the regulation within the time limit. If the affected board or advisory committee fails to comment within the time limit, the main board may proceed with the administrative changes at its discretion.*
  - (d) *To the extent that any other statute relating to the main board's authority to promulgate administrative regulations conflicts with this section, this section shall take precedence.*
  - (e) *If a board or advisory committee chooses to produce written comments, these comments shall be attached to any public submission of the administrative regulation, including any filing under KRS Chapter 13A.*
- (12) *Any power or limitation relating to administrative regulations promulgated by the Kentucky Board of Housing, Buildings and Construction that are subject to subsection (11) of this section shall also apply to the office and executive director as described in subsections (9) and (10) of Section 2 of this Act.*

Section 4. KRS 227.300 is amended to read as follows:

- (1) The executive director shall promulgate reasonable rules and regulations based on good engineering practice and principles as embodied in recognized standards of fire prevention and protection, providing for a reasonable degree of safety for human life against the exigencies of fire and panic, and insuring as far as is practicable against fire loss. Such rules and regulations shall be known as the standards of safety. After promulgation of the Uniform State Building Code, no part of the standards of safety shall establish, in whole or in part, any building code other than the Uniform State Building Code, but the executive director may supplement the Uniform State Building Code with fire safety regulations designed to operate in conjunction with the code.
- (2) In making such rules and regulations the executive director shall establish minimum fire prevention and protection requirements, including but not limited to requirements for design, construction, installation,

operation, storage, handling, maintenance, or use of the following: structural requirements for the various types of construction; building restrictions within congested districts; exit facilities from structures; fire alarm systems and fire extinguishing systems; fire emergency drills; maximum occupancy loads and other requirements for buildings of public assembly; flue and chimney construction; heating devices; boilers and pressure vessels; electrical wiring and equipment; air conditioning, ventilating and other duct systems; refrigeration systems; flammable liquids, oil and gas wells; garages, repair, and service shops; application of flammable finishes, acetylene, liquefied petroleum gas, and similar products; calcium carbide and acetylene generators; dry cleaning and dyeing plants; flammable motion picture film; combustible fibers; airports and airport buildings; hazardous chemicals; rubbish; open flame devices; parking of vehicles; dust explosions; lightning protection; and other special fire hazards.

- (3) For the purpose of integrating the need for safety from hazards of fire with the other safety needs of infants or preschool children under institutional care, the executive director shall allow persons who own, manage, or are employed by institutions which provide care or education for infants or preschool children to participate in drafting the standards of safety as they apply to such institutions. Such participation shall be by representation of professional associations relating to infant and preschool care, and by representation from other individuals licensed to provide infant and preschool care, on a committee chaired by the state fire marshal or his or her designate. Such participation shall occur prior to the publication of proposed regulations in the administrative register pursuant to KRS 13A.050, but shall not limit any individual's right to use those procedures set forth in KRS Chapter 13A concerning comment on or protest of proposed regulations. All professional associations relating to infant and preschool care shall be notified by the executive director when the drafting of standards of safety relating to such institutions is commenced and all such professional associations shall be regularly notified of the time and place of any meetings conducted by authorized employees of the office for the purpose of drafting such standards.
- (4) The executive director shall publish guidelines relating to the standards of safety as they apply to day care and preschool child care centers and nurseries, which shall indicate the items inspectors from the office of the state fire marshal will be looking for when they conduct inspections pursuant to the standards of safety. Such guidelines shall be made available to persons who own, operate, or manage such centers or nurseries, and shall be designed to enable said persons to anticipate and comply with the requirements of the standards of safety.
- (5) The executive director shall issue supplemental regulations addressing the temporary change of use in buildings as authorized by KRS Chapter 198B. These regulations shall establish specific standards for such use and shall be designed to operate in conjunction with the Kentucky Building Code.
- (6) ***Any standards of safety or other regulations promulgated under this section shall be subject to the requirements of subsections (9) and (10) of Section 2 of this Act and subsection (11) of Section 3 of this Act.***

Section 5. KRS 227.530 is amended to read as follows:

