

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 for 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 [- arts, and humanities]	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)(4)~~.
- (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.~~(c)~~ 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*~~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~~ ~~[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 in 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~~ 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:

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*~~a~~ 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~~~~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~~, 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)~~~~(14)~~ 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%
-1.0% but						
under -0.5%	6.750%	6.75%	7.00%	7.25%	7.50%	7.75%
-1.5% but						
under -1.0%	7.000%	7.00%	7.25%	7.50%	7.75%	8.00%
-2.0% but						
under -1.5%	7.250%	7.25%	7.50%	7.75%	8.00%	8.25%
-3.0% but						
under -2.0%	7.500%	7.50%	7.75%	8.00%	8.25%	8.50%
-4.0% but						
under -3.0%	7.750%	7.75%	8.00%	8.25%	8.50%	8.75%
-6.0% but						
under -4.0%	8.250%	8.25%	8.50%	8.75%	9.00%	9.25%
-8.0% but						
under -6.0%	8.500%	8.50%	8.75%	9.00%	9.25%	9.50%
Less						
than -8.0%.	9.000%	9.00%	9.25%	9.50%	9.75%	10.00%

(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**~~[cabinet]~~, setting forth the grounds for such appeal. Proceedings on appeal to the **commission**~~[cabinet]~~ 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**~~[cabinet]~~ 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 (66-2/3%) 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 (66-2/3%) 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~~~~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:

- 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.