- (1) There is hereby created an Electrical Advisory Committee which shall be attached to the Office of Housing, Buildings and Construction for administrative purposes. The committee shall be constituted as follows:
  - (a) Two (2) members chosen from public utility companies;
  - (b) Two (2) members who are electricians;
  - (c) Two (2) members who are certified electrical inspectors, one (1) of whom shall be employed by a governmental entity and the other who shall be an independent contractor engaged in the business of inspecting electrical installations;
  - (d) Two (2) members who are licensed professional electrical engineers;
  - (e) Two (2) members who are engaged in the business of electrical contracting; and
  - (f) One (1) member who is engaged in the business of electrical contracting and who employs no more than five (5) full-time employees when appointed.
- (2) Committee members shall be appointed by the Governor for four (4) year terms. No committee member shall be appointed for more than one (1) successive term.
- (3) The committee shall meet at least quarterly or upon request of the office for the purpose of considering matters relating to electrical installations and electrical inspections. The committee shall ***have the opportunity to review and comment on relevant administrative regulations that are subject to the requirements of***



*subsections (9) and (10) of Section 2 of this Act and subsection (11) of Section 3 of this Act and shall* make recommendations to and otherwise advise the office on these matters.

- (4) All committee members shall be compensated for expenses incurred in the conduct of Commonwealth business.

Section 6. KRS 227.560 is amended to read as follows:

- (1) There is hereby created the Manufactured Home Certification and Licensure Board which shall issue certificates of acceptability to qualifying manufacturers and licenses to retailers and shall certify installers.
- (2) The board shall consist of the state fire marshal, the secretary of the Transportation Cabinet, the commissioner of the Department for Public Health, or their designees, and seven (7) citizens of the Commonwealth appointed by the Governor, which shall include three (3) manufactured or mobile home retailers, one (1) certified manufactured or mobile home installer, and three (3) members who shall have no interest in the industry to be regulated.
- (3) The state fire marshal, the secretary of the Transportation Cabinet, and the commissioner of the Department for Public Health shall be permanent members of the board, by virtue of their respective offices. The appointed members of the board shall hold office for terms of four (4) years with their terms expiring on September 1 of even-numbered years. Each member shall hold office until his or her successor is appointed and has qualified.
- (4) In the initial appointments to the board, the Governor shall designate three (3) members to serve for two (2) years, and three (3) to serve for four (4) years. In the initial appointment of the certified manufactured or mobile home installer to the board, the Governor shall designate the member to serve for a term expiring September 1, 2004.
- (5) All members appointed from the manufactured housing industry shall be required to remain licensees of the office during their term and are subject to removal for chronic absenteeism.
- (6) If a vacancy occurs in the office of one (1) of the members of the board, the position shall be filled by a person appointed by the Governor, and the person so appointed shall serve only to the end of the unexpired term.
- (7) The chairman of the board shall be elected by the board. In the event of the chairman's absence or disability, the members of the board shall elect a temporary chairman by a majority vote of those present at a meeting.
- (8) Each appointed member shall be entitled to fifty dollars (\$50) for each day he is in attendance at meetings or hearings or on authorized business of the board, including time spent in traveling to and from the place of the meeting, hearing, or other authorized business. Each member of the board shall also be entitled to reimbursement for travel and other necessary expenses incurred in performing official duties.
- (9) The chairman, or in his absence a temporary chairman selected by the members of the board present at the meeting, shall preside at all meetings of the board. The board shall have regular meetings at times specified by a majority vote of the board. The chairman may call special meetings at any time. He shall call a special meeting on written request by two (2) or more members of the board. A majority of the board shall constitute a quorum to transact business.
- (10) All staff assistance deemed necessary by the board to carry out the functions and duties assigned to it in KRS 227.550 to 227.660 shall be provided by the office and shall function under the supervision of the administrative head of the office.
- (11) ***The provisions of subsections (9) and (10) of Section 2 of this Act and subsection (11) of Section 3 of this Act shall not apply to the board.***

Section 7. KRS 227A.040 is amended to read as follows:

- (1) The office, with assistance from the Electrical Advisory Committee, shall administer and enforce the provisions of KRS 227A.010 to 227A.140 and shall evaluate the qualifications of applicants for licensure.
- (2) The office may issue subpoenas, examine witnesses, pay appropriate witness fees, administer oaths, and investigate allegations of practices violating the provisions of KRS 227A.010 to 227A.140 or the administrative regulations promulgated under KRS 227A.010 to 227A.140 and KRS Chapter 13A.
- (3) The office shall conduct hearings under KRS Chapter 13B and keep records and minutes necessary to carry out the functions of KRS 227A.010 to 227A.140.

- (4) The office, with assistance from the Electrical Advisory Committee, shall evaluate the qualifications of applicants and issue licenses to qualified candidates.
- (5) The office shall renew licenses.
- (6) The office may:
  - (a) Refuse to issue or renew a license;
  - (b) Suspend or revoke a license;
  - (c) Impose supervisory or probationary conditions upon a licensee;
  - (d) Impose administrative disciplinary fines;
  - (e) Issue written reprimands or admonishments; and
  - (f) Take any combination of the actions permitted in this subsection.
- (7) The office may seek injunctive relief in the Circuit Court of Franklin County, in the county in which the violation occurred, or in the county where the business of the accused is located to stop any unlawful practice in KRS 227A.010 to 227A.140 and administrative regulations promulgated thereunder. The office may also seek injunctive relief for unlicensed persons who inappropriately use the title "electrical contractor," "electrician," or "master electrician."
- (8) The office, with *comments and* advice from the Electrical Advisory Committee *if required by subsections (9) and (10) of Section 2 of this Act*, may promulgate administrative regulations to create a code of ethics and procedures governing the licensure of electrical contractors, electricians, and master electricians.
- (9) The office may enter into reciprocal agreements with other states having licensure, certification, or registration qualifications and requirements substantially equal to those of this state.

Section 8. KRS 236.030 is amended to read as follows:

After reasonable notice and opportunity to be heard in accordance with KRS Chapter 13A, the executive director of housing, buildings and construction, upon advisement *and subject to comment* by the board *under the requirements of subsections (9) and (10) of Section 2 of this Act and subsection (11) of Section 3 of this Act*, shall, by administrative regulation, fix reasonable standards for the safe construction, installation, inspection, and repair of boilers, pressure vessels, and associated pressure piping in this state. Such administrative regulations shall be enforced by the Office of Housing, Buildings and Construction, Division of Fire Prevention.

Section 9. KRS 318.077 is amended to read as follows:

The committee shall hold hearings, upon adequate notice to affected parties specifying the matters to be considered before the submission to the executive director of its suggested amendments to the code. ~~No[-; provided, however, that nothing in this section shall be construed to prohibit the]~~ amendment of the code or *any other related regulation shall be issued or promulgated* by the office ~~without[after]~~ the prior review *and comment of the committee under the requirements of subsections (9) and (10) of Section 2 of this Act and subsection (11) of Section 3 of this Act*. Any person aggrieved by any rule, regulation, or amendment approved by the office, within 30 days after such action has become final, may appeal therefrom to the Circuit Court. For the purposes of this section, "persons aggrieved" shall include any person directly or indirectly injured or threatened with injury on account of any such regulation, rule, or amendment, whether or not such person was a party to the proceedings out of which the order, rule, regulation, or amendment arose.

Section 10. KRS 318.130 is amended to read as follows:

In order to administer this chapter, the office shall promulgate and thereafter from time to time may amend a code to be known as the Kentucky State Plumbing Code, regulating the construction, installation, and alteration of plumbing and plumbing fixtures and appliances, house sewers and private water supplies, methods and materials to be used therein within this state, using as a minimum standard the basic principles of the National Plumbing Code Coordinating Committee, as evidenced by that committee's final report of 1951 with variations thereof or additions thereto as the committee considers are warranted by local, climatic, or other conditions. The code may also designate the number of plumbing fixtures for public buildings. The office may adopt any other reasonable rule or regulation to administer this chapter *if the rule or regulation has been subject to review and comment by the committee under the requirements of subsections (9) and (10) of Section 2 of this Act and subsection (11) of Section 3 of this Act*. No rules or regulations so approved by the committee shall become effective except upon adoption by the office, in

satisfaction of the requirements of KRS Chapter 13A. The office shall furnish to the committee proposed amendments to the code for the committee's review *and comment* prior to their adoption by the office. *The office shall not promulgate any rules or regulations related to this chapter without granting the committee the opportunity to comment on the administrative regulation.*

**Became law April 25, 2006, without Governor's signature.**

## CHAPTER 257

### (HJR 93)

A JOINT RESOLUTION relating to the budget process and declaring an emergency.

WHEREAS, the Constitution of the Commonwealth of Kentucky empowers the General Assembly to make appropriations; and

WHEREAS, the Kentucky Supreme Court recognizes that the budget, which appropriates the revenue of the Commonwealth and which determines how that revenue shall be spent, is fundamentally a legislative matter; and

WHEREAS, the General Assembly has enacted into law the statutory budget process that is primarily codified in KRS Chapter 48; and

WHEREAS, the statutes provide that prior to the passage of a budget bill, the appropriations committees of the General Assembly shall prepare a budget memorandum that shall enumerate the changes made by the appropriations committees in a branch budget recommendation, and that shall explain the changes in detail sufficiently to convey the intent of the appropriations committees; and

WHEREAS, the Kentucky Supreme Court has upheld the use of the budget memorandum as a valid part of the statutory process;

NOW, THEREFORE,

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

Section 1. Any mandates, directives, or initiatives contained in the 2006-2008 State/Executive Branch Budget Memorandum shall have the force and effect of law.

Section 2. The staff of the Legislative Research Commission shall have the authority, subject to the approval of the Legislative Research Commission, to make technical or format adjustments to the 2006-2008 State/Executive Branch Budget Memorandum that do not alter the sense, meaning, or effect of the 2006-2008 State/Executive Branch Budget Bill or the 2006-2008 State/Executive Branch Budget Memorandum.

Section 3. The provisions of the 2006-2008 State/Executive Branch Budget Memorandum shall not be construed to contain appropriations and, therefore, shall not supersede appropriations contained in the 2006-2008 State/Executive Branch Budget Bill or appropriations contained in any other enactment of the 2006 Regular Session of the General Assembly. If any mandate, directive, or initiative contained in the 2006-2008 State/Executive Branch Budget Bill conflicts with any mandate, directive, or initiative contained in the 2006-2008 State/Executive Branch Budget Memorandum, the mandate, directive, or initiative contained in the 2006-2008 State/Executive Branch Budget Bill shall prevail.

Section 4. Whereas the State/Executive Branch Budget Bill takes effect upon its passage and approval of the Governor or its otherwise becoming law, an emergency is declared to exist, and this Joint Resolution takes effect upon its passage and approval by the Governor or its otherwise becoming law.

Section 5. The 2006-2008 State/Executive Branch Budget Memorandum is as follows:





























































































































































































































































































































































































































































































































































































































































































































































































































































































































































































































































































































































































































































































































































































































































































































































































































































































































































































































































































































































































































































































































































































































































































































































































































































































































































































































































































































































































































































































































































































































































































































































































































































































































































































































































































































































































































































































































































































































































































































































































































































































































































































































































































































































































**Became law April 25, 2006, without Governor's signature.**



**CHAPTER 258****(HJR 94)**

A JOINT RESOLUTION relating to the budget process and declaring an emergency.

WHEREAS, the Constitution of the Commonwealth of Kentucky empowers the General Assembly to make appropriations; and

WHEREAS, the Kentucky Supreme Court recognizes that the budget, which appropriates the revenue of the Commonwealth and which determines how that revenue shall be spent, is fundamentally a legislative matter; and

WHEREAS, the General Assembly has enacted into law the statutory budget process that is primarily codified in KRS Chapter 48; and

WHEREAS, the statutes provide that prior to the passage of a budget bill, the appropriations committees of the General Assembly shall prepare a budget memorandum that shall enumerate the changes made by the appropriations committees in a branch budget recommendation, and that shall explain the changes in detail sufficiently to convey the intent of the appropriations committees; and

WHEREAS, the Kentucky Supreme Court has upheld the use of the budget memorandum as a valid part of the statutory process;

NOW, THEREFORE,

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

Section 1. Any mandates, directives, or initiatives contained in the 2006-2008 Legislative Branch Budget Memorandum shall have the force and effect of law.

Section 2. The staff of the Legislative Research Commission shall have the authority, subject to the approval of the Legislative Research Commission, to make technical or format adjustments to the 2006-2008 Legislative Branch Budget Memorandum that do not alter the sense, meaning, or effect of the 2006-2008 Legislative Branch Budget Bill or the 2006-2008 Legislative Branch Budget Memorandum.

Section 3. The provisions of the 2006-2008 Legislative Branch Budget Memorandum shall not be construed to contain appropriations and, therefore, shall not supersede appropriations contained in the 2006-2008 Legislative Branch Budget Bill or appropriations contained in any other enactment of the 2006 Regular Session of the General Assembly. If any mandate, directive, or initiative contained in the 2006-2008 Legislative Branch Budget Bill conflicts with any mandate, directive, or initiative contained in the 2006-2008 Legislative Branch Budget Memorandum, the mandate, directive, or initiative contained in the 2006-2008 Legislative Branch Budget Bill shall prevail.

Section 4. Whereas the Legislative Branch Budget Bill takes effect upon its passage and approval of the Governor or its otherwise becoming law, an emergency is declared to exist, and this Joint Resolution takes effect upon its passage and approval by the Governor or its otherwise becoming law.

Section 5. The 2006-2008 Legislative Branch Budget Memorandum is as follows:





































**Became law April 25, 2006, without Governor's signature.**

**CHAPTER 259****(HJR 95)**

A JOINT RESOLUTION relating to the budget process and declaring an emergency.

WHEREAS, the Constitution of the Commonwealth of Kentucky empowers the General Assembly to make appropriations; and

WHEREAS, the Kentucky Supreme Court recognizes that the budget, which appropriates the revenue of the Commonwealth and which determines how that revenue shall be spent, is fundamentally a legislative matter; and

WHEREAS, the General Assembly has enacted into law the statutory budget process that is primarily codified in KRS Chapter 48; and

WHEREAS, the statutes provide that prior to the passage of a budget bill, the appropriations committees of the General Assembly shall prepare a budget memorandum that shall enumerate the changes made by the appropriations committees in a branch budget recommendation, and that shall explain the changes in detail sufficiently to convey the intent of the appropriations committees; and

WHEREAS, the Kentucky Supreme Court has upheld the use of the budget memorandum as a valid part of the statutory process;

NOW, THEREFORE,

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

Section 1. Any mandates, directives, or initiatives contained in the 2006-2008 Judicial Branch Budget Memorandum shall have the force and effect of law.

Section 2. The staff of the Legislative Research Commission shall have the authority, subject to the approval of the Legislative Research Commission, to make technical or format adjustments to the 2006-2008 Judicial Branch Budget Memorandum that do not alter the sense, meaning, or effect of the 2006-2008 Judicial Branch Budget Bill or the 2006-2008 Judicial Branch Budget Memorandum.

Section 3. The provisions of the 2006-2008 Judicial Branch Budget Memorandum shall not be construed to contain appropriations and, therefore, shall not supersede appropriations contained in the 2006-2008 Judicial Branch Budget Bill or appropriations contained in any other enactment of the 2006 Regular Session of the General Assembly. If any mandate, directive, or initiative contained in the 2006-2008 Judicial Branch Budget Bill conflicts with any mandate, directive, or initiative contained in the 2006-2008 Judicial Branch Budget Memorandum, the mandate, directive, or initiative contained in the 2006-2008 Judicial Branch Budget Bill shall prevail.

Section 4. Whereas the Judicial Branch Budget Bill takes effect upon its passage and approval of the Governor or its otherwise becoming law, an emergency is declared to exist, and this Joint Resolution takes effect upon its passage and approval by the Governor or its otherwise becoming law.

Section 5. The 2006-2008 Judicial Branch Budget Memorandum is as follows:









































































































**Became law April 25, 2006, without Governor's signature.**

